

LFC Requester:	Marty Daly
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**AGENCY BILL ANALYSIS
2015 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 February 24, 2015

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

Prepared: _____
Bill No: HB 536

Sponsor: Rep. Sharon Clahchischilliaige

Agency Code: Attorney General's Office

Short Title: Court Consideration of Youthful Offenders

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	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

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: House Bill 536 seeks to limit judicial review during an amenability hearing of a juvenile’s conduct that was not adjudicated.

FISCAL IMPLICATIONS:

N/A

SIGNIFICANT ISSUES: House Bill 536 attempts to limit a trial court’s consideration of certain factors in determining whether a juvenile may be sentenced as an adult. For a juvenile over the age of fourteen to be sentenced as an adult, the juvenile must first be adjudicated guilty of at least one of a few enumerated, violent crimes. Then, a court must carefully review several factors at an amenability hearing to determine if the juvenile may be rehabilitated by the age of twenty-one. These amenability factors largely focus on the juvenile rather than the offense committed. Only if a determination that the juvenile is not amenable to treatment may they be sentenced as an adult.

In *State v. Rudy B.*, the New Mexico Supreme Court reviewed the amenability factors in section 32A-2-20. Although they determined that most of the amenability factors focus on the juvenile, at least three of the factors focus on the offense. These “offense specific” factors are modified by House Bill 536 by removing the term “alleged.” By removing this term, a trial court may be limited to consider only those offenses for which the juvenile was adjudicated rather than

charged. Since it is common for many charges to be dropped during the adjudication process, practically, this Bill could deprive judicial review of otherwise relevant factors. The Supreme Court already permits trial courts to give these relevant factors only the weight they sit fit. Therefore, this Bill may only serve to deprive a court of relevant information they were previously permitted to weigh.

Additionally, House Bill 536 likely fixes a referential error in subsections (G) and (H) of 32A-2-20. Subsections (G) and (H) refer to specified youthful offender offenses, which are defined in subsection (J) rather than subsection (I).

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP:

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES: Make only the Bill's referential amendments in subsections (G) and (H) of 32A-2-20.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A