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**AGENCY BILL ANALYSIS
2026 REGULAR SESSION**

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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 February 5, 2026
Bill No: HB 339-280

Sponsor: Art De La Cruz
Short Title: JUVENILE JUSTICE
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)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **HB 5; HB 125; SM 20; SB 165**
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Section 1 of this bill proposes to amend 32A-1-3, Definitions, in the delinquency act to modify what offenses constitute “delinquent acts,” “youthful offender” offenses, and “serious youthful offender” offenses.

Within “delinquent acts,” under a subsection for “offenses pursuant to the municipal traffic codes or the Motor Vehicle Code,” HB 339 would remove unlawful taking of a motor vehicle and receiving or transferring a stolen or motor vehicle (felonies when committed by an adult) from the list and modify the catch-all provision to read “any other traffic offense punishable as a felony,” instead of “any other felony.”

It also proposes to amend (H), the definition of serious youthful offender, to add a child 17 years of age and charged with criminal sexual penetration in the first degree (resulting in a default of adult prosecution and sentencing).

It amends the youthful offender definition to include a child 14-18 adjudicated of criminal sexual penetration in the second, third, or fourth degree, and 14-year-olds charged with criminal sexual penetration in the first degree (resulting in optional adult sentencing if not found amenable to juvenile treatment).

Section 2 amends section 32A-2-8, to state that in a case against a serious youthful offender, if the prosecutor and defense counsel agree that juvenile sanctions are in the “interests of justice,” such that the case would be initiated in children’s court.

Section 3 amends section 32A-2-19, “disposition of adjudicated delinquent offender” and adds youthful offenders or serious youthful offenders subject to juvenile sanctions. It states that the court shall order a disposition transferring the legal custody of a child to CYFD commitment at a juvenile facility (in accordance with the new Section 32A-2-19.1) if the child is (1) a serious youthful offender; or (2) a delinquent offender or youthful offender adjudicated for first or second degree murder, first degree criminal sexual penetration, or child abuse resulting in great bodily harm or death.

Section 4 creates a new section, 32A-2-19.1, “standard terms of commitment for an adjudicated delinquent offender or youthful offender; mandatory commitment for certain youthful offenders.” It would create short-term commitment not to exceed 9 months, with no more than 6 months in a juvenile facility. It would create a long-term commitment not to

exceed 24 months, provided that no more than 21 months of the commitment may be served in a juvenile facility.

The new Section 32A-2-19.1 also provides that 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 to age 21 with modification available under Section 32A-2-23. However, 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 age 21 is mandatory.

The standard term of commitment for a youthful offender is until age 21.

The standard term of commitment for a youthful offender 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 is mandatory commitment until age 26.

The standard term of commitment for a serious youthful offender subject to juvenile sanctions is up to age 26.

Section 5 would amend 32A-2-23, limitation on dispositional judgments, modification, termination or extension of court orders, to state that upon entry of a judgment, the department has legal custody and the court is divested of jurisdiction, except that the court retains jurisdiction over a disposition for a serious youthful offender subject to juvenile sanctions, a child adjudicated as a delinquent offender or youthful offender for first or second degree murder, first degree criminal sexual penetration or abuse of a child that results in great bodily harm or death.

Section 6 would amend 32A-2-23.1, "release eligibility," to state that the department has exclusive jurisdiction and authority to release an adjudicated child, except that the department does not have jurisdiction or authority to release a delinquent child 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.

Section 7 would amend 32A-2-25, supervised release revocation, to change the language from parole to supervised release.

Section 8 would provide a one million dollar appropriation from the general fund to the juvenile justice division of the children, youth, and families department to implement the provisions of the act.

FISCAL IMPLICATIONS

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 and this bill's expansion of judicial discretion to give SYOs a juvenile disposition would increase the number of hearings in which defense counsel would need to prepare an amenability case. 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), and for life-sentence exposure, 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/lsc-laid-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 long sentences for children will bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

SIGNIFICANT ISSUES

The bill has some positive changes that are in line with the unique scheme New Mexico devised to deal with serious offenses committed by children, including allowing serious youthful offenders to be sentenced as juveniles and limiting the length of short-term commitments. This approach 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.”) This is consistent with 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).

However, some of 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 or 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. These changes include expanding the definition of serious youthful offender and imposing mandatory sentences. Additionally, the bill proposes to allow for an extended commitment which could result in young children facing commitments in some cases over a decade long. Extending Children’s Court jurisdiction to age 26 will not be appropriate in most cases. It could result in some people being supervised or detained well into adulthood for

childhood conduct in a way that prevents them from actually developing independence and adult life skills. Juvenile probation also does not currently have the expertise or resources necessary to supervise young adults. It is difficult to assess how this expansion of juvenile jurisdiction would be applied by courts, and thus to assess its impact.

It is also unclear where New Mexico would house people over the age of 21 who are subject to commitment as a juvenile, as housing them in a detention facility with 13-year-olds may not be good practice. It also is incongruent to allow for commitment until age 25 without simultaneously expanding the age range for *incurring* juvenile charges. As with the expansion of SYO offenses, these changes fail to recognize the unique protections New Mexico has traditionally provided its children.

PERFORMANCE IMPLICATIONS

Some of 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 bill is similar in some ways to SB 165, which also proposes to expand the definition of a serious youthful offender and increase commitment for in some cases to age 25, and HB 125, which also seeks to expand the definition of a serious youthful offender. However, unlike those bills, this one would allow serious youthful offenders to be sentenced as juveniles if the parties agree.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

Certainly LOPD has seen juvenile offenders denied a juvenile disposition and instead receiving adult prison sentences as the only other option solely due to the inability to *complete* rehabilitative juvenile treatment before their twenty-first birthday. While creating the option of more time to rehabilitate juvenile offenders while avoiding adult prison is a worthy step to a laudable goal, the extended commitment should be an exception to the rule.

During the formative years of someone’s life, even a decision to *extend commitment* should be rare. “[T]he U.S. still confines youth at a rate that’s more than twice the global average, and well above that of all other NATO member countries.” Brian Nam-Sonenstein and Wendy Sawyer, *Youth Confinement: The Whole Pie 2025*, PRISON POLICY INITIATIVE (Aug. 25, 2025), <https://www.prisonpolicy.org/reports/youth2025.html>. “Considering that nearly 7 out of every 10 adults in state prison were first arrested before the age of 19, increased criminalization of youth serves as a bad omen for a wave of adult criminalization in the not-so-distant future.” *Id.* This article is informative on this topic, and praises jurisdictions who have “‘raised the age’

of juvenile court jurisdiction,” stating that it has contributed towards the progress in juvenile decarceration by “preventing some youth from being funneled into the adult system.” *Id.*

ALTERNATIVES

HB 339 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).

SM 20 would convene a planning group of experts and stakeholders to study the issue. LOPD recommends the Legislature rely on data-driven recommendations, whether as a result of SM 20 or otherwise, before undertaking any overhaul the Delinquency Act that could have unintended consequences.

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”¹ 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.²

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.

¹ Available at https://www.prisonpolicy.org/scans/Prevalence_of_ACE.pdf.

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

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.