

LFC Requester:

Sunny Liu

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov/AgencyAnalysis) and email to 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}*

Date Prepared: February 19, 2025 *Check all that apply:*
Bill Number: HB 432 Original Correction
 Amendment Substitute

Sponsor: Luis M. Terrazas and Andrea Reeb and Cathrynn N. Brown and Nicole Chavez and Jonathan **Agency Name and Code Number:** Administrative Office of the District Attorneys - #264
Short Title: Student Absences & Crime for Parents **Person Writing:** M. Anne Kelly
Title: Crime for Parents **Phone:** 5052503302 **Email:** akelly@da.state.nm.us

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 amends Section 22-12A-12 entitled “Excessive Absenteeism – Enforcement” to change the title to “Excessive Absenteeism – Enforcement – Crime for Parent to Allow Continued Absences – Penalties” in the Attendance for Success Act [Sections 22-12A-1 to 22-12A-14].

Subsection B is amended to delete “unexcused” from modifying “absences”; corrects the statutory citation to Section 22-12A-11 and adds a provision that allows the children’s court to suspend a student’s driving privileges for up to 90 days on the first finding of excessive absenteeism and up to a year on a subsequent finding.

Subsection D is new material that provides that it is a violation of the Attendance for Success Act for a parent of an excessively absent student to “cause or allow” that student to continue being absent. The local school board – or similar organization – shall consult with the local superintendent or similar administrator and refer the parent to the district attorney’s office for prosecution if the student continues to be absent after having been referred to juvenile probation as provided in Subsection B.

Subsection E is new material that provides that if a parent so referred is found to have caused or allowed the excessively absent student to continue to be absent, the parent is guilty of a petty misdemeanor and is subject to a fine of \$50-\$100 and may be ordered to perform community service. A second or subsequent conviction subjects the parent to a fine of not more than \$500 and/or imprisonment not to exceed six months.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

This could increase the workload on the district attorney’s offices who are responsible for handling the referrals and parent prosecutions and thus require more staffing and resources.

SIGNIFICANT ISSUES

The Attendance for Success Act succeeded the repealed The Compulsory School Attendance Act in 2019. Section 22-12-7(D) of that repealed act contained a section for enforcement with similar penalties as in this bill. Subsection 22-12-7(B) contained the identical provision of allowing the court to suspend a student’s driving privileges upon a finding of excessive absenteeism.

In *State v. Roeper*, 2019-NMCA-001, 433 P.3d 311, the Court of Appeals reversed the defendant’s conviction under the now-repealed Section 22-12-7(D) because the State had not shown that an investigation had been conducted before prosecution:

Because Section 22-12-7(C) requires an investigation into whether a student is “a neglected child or a child in a family in need of services,” the juvenile probation office must review the information learned from the investigation as part of its determination and finding as to whether the student’s habitual truancy may have been caused by the parent. No such investigation took place in this instance. We hold that the State failed to satisfy the statutory prerequisite to prosecuting Defendant for a violation of the Act, requiring the reversal of Defendant’s conviction.

Id. ¶ 23. A similar challenge could be made in convictions under the new section if an investigation is not done before referral for prosecution.

In addition, it is not clear in Subsection (E) if a second or subsequent conviction must pertain to the same student or if a parent could be subject to the increased penalties for conviction involving a different student.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a