

LFC Requester:

Gray

**AGENCY BILL ANALYSIS
2023 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 01/26/23
 Original Amendment Bill No: SJR2
 Correction Substitute

Sponsor: Soules Agency Name and Code
 Number: PED – 924
 Short Title: CHILDREN’S BILL OF RIGHTS, CA Person Writing Gregory Frostad
 Phone: 505-470-5752 Email: gregory.frostad@ped.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	150	150	Nonrecurring	Election Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to:

[HB112 Public School Wellness Room Pilot Project](#)

[SB4, Healthy Universal School Meals](#)

[SB95, Statewide School Safety](#)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Joint Resolution 2 (SJR2) proposes to amend the New Mexico Constitution by adding a new Section 25 to Article 2 (the Bill of Rights) to establish a “Children’s Bill of Rights” and enumerate a number of explicit rights that all children in New Mexico shall have. The bill directs the Legislature to enact a law to implement the provisions of the proposed amendment by the end of the 57th Legislature, or the end of the 2026 legislative session. The proposed amendment would be submitted to the people for approval at the next general election (November 2024) or special election called for this purpose.

FISCAL IMPLICATIONS:

The bill does not contain an appropriation.

According to the Secretary of State (SoS), under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the SoS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SoS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is between \$125 thousand and \$150 thousand, depending upon the size and number of ballots and if additional ballot stations are needed.

As noted in the bill, the Legislature would be required to create and amend statute to implement the requirements of the proposed new Section 25 of Article 2 of the New Mexico Constitution (the Bill of Rights), at costs that are currently indeterminate but are possibly significant for both the Legislature and the Compilation Commission.

SIGNIFICANT ISSUES:

Background. Conversation about rights for the protection of children began in the early 20th Century with the dissemination of the Geneva Declaration of the Rights of the Child, adopted by the League of Nations in 1924, and by the United Nations, in extended form, in 1959. The original document enumerated five specific rights, including, the means for normal material and spiritual development; appropriate assistance for hungry, sick, orphaned, delinquent, and “backward” children; first right to relief in times of distress; the means to earn a livelihood and protection from exploitation; and consciousness and development of their own talents.

A modern incarnation of the Children’s Bill of Rights was first introduced in Congress in 2015 and has been endorsed by more than 120 organizations. [This Children's Bill of Rights](#) addresses three categories of rights for children: physical wellbeing, social and emotional wellbeing, and educational and life skills. Enumerated rights to physical wellbeing include the right to be free from abuse and neglect, the right to a safe and happy environment, and the right to receive appropriate physical and mental medical care. Rights to social and emotional wellbeing include development of healthy attachments to parents and caregivers, the right to a voice in matters that

concern them, the right to have their best interests considered in decisions affecting them, and the right to rehabilitative services if detained as a juvenile. Rights associated with educational and life skills include access to educational services with appropriate educational supports, the right to be heard in relation to issues of their education, access to life-skills training, and the right to protection from unsafe or unfair labor practices.

Rights Proposed by Senate Joint Resolution 2. The rights proposed by SJR2 are significantly more expansive and detailed than those enumerated above in prior incarnations of the Children’s Bill of Rights, and some extend beyond the child to other family members. These include:

- Timely, accessible medical and dental care;
- Behavioral healthcare that is culturally sensitive and solution-focused, available to all household members;
- Nutritious food without enduring stigma, hunger, or food insecurity;
- Stable, healthy, safe housing with electricity, plumbing, heat, and internet access;
- Transportation to educational, recreational, and vital services;
- Residence in a community with home visitation programs beginning at birth to ensure safe households, parental support and education, and navigation to local vital services;
- Early childhood learning programs;
- Fully resourced community schools, with staffing adequate to ensure enriching academic and cultural experiences;
- School-based health centers to provide medical, dental, and mental health services to students and family members;
- Youth mentorship programs to support recreation, physical health, and academic and interpersonal communication skills; and
- Acquisition of all skills necessary to maintain quality employment, including job placement programs.

The children’s rights proposed by SJR2 are a significant expansion of rights currently enjoyed by any citizen of New Mexico, and include, in several instances, guarantees for persons other than children. It is uncertain how such rights can be consistently maintained, particularly in light of limited resources. For example, how can the state guarantee that all schoolchildren and their families will have access to medical care at school-based health centers across the state, considering existing shortages of medical personnel? How can the state ensure consistently, constantly adequate staffing, as required at community schools throughout the state, given ongoing teacher shortages? How can the state possibly guarantee *acquisition of* – not merely access to – “*all the skills needed to maintain quality employment*”?

While some of these questions would necessarily be answered by the Legislature in its work to implement the rights established by a ratified SJR2, there is still room for interpretation, particularly by the courts. In the consolidated *Martinez* and *Yazzie* lawsuit, the District Court found relatively vague statements of legislative intent and purpose, enshrined in the Public School Code, to be both open to interpretation and actionable on the part of the courts. While it has been established that the children of New Mexico have a right to an education sufficient to prepare them for college, career, and civic life, the rights proposed by SJR2 remain open to further interpretation that may lead to results unintended by the legislature. SJR2 may therefore benefit from the employment of more precise language, limiting potentially unintended consequences and expense. For example, what sort of transportation, maintained at what cost, would be adequate to ensure access to educational, vital, and *recreational* services? What recreational services would be included in this right of access? What is meant by behavioral healthcare that is “solution-oriented”?

What is “quality employment”? These questions should be addressed and clearly answered to avoid the burden and expense of unintended consequences. Additionally, guaranteeing these items for children and their families will raise the questions of eligibility for other state and federal programs along with the difficulty in administering these benefits.

PERFORMANCE IMPLICATIONS:

N/A

ADMINISTRATIVE IMPLICATIONS:

The Public Education Department would be required to promulgate and amend rule and guidance to address new programs and changes to existing programs, effected by legislation arising from SJR2.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to [House Bill 112, Public School Wellness Room Pilot Project](#), which makes an appropriation and establishes a pilot project to demonstrate the usefulness of wellness rooms for students in need of calming environments to regulate their emotional stress and behavioral issues.

Relates to [Senate Bill 4, Healthy Universal School Meals](#), which establishes the Healthy Universal School Meals Act, to require that every student in New Mexico be given healthy, free breakfast and school lunch.

Relates to [Senate Bill 95, Statewide School Safety](#), which makes a \$25 million reverting appropriation from the Public School Capital Outlay Fund to PED for expenditure in FY24 for school safety statewide.

TECHNICAL ISSUES:

N/A

OTHER SUBSTANTIVE ISSUES:

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL:

N/A

AMENDMENTS

The sponsor may wish to consider more precise language throughout the proposed joint resolution, to help avoid unintended consequences arising from interpretation of potentially vague language, particularly by the courts.