

LFC Requester:	Kelly Klundt
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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: Date 01/26/17
Original **Amendment** _____
Correction _____ **Substitute** _____
Bill No: HB53

Sponsor: Rep. Nate Gentry **Agency Code:** 924
Short ALLOW CURFEW **Person Writing** Aguilar/Hecker
Title: ORDINANCES **Phone:** 827-6519 **Email** PaulJ.Aguilar@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
	None Noted		N/A

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 53 (HB53) adds a new section to the Children’s Code that gives local governments the authority to enact two different types of curfews on children under the age of sixteen (16).

HB53 provides specific exceptions to the curfew and establishes the procedures that law enforcement or other designated municipal employees are to follow in detainment and disposition of a child found in violation of an established curfew.

HB53 amends Section 32A-3B-3 NMSA 1987 to include guidelines regarding protective custody proceedings for children in violation of the curfew.

HB 53 declares an emergency.

FISCAL IMPLICATIONS

HB53 makes no fiscal reference in regards to the new code or amendment.

SIGNIFICANT ISSUES

The provisions of HB53 exempt students sixteen (16) years old or older, while the compulsory school attendance act, Section 22-12-2 NMSA, provides that “a school-age person shall attend public school, private, school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a high school equivalency credential”. Since HB53 specifically refers to the “Compulsory School Attendance Law,” the exemption in the bill may conflict with this section of the Public School Code in terms of the age range of children affected by this change.

By comparison with House Bill 29 of the 2016 New Mexico Legislative Session, HB53 provides additional exceptions for children who out of school during regular school daytime hours in part C, Section 9, paragraphs (a) through (c) and, therefore, who may not be subject to this ordinance during those hours. These include children who are enrolled in private or home school, those who attend an open campus school, and those enrolled in alternative schedule schools.

The arguments for youth curfews are generally threefold: that they reduce the number of crimes committed by juveniles; that they protect children from becoming victims of crime and that they reduce truancy. Some local curfew ordinances in states provide for civil penalties such as fines or community service for juveniles and/or parents, and some classify curfew violations as misdemeanor crimes. HB53 contains a provision that prohibits criminal penalties for children in a violation of a curfew ordinance. Several states have passed laws similar to that being proposed by HB53, and many municipalities have imposed youth curfews.

At least 500 US cities have imposed curfews on teenage youth, including 78 of the 92 cities with a population greater than 180,000. In most of these cities, curfews prohibit children under eighteen (18) from being on the streets after 11:00 pm during the week and after midnight on weekends. About 100 cities also have daytime curfews to keep children off the streets during school hours. (2009: <http://www.citymayors.com/society/usa-youth-curfews.html>)

One of several municipalities that have specific youth curfew laws of note is in Hennepin County, Minnesota (MN), which passed a youth curfew law initially as one part of a comprehensive safety net for youth, inclusive of the hours of between 10:00 PM and 5:00 AM on Sunday through Thursday nights, and 11:00 PM and 5:00 AM on Friday and Saturday nights. The City of Minneapolis’ curfew not only provides for punitive consequences to children, but connects them to counseling, social, and recreational programs. The City offers mentoring and positive adult role models and leadership in schools and neighborhoods and promotes good communication between police, parents, schools, social agencies, and youth. However, due to the huge influx of detainees under this ordinance, Minneapolis also had to establish a Curfew Center to serve as a holding area for youth in violation of the curfew statute, waiting for parents or guardians to retrieve them. <http://www.hennepin.us/your-government/ordinances/ordinance-16>

Youth curfews can be popular ways to stem public concern over crime rates, or as a reaction to a major event, because they are relatively inexpensive compared to other crime-fighting tools and have an easy-to-understand logic: If children are home, they won't commit crimes or be victims of crimes. However, there is little empirical evidence that curfews deter crime and/or reduce juvenile victimization. Curfews are also often challenged in court on constitutional grounds, with mixed outcomes, which can be time consuming and costly.

PERFORMANCE IMPLICATIONS

None as of 1/18/2017

ADMINISTRATIVE IMPLICATIONS

HB53 refers to the Compulsory School Attendance Law (P.2, L.3), however, it does not require any collaboration with or action on the part of the PED or public or State chartered schools. As written, HB53 offers no reference to communication between law enforcement and school officials regarding curfew violations, and as such, there are no administrative implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The provisions of HB53 exempt students sixteen (16) years old or older, while the compulsory school attendance act, Section 22-12-2 NMSA, provides that "a school-age person shall attend public school, private, school, home school or a state institution until the school-age person is at least eighteen years of age unless that person has graduated from high school or received a high school equivalency credential". The exemption in this bill may conflict with this section of the Public School Code.

OTHER SUBSTANTIVE ISSUES

On page 4, line 13, Part F of Section 1, the bill states: "no child shall be placed in a secured setting pursuant to this section." HB53 provides guidelines on step-by-step processes for law enforcement officers to follow after a child is detained. However, it does not stipulate how or in what location children/youth are to be detained and what is expected from law enforcement during those six hours of custody.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Should HB53 not be enacted there would be no change to the Children's Code in terms of providing local governments with authority to enact curfew ordinances.

AMENDMENTS

The Legislature may wish to consider aligning the provisions of HB53 to the Compulsory School Attendance Act with regard to exempting students under the age of eighteen (18) to limit conflicting provisions from being applied.