

<b>LFC Requester:</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}*

Check all that apply:  
**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** January 27, 2026  
**Bill No:** HB-125-280

**Sponsor:** Andrea Reeb  
**Short Title:** Delinquency Act Changes

**Agency Name and Code**    LOPD-280  
**Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		\$1,279.8	\$1,279.8	\$2,559.6	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

- Section 1 would amend NMSA 1978, Section 31-18-15.2, would amend the definitions of serious youthful offender and youthful offender in the criminal sentencing act by referring to the definition in NMSA 1978, Section 32A-2-3.
- Currently, the Delinquency Act creates three tiers of charges for juveniles: “delinquent acts” which are prosecuted and punished exclusively as a juvenile; “youthful offender” (“YO”) charges which are prosecuted as a juvenile but *may* incur adult sanctions only after adjudication and after assessing the Child’s “amenability to [juvenile] treatment”; and “serious youthful offender” (“SYO”) charges triggering automatic adult prosecution and sentencing (currently the *only* SYO charge is first-degree murder).

Section 2 of HB 125 would amend 32A-2-3, Definitions of the Delinquency Act, to:

- remove homicide by vehicle from the definitional list of “delinquent acts” (it is later moved into a separate definition). It would add buying, attempting to buy, receiving, 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 or guardian, or if participating in the medical cannabis program, to the list of Delinquency offenses.
- In addition to first-degree murder, it would expand the definition of “SYO” in subsection J to include children charged with second-degree murder, voluntary manslaughter, criminal sexual penetration in the first, second, third, or fourth degree or aggravated criminal sexual penetration, robbery while armed with a deadly weapon, and shooting at or from a motor vehicle or at a dwelling resulting in great bodily harm.
- This Section would also amend the definition of “youthful offender” which includes children charged with the listed offenses and eligible for *either* an adult or juvenile disposition depending on amenability. This section would remove second-degree murder, and criminal sexual penetration, and would amend shooting at or from a motor vehicle or

at a dwelling to only those charges that do not result in great bodily harm (since those charges were added to SYO classification).

- This section would also add the following crimes (currently treated as “delinquent acts”) to the youthful offender definitional list: homicide by vehicle, involuntary manslaughter, and failing to stop a vehicle when involved in an accident resulting in injury or death.
- This section would also add to the definition of youthful offender offenses, all offenses listed in NMSA 1978, Section 33-2-34 (a)-(n) (which is the list of serious violent offenses for purposes of earning good time in prison) if committed with a firearm and if not already an enumerated serious youthful offender offense.

It appears that the only offenses that are not already youthful offender offenses on this list are voluntary manslaughter, second and third degree criminal sexual contact of a minor, assault with intent to commit a violent felony upon a peace officer (the more general assault with intent to commit a violent felony is already a youthful offender offense) and aggravated assault upon a peace officer (aggravated battery against a peace officer is already a youthful offender offense).

- This Section would also remove the age requirement of fourteen to eighteen to any child with three prior, separate felony adjudications within a three-year time period before committing another felony.
- Finally, this section would remove the age requirement in subsection 3 that classified fourteen year olds adjudicated for first-degree murder which currently treats them as youthful offenders (YOs), not serious youthful offenders (SYOs).

## **FISCAL IMPLICATIONS**

This bill would create major changes to the Children’s Code which would result in significantly more juveniles charged with crimes resulting in an adult sentence in the following ways:

Currently, only children age 15-18 charged with first-degree murder are classified as serious youthful offenders. This bill would dramatically increase that classification to include children age 14 and to include children charged with second-degree murder, voluntary manslaughter, criminal sexual penetration, robbery while armed with a deadly weapon, and shooting at or from a dwelling or motor vehicle resulting in great bodily harm. These proposed SYO offenses are currently YO offenses that *may* receive an adult sentence based on the YO’s individual circumstances (amenability). Defending an SYO case is considerably different since an adult sentence is guaranteed if convicted.

This bill would also expand the category of crimes charged as YO offenses to include currently “delinquent” offenses of homicide by vehicle, involuntary manslaughter, and failing to stop a vehicle when involved in an accident resulting in injury or death. YO cases are considerably different from delinquency cases since they carry the possibility of an adult sentence.

Using data from LOPD’s case management system, analyzing the most severe charge in each case, this bill will easily cost LOPD an extra \$1 million a year. Adding 14-year-olds as serious violent offenders alone, based on 2025 numbers, would have cost \$521.8 thousand, including the

cost of additional attorney hours, expert witness costs, and additional support staff tie. Adding the additional SYO offenses proposed would have cost \$418.5 thousand.

If 14-year-olds were included in SYO offenses last year, LOPD would have represented at least 27 more cases. SYO cases are extremely time consuming to represent, taking 379 hours to represent (per LOPD's 2022 Workload Study). This is an increase of 278 more hours over the time needed to represent a YO case.

Cumulatively, the workload increase in case numbers and the complexity of litigating those cases would absolutely require more attorneys to constitutionally defend them.

Juvenile cases, especially cases where a child is facing an adult sentence, require specialized training for attorneys and often require additional staff, including social workers. Preparation for an amenability or sentencing hearing often involves the use of expert witnesses. LOPD would likely need more attorneys and staff to handle the increased workload and additional funding for experts if this bill passed.

The proposed penalties would necessitate assignment to mid-level felony capable attorneys (Associate Trial Attorneys), or for life-sentence charges, to higher-level attorneys (Trial Attorneys). The LOPD cost for experienced defense attorneys, including salary, benefits, operational costs, and support staff is \$292,080.16 annually in the Albuquerque/Santa Fe areas, and \$300,569.45 in outlying geographic areas. A 2022 workload study by an independent organization and the American Bar Association concluded that New Mexico faces a critical shortage of public defense attorneys. The study concluded, "A very conservative analysis shows that based on average annual caseload, the state needs an additional 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment."

[https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls-sclaid-moss-adams-nm-proj.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-moss-adams-nm-proj.pdf). Barring some other way to reduce indigent defense workload, any increase in the number of serious, complex felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep the LOPD's workload crisis from spreading.

LOPD conflict and overflow contracts cases would cost more to defend as penalties increase. Moreover, higher-penalty cases are somewhat more likely to go to trial, as the accused are more likely to "roll the dice" than to accept a markedly increased penalty. This, of course, has fiscal implications for the DAs, LOPD, courts and AGs.

While it is likely that LOPD would be able to absorb some new cases under the proposed law, any increase in the number of proceedings resulting in adult sanctions for children will bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

## **SIGNIFICANT ISSUES**

It appears the intent of the bill is to expand the category of crimes that result in a classification as a Serious Youthful Offender (SYO). Currently, only first-degree murder is classified as such. Children charged as SYOs do not get the protections of the Children's Code and are instead treated as adults. They receive mandatory adult sentences if convicted as an SYO. **NMSA 1978, § 31-18-15.3(D)**. The bill would also expand the classification of Youthful

Offenders. Together, these changes guarantee that more children will serve long adult sentences in NMCD.

The proposed changes go against the unique scheme New Mexico devised to deal with serious offenses committed by children. It significantly alters the position of New Mexico law to date that, which is supported by science, recognizing that the differences between youth and adults compel a different, and often more protective, rehabilitative treatment for youth. *See State v. Jones*, 2010-NMSC-012, ¶ 10, 148 N.M. 1 (“We interpret this legislative history as evidence of an evolving concern that children be treated as children so long as they can benefit from the treatment and rehabilitation provided for in the Delinquency Act.”) It also is contrary to the current trend in law that recognizes the unique vulnerabilities of children. *See e.g., Miller v. Alabama*, 132 S.Ct. 2455 (2012); *Graham v. Florida*, 130 S.Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005). The changes undermine the understanding that juveniles who commit crimes need treatment and rehabilitation, not long prison sentences which do not protect either the child nor the public. While the *current* scheme has passed constitutional scrutiny, this new scheme will require additional litigation to determine its continued constitutionality. *See State v. Rudy B.*, 2010-NMSC-045.

Overall, HB 125 simply does not give enough weight to the importance of rehabilitating wayward youth in the hope of granting them a better future. Adult prison should always be the last possible resort, as it drastically reduces the possibility that a young person will ever lead a productive adult life. While crimes committed by juveniles cannot be condoned, and public safety must be addressed, our existing statutory scheme balances that interest with the powerful societal interest in safeguarding children’s potential futures and not just giving up on them. As a policy matter, HB 125 loses sight of this critical interest. Our Supreme Court has recognized “the juvenile justice system reflects a policy favoring the rehabilitation and treatment of children.” *Jones*, 2010-NMSC-012, ¶ 35 (internal quotation marks and citation omitted). These changes fail to recognize the unique protections New Mexico has traditionally provided its children.

## **PERFORMANCE IMPLICATIONS**

The proposed changes to the Children’s Code will require significant litigation and, presumably, more trial attorneys.

## **ADMINISTRATIVE IMPLICATIONS**

None noted.

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

This is similar to HB-134 from last year.

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## ALTERNATIVES

HB 125 is motivated by a desire to reduce criminal activity – especially violent criminal activity – committed by juveniles. This goal is universal, but cannot be achieved through punitive approaches that treat children like adults; they are not adults. *See, e.g.* Laurence Steinberg, *Adolescent Brain Science and Juvenile Justice Policymaking*, 23 *Psychol. Pub. Pol’y & L.* 410, 414 (2017) (outlining the science that concludes “[m]id-adolescence, therefore, is a time of high sensation-seeking but still developing self-regulation--a combination that inclines individuals toward risky behavior.”); *Roper v. Simmons*, 543 U.S. 551, 570 (2005) (“[t]he personality traits of juveniles are more transitory, less fixed” so that “[there is] a greater possibility ... that a minor’s character deficiencies will be reformed.”) (internal quotation marks and citation omitted).

If the Legislature wishes to reduce juvenile crime, it must understand why it is occurring in the first place and address the source: childhood trauma and neglect. The near-universal understanding of this issue is that the juvenile justice system is driven by Adverse Childhood Experiences (ACEs). Justice-involved youth experience high rates of ACEs, placing them in great need of behavioral health treatment. Policy makers, government agencies, and professionals working with justice-involved youth have called for trauma-informed juvenile justice reform.

Young people in the juvenile justice system have extremely high ACE histories. The study, “The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders”<sup>1</sup> surveyed 64,329 juvenile offenders in Florida, and only 2.8% reported no childhood adversity; and 50% reported 4 or more ACEs putting them in the high risk category. “When you raise a child with violence, they have a tendency to become violent. Fortunately, the same is also true when you raise a child with love and kindness.” Kerry Jamieson, *ACEs and Juvenile Justice*, Center for Child Counseling.<sup>2</sup>

The only way to successfully reduce juvenile crime is to *prevent and address childhood trauma*. New Mexico needs more robust assistive, *non-punitive*, intervention for families that struggle to meet children’s needs at a basic level (neglect) and a more complex level (when there is affirmative dysfunction including substance misuse and family violence in the home). New Mexico also needs robust, accessible behavioral health treatment *for adolescents and teenagers* who have already experienced ACEs in their lives. Wraparound services, counseling, educational programming, and mentorship opportunities will have a far greater impact on juvenile justice than any increase in punitive response ever could.

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<sup>1</sup> Available at [https://www.prisonpolicy.org/scans/Prevalence\\_of\\_ACE.pdf](https://www.prisonpolicy.org/scans/Prevalence_of_ACE.pdf).

<sup>2</sup> Available at <https://www.centerforchildcounseling.org/aces-and-juvenile-justice/>.