

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**  **Amendment**  
**Correction**  **Substitute**

**Date Prepared:** 2025-01-29  
**Bill No:** HB163

**Sponsor(s)** Andrea Reeb  
 : William A. Hall  
 Nicole Chavez

**Agency Name and Code Number:** CYFD 69000  
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**Short Title:** ADDITIONS TO "DELINQUENT ACT"

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0		
0	0		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0		

0	0	0		
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**ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	0	1.4Million	1.4 Million	Recurring	Genera Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

The bill proposes to expand the definition of delinquent act in the Delinquency Act of the Children’s Code to include “any activities related to” alcohol as attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment or “any activities related to” cannabis to include: buying, attempting to buy, receiving or possessing cannabis, being served a cannabis product, smoking a cannabis product in a public place or privately owned property or producing cannabis, being present in a licensed retail cannabis establishment. An exception of being present in a licensed retail cannabis establishment is created if the child is in the presence of the child’s parent, guardian, custodian or adult spouse. It creates an exception to possession and use of cannabis pursuant to the Lynn and Erin Compassionate Use Act. Currently, Section 20-2C-30 NMSA 1978 possession of cannabis products by a person less than twenty-one years of age is a civil violation.

**FISCAL IMPLICATIONS**

If passed, CYFD will need ten additional full time Juvenile Probation Officers and increased funding to fill these positions. Additional Juvenile Probation Officers will assist existing staff in handling approximately 828-900 anticipated referrals for "any activities related to" cannabis to include: buying, attempting to buy, receiving or possessing cannabis, being served a cannabis product, smoking a cannabis product in a public place or privately owned property or producing cannabis, being present in a licensed retail cannabis establishment.

In the past three years overall delinquency referrals to the JPO offices have

increased by approximately 1000 each year. This projected overall annual increase is expected for FY25. However, an additional increase by approximately 828-900 cannabis related referrals would bring projected overall referrals including cannabis related referrals to approximately 1828 for FY25 and subsequent years.

Prior to NM's legalization of cannabis on June 29, 2021, possession of marijuana was a delinquent offense. Possession of marijuana was in the top 15 types of delinquent referrals received by the department until FY21. The following is a breakdown of possession of marijuana synthetic cannabinoid referrals received by the department by year, prior to its legalization.

FY21--22

FY20--434

FY19--862

FY18--914

FY17--910

FY16--1020

Due to the widespread statewide access to, availability of and use of cannabis, issues with possession of cannabis on school grounds, and the changes with this bill, CYFD anticipates a significant increase in referrals related to cannabis and that those referrals will remain at the top 10-15% of all referrals received by the department. The additional 828 number used is obtained from the total number of referrals for possession of marijuana synthetic cannabinoid referrals received by the department from FY16 through FY 20 (4140) divided by 5.

## **SIGNIFICANT ISSUES**

Eliminates "buying" alcohol within the existing definition of delinquent act.

Increase in referrals to community-based services, resources, and CYFD providers from the department. Need for more community based statewide substance use and abuse services and resources to handle the increase in referrals.

## **PERFORMANCE IMPLICATIONS**

Eliminating "buying alcohol" from the definition creates a loophole that buying alcohol is not considered a delinquent act. No major changes for alcohol referrals which are currently handled by the department.

Being present in a licensed retail cannabis establishment will require inquiry by law enforcement or cannabis retailers regarding the relationship to a present adult to determine relationship.

Any of the listed activities related to buying, attempting to buy, receiving or possessing cannabis pursuant to Section 26-2C-30 NMSA 1978, which is a civil penalty not currently handled by CYFD, would now become a delinquent act to be handled by CYFD. This would result in CYFD juvenile probation officers conducting preliminary inquiries on each additional referral received, processing of the referral, making recommendations to the Children's Court Attorney, conducting both informal and formal supervision, closing cases which will increase the current performance capacity for each county office, statewide. Without additional JPO's and increased funding statewide, this bill will directly impact the department's legal authority and operations at this time, will create a significant risk of litigation or liability for the department, and will hinder CYFD's ability to effectively comply with the mandates of the Children's Code.

The increase in referrals and the number of cases resulting from this bill also impacts the ability of the current single CYFD's records custodian to effectively and efficiently process increase record requests and adhere to sealing records procedures for a larger number of cases.

## **ADMINISTRATIVE IMPLICATIONS**

With the hiring of additional JPO's, CYFD will need more office space and equipment at each county office. More records custodian help. At this time, CYFD has one records custodian who will need assistance.

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

The bill does not amend or change Section 26-2C-30 NMSA 1978 which states possession of cannabis products by a person less than twenty-one years of age is currently a civil violation.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

status quo

## **AMENDMENTS**

None.