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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/2007

SPONSOR Bandy LAST UPDATED \_\_\_\_\_ HB 32

SHORT TITLE Delinquency Petition Notices to Schools SB \_\_\_\_\_

ANALYST McOlash

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$0.0		

(Parenthesis ( ) Indicate Expenditure Decreases)

Related to SB 68.

Duplicates Appropriation in the General Appropriation Act  
 Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Public Education Department (PED)
- Public Defenders Department (PDD)
- Children, Youth and Families Department (CYFD)

### SUMMARY

#### Synopsis of Bill

House Bill 32 enacts a new section of the Delinquency Act requiring the Children Youth and Families Department (CYFD) to immediately notify the superintendent of the school district where a child resides and the principal of any private school in which a child is enrolled of the filing of a petition of delinquency if that petition involves one of 15 enumerated serious offenses.

The notification becomes part of the child's permanent record, only "purged" when child obtains a high school diploma or a general educational development certificate. All reference to the petition would be confidential and only disclosed to "authorized employees and agents of the school district or private school." CYFD and PED would be responsible for promulgating rules to make this happen.

## SIGNIFICANT ISSUES

### CYFD Analysis

This bill, as drafted, conflicts with current statutes that require the Children, Youth and Families Department (CYFD) to maintain the confidentiality of social records of children with limited exceptions. The exception that allows this information to be conveyed to school personnel is found at 32A-2-32(B)(13), and allows disclosure, “if records concern the child’s educational needs as necessary for the child’s educational planning and shall include only that information necessary to provide for the child’s educational needs;” Under this bill, a school would receive notice that a petition *alleging* the commission of certain enumerated, albeit serious, offenses has been filed concerning a child, when guilt (judgment and disposition) regarding those offenses has not been determined. It is unclear what obligation a school is under when it receives this “notice”. In addition, the school is required to maintain this “notice” in the child’s school records until the child receives a high school diploma or a GED. The bill does not address the disposition of this “notice” if a child does not receive a diploma or GED. Under current law the legislature recognizes that the legal and social files of juveniles should be sealed (1) if the child is determined not to be a delinquent by the court; and (2) if two years have elapsed since a person was released from the custody or supervision of CYFD and there have been no new allegations of delinquency for the two year period. Section 32(A)-2-26(G) & (H). Under this bill, a child who is exonerated of charges may still have this “notice” in his or her educational files although proceedings in the court are to be treated as if they never occurred once the records are sealed. Section 32A-2-26(C) NMSA 1978.

### **ADMINISTRATIVE IMPLICATIONS**

If passed this bill will have an indeterminate administrative impact on the Children, Youth and Families Department, Public Education Department, and school districts.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 32 (Delinquency Petition Notices to Schools) Senate Bill 68 (School District Delinquency Petition Notices are nearly identical, except for titles.

BM/nt