

<b>LFC Requester:</b>	<b>ERIC CHENIER</b>
-----------------------	---------------------

**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}*

**Date Prepared:** 03 FEB 25 *Check all that apply:*  
**Bill Number:** SB 222 Original  Correction   
 Amendment  Substitute

**Sponsor:** Antoinette Sedillo Lopez **Agency Name and Code** 790 – Department of Public Safety  
**Short Title:** CAREGIVER BACKGROUND CHECKS **Number:** \_\_\_\_\_  
**Person Writing** H. L. LOVATO  
**Phone:** 5058273316 **Email:** HERMAN.LOVATO@DPS.NM.GOV

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(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>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act: Duplicate of 2025 HB131; related to

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

SB 222 transfers the authority for overseeing caregiver background checks from the Department of Health (DOH) to the Health Care Authority (HCA). The bill expands the list of disqualifying felony convictions for employment as a caregiver, including battery of a household member, sex trafficking, assault of a peace officer, identity theft, and cruelty to animals. Additionally, it authorizes HCA to promulgate rules adding further disqualifying convictions and mandates the transfer of all records, functions, and equipment related to caregiver criminal history oversight from DOH to HCA.

### **FISCAL IMPLICATIONS**

Following a thorough review, it has been determined that the proposed initiative will not result in any direct fiscal impact on the Law Enforcement Records Bureau (LERB). The implementation of this measure will be conducted using existing resources, with no additional funding required. LERB remains committed to its mission of enhancing public safety and operational efficiency while ensuring fiscal responsibility.

However, the broader fiscal impact stems from the costs associated with transferring responsibilities from the Department of Health (DOH) to the Human Services Department (HCA). These costs include staffing, training, IT infrastructure, rulemaking, and administrative restructuring. Additionally, HCA may incur costs to ensure compliance with FBI Criminal Justice Information Law Unit (CJILU) regulations and respond to federal requirements during the approval process. As the FBI Criminal Justice Information Services (CJIS) Criminal State Agency (CSA), DPS LERB will facilitate all correspondence with the FBI regarding this transition.

Notably, authorization from CJILU for the ORI transfer may take over 365 days, which could necessitate additional resources to manage interim background check processes. However, these costs may be offset by efficiencies gained through centralized oversight under HCA.

### **SIGNIFICANT ISSUES**

The new law must explicitly grant HCA employees who have access to review and access Criminal Justice Information (CJI). Without this legislative authority, HCA cannot process or handle CJI in compliance with Public Law 92-544 and CJIS Security Policy.

All employees with access to CJI must pass a fingerprint-based background check and remain felony-free throughout their tenure. Failure to meet this requirement constitutes a CJIS Security Policy violation and could compromise system integrity. Agencies must complete these checks before granting access and report any individuals who do not pass but have previously handled sensitive information. The updated Personnel Screening Policy (PS-3) requires state and national fingerprint-based background checks before system access, ensuring compliance with FBI-approved authority, federal regulations, and agency guidelines.

Additionally, the ORI transfer cannot proceed without FBI CJILU approval, and data under DOH's purview cannot be shared with HCA until the proper legal framework is in place. Any premature changes before DPS submits the legislation for FBI approval could jeopardize the agency's ability to conduct FBI background checks.

### **PERFORMANCE IMPLICATIONS**

The bill enhances public safety and consumer protection by ensuring caregivers undergo rigorous background checks.

The bill ensures full compliance with federal law, specifically Title 28 of the Code of Federal Regulations (28 CFR) and Public Law 92-544, governing criminal history record checks for employment screening. Once SB 222 is signed into law, New Mexico will submit the law to the FBI Criminal Justice Information Law Unit (CJILU) for review. CJILU will assess the legislation to ensure conformance with federal requirements before authorizing the transfer of Originating Agency Identifier (ORI) for background checks.

The bill reinforces compliance with federal criminal history check regulations, ensuring alignment with 28 CFR and Public Law 92-544. By enhancing background check requirements, it strengthens public trust in the caregiver screening process, promoting greater accountability and safety within the industry.

DPS LERB, as New Mexico's CJIS CSA, will coordinate closely with the FBI to ensure smooth transitional operations.

### **ADMINISTRATIVE IMPLICATIONS**

Coordination between HCA and DPS LERB is essential to ensure compliance with federal requirements, as the FBI CJILU will oversee and authorize ORI transfers. Given that CJILU approval may take over a year, agencies must implement temporary provisions to maintain background check operations during the transition period.

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

SB 222 is a duplicate of 2025 HB 131.

### **TECHNICAL ISSUES**

The bill does not establish a contingency plan for processing background checks during the FBI CJILU review period, which may create implementation delays. The timeline for HCA's rulemaking process remains undefined, which could affect the timely development of new screening procedures.

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

If the bill is not enacted:

The Originating Agency Identifiers (ORI) are unique and non-transferable between entities, meaning the Health Care Authority (HCA) would not be authorized to access criminal justice information (CJI). Furthermore, CJI data cannot be shared between agencies under any circumstance, creating legal and operational challenges if the transition is not formalized through legislative action, and approved by the FBJ CJILU.

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

Failure to enact the bill would leave the Department of Health (DOH) responsible for caregiver background checks, delaying the transfer of the unit, and potentially delaying necessary updates to screening procedures.

### **AMENDMENTS**

None at this time.