

LFC Requester:	LFC Analyst Carlie Malone
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AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(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: 05FEB26 *Check all that apply:*
Bill Number: HB334 Original Correction
 Amendment Substitute

		Agency Name and Code
Sponsor:	Rep. Andrea Reeb, Rep. Nicole Chavez, Rep. Alan T. Martinez	Number: <u>790 – Department of Public Safety</u>
Short Title:	<u>Competency of Children</u>	Person Writing <u>Matthew Broom, Deputy Chief</u>
		Phone: <u>5757601485</u> Email: <u>matthew.broom@dps.nm.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

Synopsis- House Bill 334 (HB-334) Establishes a detailed legal framework for managing children in the justice system who are found "not competent" to stand trial due to mental disorders or developmental disabilities. It prioritizes competency restoration while creating strict pathways for those who cannot be restored.

The bill replaces older, less specific competency procedures with a tiered system based on the severity of the child's alleged crime and their perceived danger to the public:

- **Mandatory Evaluations:** All competency evaluations must now include professional opinions on whether a child meets the criteria for involuntary placement.
- **"Dangerousness" Standard:** The court must determine if an incompetent child is "dangerous" based on a specific list of violent crimes, including murder, great bodily harm, and criminal sexual penetration.
- **Restoration Pathways:**
 - Nondangerous children are directed toward nonresidential (community-based) treatment for up to 90 days.
 - Dangerous children may be committed to a residential facility for restoration.
- **Criminal Commitment:** If a child cannot be restored to competency but is proven by "clear and convincing evidence" to have committed a serious violent crime, they can be "criminally committed" to a facility until they reach age 25.

FISCAL IMPLICATIONS

No Fiscal Impact to DPS.

SIGNIFICANT ISSUES

Section 1 deletes former Subsection G, which capped competency stays at one year with 90-day reviews and required dismissal without prejudice for unrestorable children; the new material (Subsections H–L) replaces that framework with mandatory professional evaluations that must opine on involuntary-placement criteria and imposes specific hearing deadlines, 30 days for detained felony children, 10 days for detained misdemeanor children.

Sections 2 through 5 create an enumerated list of serious violent offenses (murder, great bodily harm, CSP, CSC of a minor, child abuse, sexual exploitation, human trafficking, aggravated arson, and “serious violent offenses” under § 33-2-34(N)(4)(a)–(n) committed with a firearm) that trigger both the “dangerousness” determination and the criminal-commitment pathway, which law enforcement agencies (LEA) and DPS investigators must understand to ensure evidence preservation for disposition hearings that may occur months or years after arrest.

PERFORMANCE IMPLICATIONS

Law enforcement and prosecutors (Children’s Court attorneys) will experience several operational changes:

- **Transportation Duties:** When a child is restored to competency or completes a residential program, a court order must ensure they are transported back to a local detention facility within 72 hours.
- **Evidentiary Hearings:** For incompetent children charged with serious crimes, law enforcement must still provide enough evidence for a "disposition hearing". This requires officers and investigators to maintain witness availability and evidence even when a traditional trial is not possible.
- **Initiation of Proceedings:** Law enforcement agencies and the Children, Youth and Families Department (CYFD) are responsible for initiating involuntary commitment if a child is found to be a danger to themselves or others.

ADMINISTRATIVE IMPLICATIONS

No Administrative Implications to DPS. New Section 32A-2-21.1(D) requires the court to issue a transport order providing for the child's return to a local detention facility within 72 hours of competency restoration or program completion, which may require LEA coordination for secure transport. LEAs and DPS may also need to coordinate with CYFD on up-to-seven-day detention holds ordered by the court to facilitate initiation of involuntary commitment proceedings under Sections 2, 4, and 5.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship implications to DPS

TECHNICAL ISSUES

New Section 32A-2-21.4(B) permits the children's court to admit hearsay and affidavit evidence on "secondary matters," including chain-of-custody testimony, laboratory reports, and business records at disposition hearings, which relaxes the evidentiary burden on LEAs but may require agencies to produce sworn affidavits or certified records in lieu of live testimony.

Section 32A-2-21.2(A)(2) references "the defendant" rather than "the child," which appears to be a drafting error that could create ambiguity in court filings.

OTHER SUBSTANTIVE ISSUES

New Section 32A-2-21.4(E) authorizes criminal commitment of an incompetent child until age 25 upon a finding of dangerousness and clear-and-convincing evidence of guilt, with annual and then biennial court review of competency and dangerousness, a significant new long-term custodial framework that may require LEAs to provide updated evidence or testimony at review hearings years after the initial offense.

Section 6 (§ 32A-2-21.5) creates a separate track for children whose incompetency results from developmental or intellectual disability, requiring CYFD to assess dangerousness within 60 days and, if applicable, initiate involuntary commitment proceedings for children charged with the enumerated serious offenses.

ALTERNATIVES

No alternative issues to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain. The current framework under § 32A-2-21(G) NMSA 1978 would remain in effect, which provides only a one-year cap on competency proceedings with dismissal without prejudice, no statutory "dangerousness" standard, no criminal-commitment pathway for incompetent children who commit serious violent offenses, and no separate track for children with developmental or intellectual disabilities.

AMENDMENTS –

None at this time from DPS.