

underscored material = new  
[bracketed material] = delete

HOUSE BILL 339

**57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

INTRODUCED BY

Art De La Cruz

AN ACT

RELATING TO DELINQUENCY; AMENDING THE DELINQUENCY ACT; CHANGING  
THE DEFINITION OF "SERIOUS YOUTHFUL OFFENDER" TO INCLUDE A  
CHILD FIFTEEN TO EIGHTEEN YEARS OF AGE CHARGED WITH CRIMINAL  
SEXUAL PENETRATION IN THE FIRST DEGREE; ALLOWING FOR THE  
TRANSFER OF A SERIOUS YOUTHFUL OFFENDER TO THE CHILDREN'S COURT  
FOR A JUVENILE DISPOSITION UNDER CERTAIN CIRCUMSTANCES;  
REQUIRING MANDATORY COMMITMENT UNTIL THE AGE OF TWENTY-SIX FOR  
A SERIOUS YOUTHFUL OFFENDER ADJUDICATED IN THE CHILDREN'S COURT  
AND SUBJECT TO JUVENILE SANCTIONS; REQUIRING MANDATORY  
COMMITMENT FOR CERTAIN DELINQUENT OFFENDERS; REQUIRING  
MANDATORY COMMITMENT FOR CERTAIN YOUTHFUL OFFENDERS; PROVIDING  
THAT THE COURT RETAINS JURISDICTION OVER THE DISPOSITION OF  
CERTAIN DELINQUENT OFFENDERS AND YOUTHFUL OFFENDERS COMMITTED  
TO THE CUSTODY OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT;  
ENACTING A NEW SECTION 32A-2-19.1 NMSA 1978 TO CLARIFY TERMS OF  
.233134.2

1 COMMITMENT FOR ADJUDICATED DELINQUENT CHILDREN; MAKING  
2 CONFORMING AMENDMENTS; MAKING AN APPROPRIATION.

3  
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. Section 32A-2-3 NMSA 1978 (being Laws 1993,  
6 Chapter 77, Section 32, as amended) is amended to read:

7 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

8 A. "delinquent act" means an act committed by a  
9 child that would be ~~[designated]~~ charged as a crime ~~[under the~~  
10 ~~law]~~ if committed by an adult, ~~[not including]~~ except for an  
11 act that would be charged as a violation of Section 30-9-2 NMSA  
12 1978, [including the following offenses] and includes:

13 (1) any of the following offenses pursuant to  
14 municipal traffic codes or the Motor Vehicle Code:

15 (a) driving while under the influence of  
16 intoxicating liquor or drugs;

17 (b) failure to stop in the event of an  
18 accident causing death, personal injury or damage to property;

19 ~~[(c) unlawful taking of a vehicle or~~  
20 ~~motor vehicle;~~

21 ~~(d) receiving or transferring of a~~  
22 ~~stolen vehicle or motor vehicle;~~

23 ~~(e)]~~ (c) homicide by vehicle;

24 ~~[(f)]~~ (d) injuring or tampering with a  
25 vehicle;

.233134.2

1                   [~~(g)~~] (e) altering or changing of an  
2 engine number or other vehicle identification numbers;

3                   [~~(h)~~] (f) altering or forging of a  
4 driver's license or permit or any making of a fictitious  
5 license or permit;

6                   [~~(i)~~] (g) reckless driving;

7                   [~~(j)~~] (h) driving with a suspended or  
8 revoked license; or

9                   [~~(k) — an~~] (i) any other traffic offense  
10 punishable as a felony;

11                   (2) buying, attempting to buy, receiving,  
12 possessing or being served any alcoholic liquor or being  
13 present in a licensed liquor establishment, other than a  
14 restaurant or a licensed retail liquor establishment, except in  
15 the presence of the child's parent, guardian, custodian or  
16 adult spouse; provided that as used in this paragraph,  
17 "restaurant" means an establishment where meals are prepared  
18 and served primarily for on-premises consumption and that has a  
19 dining room, a kitchen and the employees necessary for  
20 preparing, cooking and serving meals [~~"Restaurant"~~] but does  
21 not include an establishment [~~as defined in regulations~~]  
22 subject to the rules promulgated by the director of the special  
23 investigations unit of the New Mexico state police division of  
24 the department of public safety, that serves only hamburgers,  
25 sandwiches, salads and other fast foods;

.233134.2

1 (3) a violation of Section 30-29-2 NMSA 1978,  
2 regarding the illegal use of a glue, aerosol spray product or  
3 other chemical substance;

4 (4) a violation of the Controlled Substances  
5 Act;

6 (5) escape from the custody of a law  
7 enforcement officer or a juvenile probation or parole officer  
8 or from any placement made by the department by a child who has  
9 been adjudicated a delinquent child;

10 (6) a violation of Section 30-15-1.1 NMSA 1978  
11 regarding unauthorized graffiti on personal or real property;

12 (7) a violation of an order of protection  
13 issued pursuant to the provisions of the Family Violence  
14 Protection Act; or

15 (8) trafficking cannabis as provided in  
16 Section 26-2C-28 NMSA 1978;

17 B. "delinquent child" means a child who has  
18 committed a delinquent act;

19 C. "delinquent offender" means [~~a~~] an adjudicated  
20 delinquent child who is subject to only juvenile sanctions  
21 [~~only~~] and who is not a youthful offender or a serious youthful  
22 offender;

23 D. "detention facility" means a place where a child  
24 may be detained under the Children's Code pending a court  
25 hearing and does not include a facility for the care and

1 rehabilitation of an adjudicated delinquent child;

2 E. "felony" means an act that would be a felony if  
3 committed by an adult;

4 F. "misdemeanor" means an act that would be a  
5 misdemeanor or petty misdemeanor if committed by an adult;

6 G. "restitution" means financial reimbursement by  
7 the child to the victim or community service ordered or imposed  
8 ~~[by the court and]~~ as part of the disposition of a complaint  
9 that is limited to easily ascertainable damages for injury to  
10 or loss of property, actual expenses incurred for medical,  
11 psychiatric and psychological treatment for injury to a person  
12 ~~[and]~~ or lost wages resulting from physical injury, ~~[which]~~  
13 that are a direct and proximate result of a delinquent act,  
14 ~~["Restitution"]~~ and does not include reimbursement for damages  
15 for mental anguish, pain and suffering or other intangible  
16 losses; provided that as used in this subsection, "victim"  
17 means a person who is injured or suffers damage of any kind by  
18 an act that is the subject of a complaint or referral to law  
19 enforcement officers or juvenile probation authorities ~~[Nothing~~  
20 ~~contained in this definition limits or replaces the provisions~~  
21 ~~of Subsections A and B of Section 32A-2-27 NMSA 1978];~~

22 H. "serious youthful offender" is not a delinquent  
23 child and means ~~[an individual]~~ a child fifteen to eighteen  
24 years of age who is charged with and indicted or bound over for  
25 trial for ~~[first degree murder. A "serious youthful offender"~~

.233134.2

1 ~~is not a delinquent child as defined pursuant to the provisions~~  
2 ~~of this section]~~ murder in the first degree as provided in  
3 Section 30-2-1 NMSA 1978 or a child who is seventeen years of  
4 age and charged with criminal sexual penetration in the first  
5 degree as provided in Section 30-9-11 NMSA 1978;

6 I. "supervised release" means the release of a  
7 juvenile, whose term of commitment has not expired, from a  
8 facility for the care and rehabilitation of adjudicated  
9 delinquent children, with specified conditions to protect  
10 public safety and promote successful transition and  
11 reintegration into the community. A juvenile on supervised  
12 release is subject to monitoring by the department until the  
13 term of commitment has expired and may be returned to custody  
14 for violating conditions of release; and

15 J. "youthful offender" means a delinquent child  
16 subject to adult or juvenile sanctions who is:

17 (1) fourteen to eighteen years of age at the  
18 time of the offense and who is adjudicated for at least one of  
19 the following offenses:

20 (a) second degree murder, as provided in  
21 Section 30-2-1 NMSA 1978;

22 (b) assault with intent to commit a  
23 violent felony, as provided in Section 30-3-3 NMSA 1978;

24 (c) kidnapping, as provided in Section  
25 30-4-1 NMSA 1978;

1 (d) aggravated battery, as provided in  
2 Subsection C of Section 30-3-5 NMSA 1978;

3 (e) aggravated battery against a  
4 household member, as provided in Subsection C of Section  
5 30-3-16 NMSA 1978;

6 (f) aggravated battery upon a peace  
7 officer, as provided in Subsection C of Section 30-22-25 NMSA  
8 1978;

9 (g) shooting at a dwelling or occupied  
10 building or shooting at or from a motor vehicle, as provided in  
11 Section 30-3-8 NMSA 1978;

12 (h) dangerous use of explosives, as  
13 provided in Section 30-7-5 NMSA 1978;

14 (i) criminal sexual penetration in the  
15 second degree, third degree or fourth degree, as provided in  
16 Section 30-9-11 NMSA 1978;

17 (j) robbery, as provided in Section  
18 30-16-2 NMSA 1978;

19 (k) aggravated burglary, as provided in  
20 Section 30-16-4 NMSA 1978;

21 (l) aggravated arson, as provided in  
22 Section 30-17-6 NMSA 1978; or

23 (m) abuse of a child that results in  
24 great bodily harm or death to the child, as provided in Section  
25 30-6-1 NMSA 1978;

.233134.2

1                   (2) fourteen to eighteen years of age at the  
2 time of the offense, who is adjudicated for any felony offense  
3 and who has had three prior, separate felony adjudications  
4 within a three-year time period immediately preceding the  
5 instant offense. The felony adjudications relied upon as prior  
6 adjudications shall not have arisen out of the same transaction  
7 or occurrence or series of events related in time and location.  
8 Successful completion of consent decrees is not considered a  
9 prior adjudication for the purposes of this paragraph; or

10                   (3) fourteen years of age ~~[and who is]~~ at the  
11 time of the offense and adjudicated for first degree murder, as  
12 provided in Section 30-2-1 NMSA 1978, or criminal sexual  
13 penetration in the first degree, as provided in Section 30-9-11  
14 NMSA 1978."

15           SECTION 2. Section 32A-2-8 NMSA 1978 (being Laws 1993,  
16 Chapter 77, Section 37) is amended to read:

17           "32A-2-8. PETITION--AUTHORIZATION TO FILE--TRANSFER OF  
18 SERIOUS YOUTHFUL OFFENDERS TO CHILDREN'S COURT.--

19           A. A petition alleging delinquency shall not be  
20 filed in delinquency proceedings unless the children's court  
21 attorney, after consulting with probation services, has  
22 determined and endorsed upon the petition that the filing of  
23 the petition is in the best interest of the public and the  
24 child. The children's court attorney shall furnish legal  
25 services in connection with the authorization and preparation

.233134.2



1 of the petition.

2 B. In a case against a serious youthful offender,  
3 if a prosecutor and defense counsel agree that interests of  
4 justice, the welfare of the serious youthful offender and the  
5 safety of the public will be served by subjecting the serious  
6 youthful offender to juvenile sanctions, the parties shall give  
7 notice to the district court and the children's court attorney  
8 that the case will be transferred to the children's court.  
9 Upon receiving such notice, the children's court attorney shall  
10 file a petition against the serious youthful offender to  
11 initiate adjudication proceedings in the children's court."

12 SECTION 3. Section 32A-2-19 NMSA 1978 (being Laws 1993,  
13 Chapter 77, Section 48, as amended) is amended to read:

14 "32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT  
15 OFFENDER OR A YOUTHFUL OFFENDER OR SERIOUS YOUTHFUL OFFENDER  
16 SUBJECT TO JUVENILE SANCTIONS.--

17 A. The dispositions provided for in this section  
18 constitute juvenile sanctions for children adjudicated pursuant  
19 to the Delinquency Act.

20 ~~[A.]~~ B. At the conclusion of the dispositional  
21 hearing, the court may make and include in the dispositional  
22 judgment its findings on the following:

23 (1) the interaction and interrelationship of  
24 the child with the child's parents and siblings and any other  
25 person who may significantly affect the child's best interests;

.233134.2

1 (2) the child's adjustment to the child's  
2 home, school and community;

3 (3) the mental and physical health of all  
4 individuals involved, including consideration of such factors  
5 as the child's brain development, maturity, trauma history and  
6 disability;

7 (4) the wishes of the child as to the child's  
8 custodian;

9 (5) the wishes of the child's parents as to  
10 the child's custody;

11 (6) whether there exists a relative of the  
12 child or other individual who, after study by the department,  
13 is found to be qualified to receive and care for the child;

14 (7) the availability of services recommended  
15 in the predisposition report; and

16 (8) the ability of the parents to care for the  
17 child in the home.

18 ~~[B.]~~ C. Except as provided in Subsection D of this  
19 section, if a child is ~~[found to be delinquent]~~ adjudicated as  
20 a delinquent offender or youthful offender subject to juvenile  
21 sanctions, the court may ~~[enter its judgment making]~~ order any  
22 of the following dispositions, ~~[for the supervision, care and~~  
23 ~~rehabilitation of the child]~~ if appropriate:

24 (1) transfer legal custody ~~[to]~~ of the child  
25 to the department ~~[an agency responsible for the care and~~

1 ~~rehabilitation of delinquent children, which shall receive the~~  
2 ~~child at a facility designated by the secretary of the~~  
3 ~~department as a juvenile reception facility. The department~~  
4 ~~shall thereafter determine the appropriate placement,~~  
5 ~~supervision and rehabilitation program for the child. The~~  
6 ~~judge may include recommendations for placement of the child.~~  
7 ~~Commitments are subject to limitations and modifications set~~  
8 ~~forth in Section 32A-2-23 NMSA 1978. The types of commitments~~  
9 ~~include:~~

10 ~~(a) a short-term commitment of one year~~  
11 ~~in a facility for the care and rehabilitation of adjudicated~~  
12 ~~delinquent children. No more than nine months shall be served~~  
13 ~~at the facility and no less than ninety days shall be served on~~  
14 ~~supervised release, unless: 1) a petition to extend the~~  
15 ~~commitment has been filed prior to the commencement of~~  
16 ~~supervised release; 2) the commitment has been extended~~  
17 ~~pursuant to Section 32A-2-23 NMSA 1978; or 3) supervised~~  
18 ~~release is revoked pursuant to Section 32A-2-25 NMSA 1978;~~

19 ~~(b) a long-term commitment for no more~~  
20 ~~than two years in a facility for the care and rehabilitation of~~  
21 ~~adjudicated delinquent children. No more than twenty-one~~  
22 ~~months shall be served at the facility and no less than ninety~~  
23 ~~days shall be served on supervised release, unless: 1)~~  
24 ~~supervised release is revoked pursuant to Section 32A-2-25 NMSA~~  
25 ~~1978; or 2) the commitment is extended pursuant to Section~~

1 ~~32A-2-23 NMSA 1978;~~

2 ~~(c) if the child is a delinquent~~  
3 ~~offender who committed one of the criminal offenses set forth~~  
4 ~~in Subsection J of Section 32A-2-3 NMSA 1978, a commitment to~~  
5 ~~age twenty-one, unless sooner discharged; or~~

6 ~~(d) if the child is a youthful offender,~~  
7 ~~a commitment to age twenty-one, unless sooner discharged] for~~  
8 ~~commitment at a facility for the care and rehabilitation of~~  
9 ~~adjudicated delinquent children for an appropriate term in~~  
10 ~~accordance with the provisions of Section 32A-2-19.1 NMSA 1978;~~

11 (2) place the child on probation [~~under those~~  
12 ~~conditions and limitations as the court may prescribe] or~~  
13 ~~supervision subject to appropriate conditions;~~

14 (3) [~~place~~] commit the child [~~in~~] to a local  
15 detention facility that [~~has been~~] is certified [~~in accordance~~  
16 ~~with the provisions of~~] pursuant to Section 32A-2-4 NMSA 1978  
17 for a period not to exceed fifteen days within a three hundred  
18 sixty-five day time period [~~or if a child is found to be~~  
19 ~~delinquent solely on the basis of Paragraph (3) of Subsection A~~  
20 ~~of Section 32A-2-3 NMSA 1978, the court shall only enter a~~  
21 ~~judgment placing the child on probation or ordering restitution~~  
22 ~~or both]; or~~

23 (4) if a child is found to be delinquent  
24 solely [~~on the basis of Paragraph (2), (3) or (4)] for~~  
25 ~~violating the offenses enumerated in Paragraphs (2) through (4)~~

1 of Subsection A of Section 32A-2-3 NMSA 1978, the court may  
2 ~~[make any disposition provided by this section and may enter~~  
3 ~~its judgment placing the child on probation and, as a condition~~  
4 ~~of probation, transfer]~~ place the child on probation or  
5 supervision subject to appropriate conditions that may include:

6 (a) transferring custody of the child to  
7 the department for treatment for a period not to exceed six  
8 months ~~[without further order of the court]~~; provided that  
9 ~~[this transfer shall not be made unless]~~ the court first  
10 determines that the department is able to provide or contract  
11 for adequate and appropriate treatment for the child and that  
12 the treatment is likely to be beneficial; or

13 (b) ordering the suspension or denial of  
14 the child's driving privileges or revocation of the child's  
15 driver's license for a period of ninety days for a first  
16 adjudication and for twelve months for a second or subsequent  
17 adjudication; provided that the court shall give notice of the  
18 suspension, denial or revocation to the taxation and revenue  
19 department within twenty-four hours of entering the judgment;  
20 and provided further that suspension, denial or revocation  
21 shall be in accordance with the Motor Vehicle Code.

22 D. The court shall order a disposition transferring  
23 the legal custody of a child to the department for commitment  
24 at a facility for the care and rehabilitation of adjudicated  
25 delinquent children in accordance with Section 32A-2-19.1 NMSA

1 1978 if the child is:

2 (1) a serious youthful offender; or

3 (2) adjudicated as a delinquent offender or  
4 youthful offender for:

5 (a) first or second degree murder;

6 (b) first degree criminal sexual  
7 penetration; or

8 (c) abuse of a child that results in  
9 great bodily harm or death.

10 ~~[C. When the]~~ E. If a child is an Indian child,  
11 the Indian child's cultural needs shall be considered in the  
12 dispositional judgment and, if applicable, reasonable access to  
13 cultural practices and traditional treatment shall be provided.

14 ~~[D. A child found to be delinquent shall not be~~  
15 ~~committed or transferred to a penal institution or other~~  
16 ~~facility used for the execution of sentences of persons~~  
17 ~~convicted of crimes.~~

18 ~~E.] F.~~ Whenever the court ~~[vests]~~ transfers legal  
19 custody ~~[in]~~ of a child to an agency, institution or  
20 department, ~~[it]~~ the court shall transmit with the  
21 dispositional judgment copies of the clinical reports, the  
22 predisposition study and report and other information ~~[it has]~~  
23 in the record that is pertinent to the care and treatment of  
24 the child.

25 ~~[F.] G.~~ Prior to ~~[any]~~ the custody of a child being

1 ~~[placed in the custody of]~~ transferred to the department, the  
2 department shall be provided with reasonable ~~[oral or written~~  
3 ~~notification]~~ notice and an opportunity to be heard.

4 ~~[G.]~~ H. In addition to ~~[any other]~~ a disposition  
5 pursuant to Subsection ~~[B]~~ C of this section, the court may  
6 make an abuse or neglect report ~~[for investigation and~~  
7 ~~proceedings as provided for in]~~ that shall be processed in  
8 accordance with the Abuse and Neglect Act. The report may be  
9 made to a local law enforcement agency, the department or a  
10 tribal law enforcement or social service agency for an Indian  
11 child ~~[residing]~~ who resides in Indian country.

12 ~~[H. In addition to any other disposition pursuant~~  
13 ~~to this section or any other penalty provided by law, if a~~  
14 ~~child who is fifteen years of age or older is adjudicated~~  
15 ~~delinquent on the basis of Paragraph (2), (3) or (4) of~~  
16 ~~Subsection A of Section 32A-2-3 NMSA 1978, the child's driving~~  
17 ~~privileges may be denied or the child's driver's license may be~~  
18 ~~revoked for a period of ninety days. For a second or a~~  
19 ~~subsequent adjudication, the child's driving privileges may be~~  
20 ~~denied or the child's driver's license revoked for a period of~~  
21 ~~one year. Within twenty-four hours of the dispositional~~  
22 ~~judgment, the court may send to the motor vehicle division of~~  
23 ~~the taxation and revenue department the order adjudicating~~  
24 ~~delinquency. Upon receipt of an order from the court~~  
25 ~~adjudicating delinquency, the director of the motor vehicle~~

1 ~~division of the taxation and revenue department may revoke or~~  
2 ~~deny the delinquent's driver's license or driving privileges.~~  
3 ~~Nothing in this section may prohibit the delinquent from~~  
4 ~~applying for a limited driving privilege pursuant to Section~~  
5 ~~66-5-35 NMSA 1978 or an ignition interlock license pursuant to~~  
6 ~~the Ignition Interlock Licensing Act, and nothing in this~~  
7 ~~section precludes the delinquent's participation in an~~  
8 ~~appropriate educational, counseling or rehabilitation program.]~~

9 I. In addition to ~~[any other]~~ a disposition  
10 pursuant to this section or any other penalty ~~[provided]~~  
11 prescribed by law, ~~[when]~~ if a child is adjudicated delinquent  
12 ~~[on the basis of Paragraph (6) of Subsection A of Section~~  
13 ~~32A-2-3 NMSA 1978]~~ for violating Section 30-15-1.1 NMSA 1978  
14 regarding unauthorized graffiti on personal or real property,  
15 the child shall perform the mandatory community service ~~[set~~  
16 ~~forth in Section 30-15-1.1 NMSA 1978. When]~~ required for that  
17 offense. If a child fails to ~~[completely perform]~~ complete the  
18 mandatory community service, the name and address of the  
19 child's parent or legal guardian shall be published in a  
20 newspaper of general circulation, accompanied by a notice that  
21 the parent or legal guardian is the parent or legal guardian of  
22 a child adjudicated delinquent for committing graffiti."

23 SECTION 4. A new section of the Delinquency Act, Section  
24 32A-2-19.1 NMSA 1978, is enacted to read:

25 "32A-2-19.1. [NEW MATERIAL] STANDARD TERMS OF COMMITMENT

.233134.2



1 FOR AN ADJUDICATED DELINQUENT OFFENDER OR A YOUTHFUL OFFENDER--  
2 MANDATORY COMMITMENT FOR CERTAIN YOUTHFUL OFFENDERS.--

3 A. If an adjudicated delinquent child is  
4 transferred to the custody of the department for commitment,  
5 the commitment shall be at a facility for the care and  
6 rehabilitation of adjudicated delinquent children. An  
7 adjudicated delinquent child shall not be committed at a penal  
8 institution or other facility for the detention of adults  
9 convicted of crimes, unless the child is a youthful offender  
10 subject to an adult sentence.

11 B. Before placing the child at a facility for the  
12 care and rehabilitation of adjudicated delinquent children, the  
13 department shall first assess the child at a department-  
14 designated assessment facility to determine the placement, type  
15 of supervision and rehabilitation program appropriate for the  
16 child. In determining the appropriate placement, supervision  
17 and program for an adjudicated delinquent offender or youthful  
18 offender, the department may consider any recommendations made  
19 by the court; provided that the department shall place a  
20 serious youthful offender subject to juvenile sanctions as  
21 ordered by the court.

22 C. Either of the following terms of commitment are  
23 standard for a child adjudicated as a delinquent offender and  
24 are subject to modification in accordance with Section 32A-2-23  
25 NMSA 1978:

.233134.2

1 (1) a short-term commitment shall not exceed  
2 nine months; provided that no more than six months of the  
3 commitment may be served at a facility for the care and  
4 rehabilitation of adjudicated delinquent children and at least  
5 ninety days of the commitment shall be served on supervised  
6 release, unless supervised release is revoked pursuant to  
7 Section 32A-2-25 NMSA 1978; and

8 (2) a long-term commitment shall not exceed  
9 twenty-four months; provided that no more than twenty-one  
10 months of the commitment may be served at a facility for the  
11 care and rehabilitation of adjudicated delinquent children and  
12 at least ninety days of the commitment shall be served on  
13 supervised release, unless supervised release is revoked  
14 pursuant to Section 32A-2-25 NMSA 1978.

15 D. The standard term of commitment for a child who  
16 is a delinquent offender but committed an offense that would  
17 have otherwise made the child a youthful offender is commitment  
18 from the date of the dispositional judgment until the child  
19 reaches the age of twenty-one and is subject to modification in  
20 accordance with Section 32A-2-23 NMSA 1978; provided that if  
21 the child was adjudicated for first degree murder, second  
22 degree murder, first degree criminal sexual penetration or  
23 abuse of a child resulting in great bodily harm or death,  
24 commitment until the child reaches the age of twenty-one is  
25 mandatory and is only subject to extension in accordance with

.233134.2

1 Section 32A-2-23 NMSA 1978.

2 E. The standard term of commitment for a child who  
3 is a youthful offender is commitment from the date of the  
4 dispositional judgment until the child reaches the age of  
5 twenty-one and is subject to modification in accordance with  
6 Section 32A-2-23 NMSA 1978.

7 F. The standard term of commitment for a child who  
8 is a youthful offender adjudicated for first degree murder,  
9 second degree murder, first degree criminal sexual penetration  
10 or abuse of a child resulting in great bodily harm or death is  
11 mandatory commitment from the date of the dispositional  
12 judgment until the child reaches the age of twenty-six and is  
13 only subject to extension in accordance with Section 32A-2-23  
14 NMSA 1978.

15 G. The standard term of commitment for a serious  
16 youthful offender adjudicated pursuant to the Delinquency Act  
17 and subject to juvenile sanctions is mandatory commitment from  
18 the date of the dispositional judgment until the child reaches  
19 the age of twenty-six and is only subject to extension in  
20 accordance with Section 32A-2-23 NMSA 1978."

21 SECTION 5. Section 32A-2-23 NMSA 1978 (being Laws 1993,  
22 Chapter 77, Section 52, as amended) is amended to read:

23 "32A-2-23. LIMITATIONS ON DISPOSITIONAL JUDGMENTS--  
24 MODIFICATION--TERMINATION OR EXTENSION OF COURT ORDERS.--

25 A. Upon the entry of a judgment transferring legal

.233134.2

1 custody of an adjudicated delinquent child to ~~[an agency~~  
2 ~~responsible for the care and rehabilitation of delinquent~~  
3 ~~children divests the court of jurisdiction at the time of~~  
4 ~~transfer of custody, unless]~~ the department, the court is  
5 divested of jurisdiction; provided that the court retains  
6 jurisdiction over a disposition for:

7 (1) a serious youthful offender subject to  
8 juvenile sanctions;

9 (2) a child adjudicated as a delinquent  
10 offender or youthful offender for:

11 (a) first or second degree murder;

12 (b) first degree criminal sexual  
13 penetration; or

14 (c) abuse of a child that results in  
15 great bodily harm or death; or

16 (3) a delinquent child that includes the  
17 transfer of legal custody [is for a] for commitment at a local  
18 detention facility not exceeding fifteen days pursuant to the  
19 provisions of Section 32A-2-19 NMSA 1978 ~~[in which case the~~  
20 ~~court retains jurisdiction]~~.

21 B. A judgment ~~[of]~~ ordering probation or  
22 ~~[protective]~~ supervision shall remain in force for an  
23 indeterminate period not to exceed the term of commitment ~~[from~~  
24 ~~the date entered]~~ that a court is authorized to order for the  
25 child.

1 C. ~~[A child shall be released by an agency and]~~  
2 Probation or supervision shall be terminated ~~[by]~~ before the  
3 expiration of the judgment if juvenile probation and parole  
4 services or the agency providing supervision ~~[when it appears~~  
5 ~~that the purpose of the order has been achieved before the~~  
6 ~~expiration of the period of the judgment. A]~~ determines that  
7 continued probation or supervision is not necessary because the  
8 child has substantially complied with the conditions of the  
9 probation or supervision. The release or termination and the  
10 reasons ~~[therefor]~~ for release or termination shall be reported  
11 promptly to the court in writing ~~[by the releasing authority]~~.

12 D. Prior to the expiration of a short-term  
13 commitment, ~~[of one year, as provided for in Section 32A-2-19~~  
14 ~~NMSA 1978]~~ the court may extend the judgment for up to one six-  
15 month period if the court finds that the extension is necessary  
16 to safeguard the welfare of the child or the ~~[public]~~ safety of  
17 the public. If a short-term commitment is extended, the  
18 ~~[mandatory ninety-day]~~ term of a child's supervised release  
19 ~~[as]~~ required by Section ~~[32A-2-19]~~ 32A-2-19.1 NMSA 1978 shall  
20 be included in the extension. Notice and hearing are required  
21 for any extension of a ~~[juvenile's]~~ child's commitment.

22 E. Prior to the expiration of a standard long-term  
23 commitment, ~~[as provided for in Section 32A-2-19 NMSA 1978]~~ the  
24 court may extend the judgment for additional periods of one  
25 year until the child reaches the age of twenty-one if the court

1 finds that the extension is necessary to safeguard the welfare  
2 of the child or the ~~[public]~~ safety of the public. If a long-  
3 term commitment is extended, the ~~[mandatory ninety-day]~~ term of  
4 the child's supervised release ~~[as]~~ required by Section  
5 ~~[32A-2-19]~~ 32A-2-19.1 NMSA 1978 shall be included in the  
6 extension. Notice and hearing are required for any extension  
7 of a ~~[juvenile's]~~ child's commitment.

8 F. Prior to the expiration of a judgment of  
9 probation, the court may extend the judgment for an additional  
10 period of one year until the child reaches the age of twenty-  
11 one if the court finds that the extension is necessary to  
12 ~~[protect the community or to]~~ safeguard the welfare of the  
13 child or the safety of the public.

14 G. The court may dismiss a motion to modify a  
15 disposition if, ~~[it finds]~~ after preliminary investigation, the  
16 court determines that the motion is without ~~[substance]~~ merit.  
17 If the court ~~[is of the opinion]~~ determines that the matter  
18 should be reviewed, ~~[it may, upon notice to all necessary~~  
19 ~~parties, proceed to]~~ the court shall hold a hearing in the  
20 manner provided for hearings on petitions alleging delinquency  
21 after giving notice to the necessary parties. The court may  
22 terminate a judgment if it finds that the child is no longer in  
23 need of care, supervision or rehabilitation or it may enter a  
24 judgment extending or modifying the original judgment if it  
25 finds that action necessary to safeguard the child or the

1 ~~[public interest]~~ safety of the public.

2 H. [A] An adjudicated delinquent child or an  
3 adjudicated serious youthful offender may ~~[make]~~ file a motion  
4 to request a hearing to modify ~~[a children's court or adult]~~  
5 the child's or offender's disposition within thirty days ~~[of~~  
6 ~~the judge's decision]~~ from the date of the dispositional  
7 judgment. If the court ~~[is of the opinion that the matter~~  
8 ~~should be reviewed, it may, upon notice to all necessary~~  
9 ~~parties, proceed to]~~ determines that the child's request has  
10 merit, the court shall hold a hearing in the manner provided  
11 for hearings on petitions alleging delinquency after notice is  
12 given to the necessary parties.

13 I. The department ~~[may seek a bench warrant from~~  
14 ~~the court when the]~~ shall give notice to the court if a child  
15 absconds from probation or supervision or from supervised  
16 release. Upon receiving such notice, the court shall issue a  
17 warrant for the child's arrest."

18 SECTION 6. Section 32A-2-23.1 NMSA 1978 (being Laws 2009,  
19 Chapter 239, Section 23) is amended to read:

20 "32A-2-23.1. RELEASE ELIGIBILITY.--

21 A. The department shall have exclusive jurisdiction  
22 and authority to release an adjudicated delinquent child during  
23 the term of the child's commitment, consistent with the  
24 provisions of the Victims of Crime Act; provided that the  
25 department does not have jurisdiction over or the authority to

.233134.2

1 release a delinquent child adjudicated for first degree murder,  
2 second degree murder, first degree criminal sexual penetration  
3 or abuse of a child resulting in great bodily harm or death.

4           B. In determining whether to release a child, the  
5 department shall give due consideration to public safety, the  
6 extent to which the child has been rehabilitated, the adequacy  
7 and suitability of the proposed release plan and the needs and  
8 best interests of the child, including the child's need for  
9 behavioral health or medical services that are not available in  
10 facilities for adjudicated delinquent children.

11           ~~[B.]~~ C. The decision to grant or deny release shall  
12 be made by the secretary of children, youth and families or the  
13 secretary's designee. The department may impose such  
14 conditions of release as it deems appropriate.

15           ~~[C.]~~ D. A child is eligible for release any time  
16 after the entry of a judgment transferring legal custody to the  
17 department, and the department may consider a reasonable  
18 request for release from the child at any time sixty days after  
19 the child has been committed.

20           ~~[D.]~~ E. In the event release for a child is denied  
21 by the department after release is recommended for the child by  
22 the juvenile public safety advisory board, or release is  
23 approved by the department after the board has recommended that  
24 the child not be released, within ten days, the board may  
25 request a review of the decision by the court of the judicial

.233134.2



1 district from which legal custody of the child was transferred,  
2 and the department shall transmit the child's records to the  
3 court. The court shall have jurisdiction to review the matter  
4 without conducting a formal hearing and to issue an order that  
5 either denies or grants release to the child. If the board  
6 requests review under this section, the child shall not be  
7 released until such time as the court has issued a decision.  
8 If the board does not petition the district court for review of  
9 the department's decision to grant or deny release within ten  
10 days of the department's decision, the department's decision  
11 shall be final, and the department shall release the child or  
12 continue the commitment in accordance with the terms of its  
13 decision.

14 ~~[E.]~~ F. The secretary of children, youth and  
15 families or the secretary's designee may review the case of any  
16 child upon the child's or the juvenile public safety advisory  
17 board's reasonable request at any time after release is  
18 denied."

19 SECTION 7. Section 32A-2-25 NMSA 1978 (being Laws 1993,  
20 Chapter 77, Section 54, as amended) is amended to read:

21 "32A-2-25. ~~[PAROLE]~~ SUPERVISED RELEASE REVOCATION--  
22 PROCEDURES.--

23 A. ~~[A child on parole from an agency that has legal~~  
24 ~~custody who violates a term of parole may be proceeded against~~  
25 ~~in a parole revocation proceeding conducted by the department~~

.233134.2

1 ~~or the supervising agency or by a hearing officer contracted by~~  
2 ~~the department who is neutral to the child and the agency in~~  
3 ~~accordance with procedures established by the department in~~  
4 ~~cooperation with the juvenile parole board.] If an adjudicated~~  
5 ~~delinquent child violates a condition of the child's supervised~~  
6 ~~release, the department may propose revocation of the~~  
7 ~~supervised release. If the department proposes revocation, the~~  
8 ~~department shall conduct a revocation hearing that is presided~~  
9 ~~over by the department or a neutral hearing officer contracted~~  
10 ~~by the department. A child may waive the right to a revocation~~  
11 ~~hearing after consultation with the child's attorney and~~  
12 ~~parent, guardian or custodian.~~

13 B. A juvenile probation and parole officer may  
14 detain a child on ~~[parole status who is alleged to have]~~  
15 supervised release if the officer has probable cause that the  
16 child violated a ~~[term or]~~ condition of ~~[parole]~~ the supervised  
17 release. A child detained pursuant to this subsection shall  
18 remain in detention until the completion ~~[and review of a~~  
19 ~~preliminary parole]~~ of the revocation hearing. ~~[A child may~~  
20 ~~waive the right to a preliminary parole revocation hearing~~  
21 ~~after consultation with the child's attorney, parent, guardian~~  
22 ~~or custodian.~~

23 ~~B. If a retake warrant is issued by the department~~  
24 ~~upon the completion of the preliminary parole revocation~~  
25 ~~hearing, the juvenile institution to which the warrant is~~

1 ~~issued shall promptly transport the child to that institution~~  
2 ~~at the expense of the department.]~~

3 C. If a child's supervised release is revoked, the  
4 department shall issue a notice of revocation to a facility for  
5 the care and rehabilitation of adjudicated delinquent children.  
6 Upon receiving such notice, the facility shall immediately take  
7 custody of the child for the remainder of the commitment.

8 D. If a child absconds from [parole supervision]  
9 supervised release and is apprehended in another state after  
10 the issuance of a [retake] warrant by the department, the  
11 [juvenile justice division of the] department shall [cause]  
12 provide for the return of the child [to this state] at the  
13 expense of the department."

14 **SECTION 8. APPROPRIATION.--**One million dollars  
15 (\$1,000,000) is appropriated from the general fund to the  
16 juvenile justice division of the children, youth and families  
17 department for expenditure in fiscal year 2027 to implement the  
18 provisions of this act. Any unexpended balance remaining at  
19 the end of fiscal year 2027 shall revert to the general fund.

20 **SECTION 9. EFFECTIVE DATE.--**The effective date of the  
21 provisions of this act is July 1, 2026.