

<b>LFC Requester:</b>	<b>Mercer-Garcia, Rachel</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(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:** 2/20/25 *Check all that apply:*  
**Bill Number:** HB 470 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Pamela Herndon **Agency Name and Code:** AOC  
**Short Title:** "Neglected Child" Definition **Number:** 218  
**Person Writing:** Celina Jones **Phone:** 505-470-3214 **Email:** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with SB 84 and SB 430 (also amending Section 32A-4-2 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 470 amends Section 32A-4-2 NMSA 1978, within the Abuse and Neglect Act, to revise the definition of “neglected child,” as used in the Abuse and Neglect Act, to include a child

...whose parent, guardian or custodian negligently allows a child to have access to a firearm or other deadly weapon while the child is not under the supervision of the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian.

HB 470 also adds definitions of both “deadly weapon” and “firearm”.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any increase in the number of petitions filed alleging abuse and neglect, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

#### **SIGNIFICANT ISSUES**

- 1) In 2023, New Mexico enacted a child access to a firearm prevention law, Section 30-7-4.1 NMSA 1978, that makes adults criminally liable for negligently making a firearm accessible to a minor.

The HB 470 amendment to Section 32A-4-2 NMSA 1978 does not provide criminal penalties, but rather provides that negligent, unsupervised access to a firearm constitutes neglect of a child.

- 2) In January 2025, the Children’s Code Reform Task Force released its supplemental report, in which it put forth the HB 470 amendment to Section 32A-4-2 NMSA 1978. The task force noted

In its June 2024 report, the task force, in amending the definition of neglected child in Section 32A-4-2 NMSA 1978, addressed situations when a child has negligent unsupervised access to firearms by including a definition of “firearm” and defining “neglected child” to include a child “whose parent, guardian or custodian negligently allows a child to have unsupervised access to a firearm or other deadly weapon.”

Concerns from legislators, expressed at interim committee meetings, as well as how the task force addressed these, are as follows:

1. Second Amendment concerns re: gun ownership: the CCRTF recognizes this concern.
2. Concern that the definitions of “firearm” and “deadly weapon” are consistent with those that currently appear in statute: the task force consistently worked in an aspirational manner and drew from multiple and respected sources, including NM statutes, to come up w/ their definition of “firearm” and “deadly weapon.”
3. Concern that holding parents responsible for abuse and neglect was piling on after a tragedy, punishing a family in grief: it can be appropriate to hold people accountable, even when grieving. Idea: by changing law and making parents aware of the change, may lead to more responsible securing of weapons in the home.
4. Concern that the Benny Hargrove Safe Storage Act, Section 30-7-4.1 NMSA 1978 already provides a remedy for unsafe storage of a weapon: the statute within the criminal code imposes a criminal penalty and doesn’t link to the civil action designed to protect a child. There is precedent for dual legal approaches – maybe you do lose your child due to neglect and also have criminal charge for improper storage.

See *Supplemental Report From the Children’s Code Reform Task Force*, January 2025, <https://childlaw.unm.edu/assets/docs/ccrtf-supplemental-report-1-29-25-final.pdf>, p. 15.

- 3) In a survey of National Association of Social Workers members designating their practice as “Child/Family Welfare”, the majority of child and family welfare social workers surveyed found it to be child neglect when youth accessed or had potential access to a loaded, unsecured firearm. See *Social workers’ determination of when children’s access or potential access to loaded firearms constitutes child neglect*, Injury Epidemiology, May 2019, <https://injepijournal.biomedcentral.com/articles/10.1186/s40621-019-0202-2#:~:text=The%20vast%20majority%20of%20child,storage%20of%20firearms%20in%20homes.>

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

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

Conflicts with SB 84 and SB 430 (also amending Section 32A-4-2 NMSA 1978).

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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