

1 HOUSE BILL 339

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Art De La Cruz

10 AN ACT

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

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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;

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- [~~(g)~~] (e) altering or changing of an engine number or other vehicle identification numbers;
- [~~(h)~~] (f) altering or forging of a driver's license or permit or any making of a fictitious license or permit;
- [~~(i)~~] (g) reckless driving;
- [~~(j)~~] (h) driving with a suspended or revoked license; or
- [~~(k)~~—an] (i) any other traffic offense punishable as a felony;

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

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

(4) a violation of the Controlled Substances Act;

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

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

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

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

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

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

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

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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"

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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;

- (d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;
- (e) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;
- (f) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;
- (g) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;
- (h) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;
- (i) criminal sexual penetration in the second degree, third degree or fourth degree, as provided in Section 30-9-11 NMSA 1978;
- (j) robbery, as provided in Section 30-16-2 NMSA 1978;
- (k) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;
- (l) aggravated arson, as provided in Section 30-17-6 NMSA 1978; or
- (m) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;

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

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

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

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

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

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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;

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- (2) the child's adjustment to the child's home, school and community;
- (3) the mental and physical health of all individuals involved, including consideration of such factors as the child's brain development, maturity, trauma history and disability;
- (4) the wishes of the child as to the child's custodian;
- (5) the wishes of the child's parents as to the child's custody;
- (6) whether there exists a relative of the child or other individual who, after study by the department, is found to be qualified to receive and care for the child;
- (7) the availability of services recommended in the predisposition report; and
- (8) the ability of the parents to care for the child in the home.

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

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

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

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

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

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1 32A-2-23 NMSA 1978;

2 (e) 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)

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

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

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

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

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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

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

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

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

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

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

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

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

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

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

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

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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  
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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.

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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

underscored material = new  
[bracketed material] = delete

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

underscored material = new  
[bracketed material] = delete

[public interest] safety of the public.

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

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

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

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

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

.233134.2

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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

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

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

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

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

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

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

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

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

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

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

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