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**Bill Analysis 2017 Regular Session**

**SPONSOR:** Rep. Nate Gentry

**SHORT TITLE:** Allow Curfew Ordinances

**SYNOPSIS OF BILL:** Gives counties and municipalities authority to adopt a curfew ordinance between midnight and 5:00 a.m., and to regulate the actions of children during daytime hours on school days. The bill includes some exemptions. Although stating a violation will not itself be a crime, the bill contemplates police enforcement and allows for “protective custody” if police are unable to contact a guardian immediately upon a violation.

**STRENGTHS:** In theory, curfews are designed to protect children from dangers to themselves and to protect the community from children who misbehave when they lack of supervision.

**WEAKNESSES:** Studies show little to no reduction in violent crime by youth from curfew laws. Limitations on freedom of movement – even for children – may be unconstitutional. “Freedom of movement is the very essence of our free society, setting us apart. ... Government restrictions that inhibit the fundamental rights of minors are valid only if the restrictions serve a ‘significant state interest ... that is not present in the case of an adult.’” *ACLU of NM v. City of Albuquerque*, 1999-NMSC-044, ¶ 33, 128 N.M. 315. The bill does not account for parental permission and preempts parents’ freedom to decide when their children may be allowed to travel freely.

Providing grounds for law enforcement to stop, question, and search our kids is guaranteed to overwhelm our already strained juvenile justice system, especially New Mexico’s most vulnerable youth. Although New Mexico ranks 47th in the nation for homeless youth, HB 53 contains no exemption for homelessness. There also is serious concern that curfew ordinances would be disproportionately enforced against children of color, who already represent a disproportionate number of incarcerated youth.

**ADDITIONAL INFO:**

Youth of color comprise 38% of the youth population in the U.S. yet comprise nearly 70% of those who are confined. In 2011, black youth were 269 percent more likely to be arrested for violating curfew laws than white youth. At risk children need social services, education, and opportunities, *not* citations for curfew violations and “protective custody.” There is no evidence that curfews prevent violent crime. HB 53 thus demands time and resources from both law enforcement and CYFD for an unnecessary and potentially discriminatory policy.

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(OVER)

<b><u>Safer</u></b>	<b><u>Apolitical</u></b>	<b><u>Fiscally-Responsible</u></b>	<b><u>Evidence Based</u></b>	<b>Grade</b>
<p>If <i>children</i> are in danger, the police and CYFD already have authority to intervene. The Brookings Institute reports that <b>violent</b> crime actually increases when the “good” kids aren't there to witness and deter misbehavior, or to call 911. Only minor property crimes are reduced by curfews.</p>	<p>Testimony taken on the 2016 version of HB 53 suggested the bill was motivated by an isolated incident of violent crime committed by a group of teenagers late at night. HB 53 thus reacts to a single high-profile incident, not an established or pervasive problem.</p>	<p>The Fiscal Impact Report for 2015's identical HB 29 anticipated constitutional litigation impacting the judiciary budget, increased abuse and neglect caseloads, and resources from numerous agencies to care for children until they are returned to their guardians' care. A fiscal impact on courts, prosecutors, CYFD, and the Public Defender is also likely due to increased delinquency proceedings where charges result.</p>	<p>The research in this area suggests no reduction on <i>violent</i> crime. Instead, curfew laws promise costly constitutional litigation and a disproportionate impact on homeless and minority youth.</p>	<p><b>D</b></p>