

LFC Requester:	Carlie Malone
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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: 2/5/2026 *Check all that apply:*
Bill Number: HB 334 Original Correction
 Amendment Substitute

Sponsor: Alan T. Martinez **Agency Name and Code** AOC-218
Short Title: Competency of Children **Number:** _____
Person Writing Adam Leuschel
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$0	\$0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$0	\$0	\$0		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0			

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 334 amends the Delinquency Act, NMSA 1978, Section 32A-2-1 *et seq.*, to revise and add new requirements related to a child's competency to stand trial and involuntary placement commitment to residential and nonresidential treatment. HB 334 accomplishes this by:

Amending Section 32A-2-21 as follows:

- Striking Section 32A-2-21(G), the existing section addressing evaluation of competency for a child
- Stating that any party may raise a question about a child's competency in a delinquency proceeding, and that doing so shall stay the proceeding
- Requiring a child's competency to be evaluated by a psychologist, a psychiatrist, or other qualified professional recognized by the court as an expert
- Requiring the evaluation report to include whether the child is competent to stand trial, and, if determined not competent, whether the child satisfies criteria for involuntary placement
- Establishing that, once the evaluation report is submitted, competency hearings must occur within 30 days if the child is detained and charged with a felony, 10 days if the child is detained and charged with a misdemeanor, and within a reasonable time if the child is not detained

Adding a new Section 32A-2-21.1 as follows:

- Requiring the court to determine whether the child is dangerous if the child is determined not competent, and defining what constitutes dangerousness
- Giving the court the ability to order the child to participate in a nonresidential treatment program or dismiss the delinquency petition if the child is determined not dangerous
- Giving the court the ability to require detention to facilitate the start of involuntary commitment proceedings or advise the child's attorney to consider such proceedings if it dismisses the delinquency petition
- Stating that a treatment plan shall be targeted to restore a child to competency
- Requiring the treatment supervisor to give a report competency restoration within 30 days of a child being ordered to participate in a nonresidential treatment program and an opinion on whether the child will be restored to competency in the next 90 days
- Requiring the court to hold a 90-day review hearing to review whether the child has been restored to competency and, if not, whether the child satisfies the criteria for involuntary commitment
- Requiring the consideration of five new criteria related to residential treatment: 1) primary diagnosis of a mental disorder; 2) demonstrated history of lack of compliance with treatment; 3) unwilling or unlikely to participate in voluntary treatment that would enable them to live safely and without court supervision; 4) in need of residential treatment as the least restrictive appropriate alternative to prevent serious harm to self or others; and 5) will likely benefit from and have best interests served

by residential treatment.

- Creating commitment standards for children who are determined to be dangerous
- Creating requirements for the Children, Youth, and Families Department (CYFD) to file a treatment plan, an initial assessment of the child, and an opinion on competency restoration within nine months

Adding a new Section 32A-2-21.2 as follows:

- Establishing standards for a nine-month competency review hearing and requiring the treatment supervisor to submit a report on the child's progress toward competency restoration, whether the child is still dangerous, and the medications the child is taking
- Stating that if a child is restored to competency, proceedings may continue, and if a child is not restored but progressing towards restoration, the treatment order may continue for another nine months

Adding a new Section 32A-2-21.3 as follows:

- Creating a procedure to hold a commitment hearing for children who cannot be restored to competency and are charged with certain enumerated felonies
- Requiring CYFD to initiate involuntary commitment proceedings if a treatment supervisor reports that the child meets the standard for involuntary commitment if the court dismisses the case without prejudice in the interest of justice

Adding a new Section 32A-2-21.4 as follows:

- Requiring a disposition hearing to be held to determine the child's guilt if 1) the court determines there is a substantial probability that a child who is not competent can be restored to competency and 2) the child is charged with an enumerated felony
- Creating a "clear and convincing evidence" standard for the disposition hearing
- Transferring legal custody of the child to the department for commitment to a residential program if clear and convincing evidence proves the crime charged and the child is determined to be dangerous
- Requiring yearly hearings to review a committed child's dangerousness and trial competency
- Stating that if a committed child is restored to competency, proceedings may continue, and if a child is not restored but progressing towards restoration, the court shall review the child's progress every two years until the expiration of the commitment period
- Allowing CYFD or the children's court attorney to initiate commitment proceedings at any time, including after a case is dismissed

Adding a new Section 32A-2-21.5 as follows:

- Creating a new process to allow the defense to move for a hearing to determine whether a child is not competent due to a developmental or intellectual disability
- Establishing a preponderance of the evidence standard for the court to make this determination and requiring the court to determine whether there is a substantial probability of competency restoration
- Requiring CYFD to determine whether the child presents a serious risk of harm to self or others within 60 days of the court determining there is not a substantial probability of competency restoration
- Requiring CYFD to initiate commitment proceedings if the child presents a serious

- risk of harm to self or others and the child is charged with an enumerated felony
- Requiring the case to be dismissed without prejudice either 14 months following the court's competency determination or following the involuntary commitment hearing

HB 334 also makes minor technical additions and corrections throughout for clarity and consistency.

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

Amending the delinquency act to create new hearings and commitment proceedings and require more reviews will require additional judge time, courtroom staff time, and courtroom availability. 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 commitment actions and appeals. 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) HB 334 creates several new court processes and required hearings that must occur related to delinquency proceedings, thereby increasing load on the courts. HB 334 will lead to an increase in motions related to a child's competency and requests for hearing, therefore increasing court hearings. Further, some of the new hearings proposed by HB 334 must occur within a short time frame, some as soon as 10 days after an evaluation report is filed with the court. More hearings would require additional judge time, court staff time, and courtroom availability, and would increase the time required to dispose of cases.

Family court caseloads have grown significantly in recent years. For example, in 2025, over 9,400 cases were filed in the family court division of the Second Judicial District Court. Additional hearings related to competency will compound busy family court dockets and negatively affect availability for emergency hearings, case closure rates, and the need for timely decisions.

2) HB 334 requires a qualified professional to evaluate a child's competency to stand trial and whether a child satisfies the criteria for involuntary treatment simultaneously. The criteria for competency and the need for involuntary treatment do not necessarily overlap, and the evaluations for each consider distinct factors.

Competency to stand trial is largely a legal education issue as opposed to a question of whether someone warrants involuntary treatment due to a mental illness. The purpose of a competency evaluation is to determine whether "a defendant understands the nature and significance of the proceedings, has a factual understanding of the charges, and is able to assist defense counsel in defendant's defense." *State v. Najjar*, 1986-NMCA-068. While someone can be found not competent to stand trial due to a mental illness, lack of competency to stand trial can result from many conditions, including complex post-traumatic stress, a substance use disorder, or a

developmental disability.

Determining whether a child is eligible for involuntary mental health treatment requires a mental health diagnosis and involves evaluating certain criteria under a clear and convincing evidence standard. The child must have a mental disorder or developmental disability that results in a need for services, the child must be likely to benefit from those services, and the proposed treatment placement must be consistent with both the child's needs and the least restrictive means principle. NMSA 1978, § 32A-6A-22(K)(1)-(4). The purpose of this determination is to ensure children have access to appropriate assessments, services, and treatment to address their needs while protecting their substantive and procedural rights. *See* Section 32A-6A-2.

Because a competency evaluation and determining whether a child should be involuntarily committed to treatment have different standards and require considering different factors, it may delay the completion of competency evaluations. Additionally, not all evaluators may be qualified to assess both competency and whether a child meets criteria for involuntary commitment.

3) HB 334 requires a psychologist, a psychiatrist, or other qualified professional recognized by the court as an expert to evaluate a child's competency to stand trial. "Qualified professional" is not defined within the Children's Code, but is defined in the Assisted Outpatient Treatment Act as "a physician, licensed psychologist, prescribing psychologist, certified nurse practitioner or clinical nurse specialist with a specialty in mental health, or a physician assistant with a specialty in mental health." NMSA 1978, § 43-1B-2(O).

It is uncertain whether existing competency evaluators are able to serve as qualified professionals. Currently, competency evaluators performing adult competency evaluations are required to opine on whether the individual being evaluated meets the criteria for assisted outpatient treatment. Those evaluators have been unable to provide an in-depth opinion thus far and have only stated whether the individual meets the criteria in the affirmative or the negative.

4) HB 334 adopts the adult standard for competency to stand trial for children evaluated for competency: a sufficient, present ability to consult with one's lawyer, a rational and factual understanding of the proceedings against them, and capacity to assist in one's own defense. NMSA 1978, § 31-9-1.1(B)(3). The current standards for competency to stand trial have been developed with adult capabilities in mind and do not account for differences in juvenile cognitive development.

The National Center for State Courts reports that a 2020 review of all juvenile competency statutes showed a widespread lack of consideration of the competency-related challenges unique to developmentally immature defendants. including failing to consider psychosocial development. National Center for State Courts, *Juvenile Competency to Stand Trial*, p.6, <https://ncsc.contentdm.oclc.org/digital/collection/famct/id/1862/>. Even in the absence of a mental illness or developmental disability, some children may not be able to meet the adult competency standard due to developmental immaturity. Development of separate competency standards for children is important because youth and adolescents have underdeveloped cognitive abilities that may affect their access to fair court proceedings and informed court decisions.

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

HB 334 relates to SB 3, which proposes to amend the definition of “harm to self” and “harm to others.” Both phrases are used throughout HB 334 and would rely on the definitions proposed in SB 3 if both bills are passed and signed into law.

SB 232 proposes a standard for evaluating the competency of a child. It is distinct from the standard proposed in HB 334 and does not appear to specifically relate to the Delinquency Act.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS