

<b>LFC Requester:</b>	<b>Henry, Jacobs</b>
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/27/26 *Check all that apply:*  
**Bill Number:** HB 125 Original  Correction   
 Amendment  Substitute

**Sponsor:** Andrea Reeb **Agency Name and Code:** AOC  
**Short Title:** DELINQUENCY ACT CHANGES **Number:** 218  
**Person Writing:** Alison B. Pauk  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 105

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 125 amends the Criminal Sentencing Act, Section 31-18-15.2 NMSA 1978, by removing the definitions of “serious youthful offender” and “youthful offender” and instead referring to the definitions provided in Section 32A-2-3 of the Children’s Code.

HB 125 also amends statutory sections within the Delinquency Act of the Children’s Code, Chapter 32, Article 2 NMSA 1978, as follows:

- **Section 32A-2-3 NMSA 1978:**
  - Renumbers and reletters Subsection A throughout the subsection.
  - Subsection A(1)(b) is amended to A(1)(a)(2) and the word “death” is removed.
  - Subsection A(1)(e): removes “homicide by vehicle” and re-numbers the list.
  - Moves original Subsection A(2) down to a New Subsection A(2)(a) under New Section A(2) that says, “any of the following offenses.”
    - Adds New Subsection A(2)(b) that making cannabis-related activities that are delinquent acts and include the following: buying, attempting to buy, receiving, or possessing or being served cannabis or a cannabis product or being present in a cannabis establishment, except in the presence of the child’s parent, guardian, custodian or adult spouse. There is an exception for possession under the Lynn and Erin Compassionate Use Act.
  - Moves original Subsection A(5) down to New Subsection A(2)(c).
  - Moves original Subsection A(7) down to New Subsection A(2)(d).
  - Reletters Subsection F: adds the definition of firearm.
  - Reletters Subsection I: amends the definition of “serious youthful offender” to add the phrase “is not a delinquent child,” lowers the age to 14, and expands the charges for which a child can be charged as a serious youthful offender. These charges include:
    - First *and* second degree murder;
    - Voluntary manslaughter [a third degree felony];
    - Criminal sexual penetration in the first, second, third or fourth degree or aggravated criminal sexual penetration;
    - Robbery with a deadly weapon [a second degree felony];
    - Shooting at a dwelling or occupied building or at/from a motor vehicle, both which cause great bodily harm to another. [a second degree felony].
  - Relettered Subsection K: amends the definition of “youthful offender” by removing the second degree murder and adding the term, “charged with one of the following offenses.” Also amends the charge of shooting at a dwelling or occupied building or at/from a motor vehicle to include offenses that do not result in great bodily harm to another; removes criminal sexual penetration; and adds to the list of charges for which a child can be charged as a youthful offender to include:
    - Homicide by vehicle [felony];
    - Involuntary manslaughter [a fourth degree felony];
    - Failing to stop a vehicle when a vehicle is involved in an accident that

- results in injury or death [felony];
    - An offense listed in Section 33-2-34(N)(4)(a) through (n) that was committed by a firearm; and
    - Removes the provision that a child adjudicated with a felony offense and had three, prior felony adjudications in a three-year period must be age 14 to 18 to be charged as a youthful offender.
  - **Section 32A-2-20 NMSA 1978:** adds “and serious youthful offender” to the title.
    - Subsection G: removes the term “first degree murder” and changes it to describe serious youthful offender.
    - Subsection H: amended so that when a serious youthful offender is only found to have committed a delinquent act, the cases is transferred to children’s court.

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is May 20, 2026, which is 90 days following adjournment of the Legislature.

## FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and appeals from convictions and adjudications. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## SIGNIFICANT ISSUES

1) House Bill 125 expands the list of crimes for which a child can be charged as a “serious youthful offender,” while also lowering the minimum age from fifteen to fourteen years for when a child may be charged. See HB 125’s Section 32A-2-3(I) NMSA 1978. Under the current law, the only crime that rises to “serious youthful offender” status is first degree or open count of murder, and, a “serious youthful offender” differs from a “youthful offender” in a few ways. First, a child charged as a “youthful offender” appears before a Children’s Court judge, while a child charged as a “serious youthful offender” appears in adult criminal court. Secondly, a child charged as “youthful offender” only receives an adult sentence when the child is found to have committed one of the enumerated acts listed in Section 32A-2-3(J) *and* the state proves that the child (called respondent in juvenile cases) is not amenable to treatment at an amenability hearing. Alternatively, if a child charged as “serious youthful offender” is found guilty of first degree murder, then the child is not entitled to an amenability hearing under the Delinquency Act. *See State v. Ortiz*, 2021-NMSC-029.

2) The Juvenile Sentencing Project (hereinafter “Project”) at the Quinnipiac University School of Law, published a memo in January 2020, [\*Consideration of Youth for Young Adults\*](#), in which it described reforms relating to the prosecution and sentencing of young adults ages 18-25 and proposed legislation to limit or mitigate imposition of adult penalties on this age group. The Project noted that,

Indeed, recent studies show that certain brain systems and structures, including those involved in self-regulation and higher-order cognition, continue to develop and mature well into the mid-twenties. Moreover, research demonstrates that

individuals in their late teens and early twenties are less mature than older adults in several ways, including underestimating risk, reduced ability to control impulses and consider future consequences, and social and emotional immaturity. Finally, brain science shows that the late teens and early twenties is one of the periods of the most marked neuroplasticity of the brain, suggesting that individuals in this age group have a strong potential for behavioral change. Thus, recent research makes clear that older teenagers and young adults are, like juveniles, “more capable of change than are adults, and their actions are less likely to be evidence of an ‘irretrievably depraved character,’” Graham, 560 U.S. at 68 (citing Roper, 543 U.S. at 570), which warrants special consideration in criminal sentencing.

The Project, in highlighting a list of legislative reforms that were proposed or enacted and judicial decisions across the county that provide special treatment and consideration of youth of young adult offenders, noted that,

Recognizing that older teens and young adults are more akin to juvenile offenders than to adults in their reduced culpability and greater capacity for reform, several state legislatures have proposed or implemented reforms that account for youth and mitigate criminal punishment imposed on young adults. See [\*Consideration of Youth for Young Adults\*](#).

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB 105.

## **TECHNICAL ISSUES**

House Bill 125 amends the list of crimes and events for which a child can be charged as a “youthful offender,” which includes the addition of new Subsection 32A-2-3(K)(1)(o) that states, “(o) an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection N of Section 33-2-34 NMSA 1978 that is not a serious youthful offender offense as described in his section and that was committed with a firearm; or.” Section 33-2-24 NMSA 1978 is a section of Article 2, State Correctional Facilities of Chapter 33, Correctional Institutions, which is neither part of the Children’s Code (Chapter 32) nor the Criminal Code (Chapter 30). It will be far less confusing if the intended offenses are listed in Section 32A-2-3.

## **OTHER SUBSTANTIVE ISSUES**

House Bill 125 makes cannabis-related offenses delinquent acts and groups them in the same subsection as alcohol-related offenses. Thus, actions taken by a child involving cannabis subjects the child undertaking the actions, and their parents, to the provisions of the Delinquency Act, which could include inquiries, detention, court hearings, trials, probation, and even possibly commitments.

Section 26-2C-30 NMSA 1978, entitled “unlawful possession of cannabis; penalties,” states in Subsection A, “A person who violates this subsection is guilty of a civil violation.” Alternatively, possession of alcohol by a minor, also considered a delinquent act and found in Section 60-7B-1 NMSA 1978, is a criminal offense punishable as a misdemeanor. Trafficking cannabis, also in current law as a delinquent act and found in Section 26-2C-28 NMSA 1978, is a criminal offense as well. Therefore, HB 125 seeks to criminalize offenses for children that would only be civil penalties for adults under the age of 21.

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**