

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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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: 1/29/26 *Check all that apply:*
Bill Number: SB 165 Original Correction
 Amendment Substitute

Sponsor: Linda M. Trujillo and Crystal Brantley **Agency Name and Code:** AOC 218
Short Title: DELINQUENCY ACT CHANGES **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
Total	Unknown	Unknown	Unknown	Unknown	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts: HB 125, HB 105, SB 147
Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 165 amends statutory sections within the Delinquency Act of the Children's Code, Chapter 32, Article 2 NMSA 1978, and also the Juvenile Community Corrections Act, Chapter 33, as follows:

- **Section 32A-2-3 NMSA 1978:**
 - New Subsection A: adds the definition of “child” that is defined as, “ a person eighteen years of age or older who committed a delinquent act as a minor and is subject to the provisions of the Delinquency Act,”
 - Renumbers and reletters Subsection A throughout the subsection.
 - Relettered Subsection B: amends the definition of “delinquent act” to replace “designated” with “charged” and other cleanup-type changes.
 - Removes original Subsections A(1)(c) and A(1)(d).
 - Relettered Subsection D: amends the definition of “delinquent offender” to include the word “adjudicated” delinquent child.
 - Relettered Subsection E: cleans up the definition of “detention facility” adding language in compliance with other areas of children’s code.
 - Relettered Subsection J: amends the definition of “serious youthful offender” to add the phrase “is not a delinquent child,” and expands the charges for which a child can be charged as a serious youthful offender. These charges include:
 - First *and* second degree murder;
 - Shooting at a dwelling or occupied building or at/from a motor vehicle, both of which result in great bodily harm to another.
 - Relettered Subsection K: amends the definition of “supervised release.”
 - Relettered Subsection K: amends the definition of “youthful offender”:
 - For children 14 to 17 years of age at the time of the offense, SB 165:
 - Removes second degree murder;
 - Amends the charge of aggravated battery on a peace officer to include “with a deadly weapon or in a manner whereby great bodily harm or death can be afflicted,”
 - Amends the charge of shooting at a dwelling or at/from a motor vehicle to include that this charge does not result in great bodily harm to another;
 - Adds the charge of voluntary manslaughter;
 - Adds the charge of “attempt to commit any of the offenses enumerated in this paragraph.”
 - For children 14 years of age at the time of the offense, SB 165 expands the charges to include:
 - First *and* second degree murder;
 - Shooting at a dwelling or occupied building or at/from a motor vehicle, both of which result in great bodily harm to another.
- **Section 32A-2-5 NMSA 1978:** updates language throughout, removing the word “parole,” and also:
 - Subsection A(9): adds the opportunity for an Indian child’s tribe to make

recommendations for disposition.

- Subsection B: adds the requirement of a director of the juvenile justice division at CYFD who oversees juvenile probation; removes the language of how probation takes a child into custody for a probation violation and replaces it with “a juvenile probation office may detain or take a child into custody as provided in the Delinquency Act.”
- **Section 32A-2-7 NMSA 1978:** updates language throughout, and also:
 - Subsection B: adds the requirement that a child’s parent, guardian, or custodian also be advised on a child’s basic rights at the preliminary inquiry.
 - Subsection C: removes the language that a referral comes from law enforcement.
 - Subsection G: adds language that the department shall be added as a party to a petition if probation services are a condition of a time waiver.
 - New Subsection H: allows the children’s court attorney to refer a child back to juvenile probation and recommend an appropriate disposition if the attorney declines to file a petition.
- **Section 32A-2-9 NMSA 1978:** updates language throughout.
- **Section 32A-2-11 NMSA 1978:** updates language throughout, and also:
 - Subsection C: requires CYFD to develop, validate, and implement an instrument to conduct detention risk assessments. The department also must collect and analyze data regarding the application and “effectiveness of the instrument every three years and update the instrument based on the data.”
 - New Subsection D: by September 1st each year, requires the department to provide the legislature a written report on the application and effectiveness of the risk assessment instrument, including the validation and updates if applicable.
- **Section 32A-2-12 NMSA 1978:** updates language throughout, and also:
 - Subsection A(2): adds “tribal child welfare or social services agency” to the list of places where a child alleged to be delinquent may to be detained;
 - Subsection A(5): removes the language preventing the option of holding a child in a facility for the long-term care and rehabilitation of a delinquent children;
 - New Subsection C: prevents a child who is alleged to be a delinquent child or youthful offender from being detained in a juvenile corrections facility;
 - Relettered Subsection D: adds language setting an age limit of 18 to 25 for an adjudicated youthful offender who is violent towards staff to be transferred or detained in a county jail;
 - Strikes original Subsection G requiring a judicial review.
- **Section 32A-2-13 NMSA 1978:** updates language throughout.
- **Section 32A-2-19 NMSA 1978:** changes the title to include “or youthful offender – juvenile sanctions;” also:
 - New Subsection A: includes a provision that the disposition in the section constitute juvenile sanctions for children adjudicated pursuant to the Delinquency Act.”
 - Relettered Subsection C: clarifies that the section applies to children who are either adjudicated as delinquent offenders or youthful offenders subsection to juvenile sanctions.
 - Relettered Subsection C(1): removes a judge’s ability to include recommendations for placement of a child who is serving a juvenile commitment. Additionally, the subsections under C(1) that list the different types of commitments are struck, replacing them with “for a commitment at a juvenile corrections facility for an appropriate term in

accordance with the provisions of Section 32A-2-19.1 NMSA 1978.”

- Original Subsection D: struck.
- Remainder of the section is reorganized and updated.
- **New Section 32A-2-19.1 NMSA 1978:**
 - Subsection A: limits the placement of children who are serving a commitment.
 - Subsection B: before placing a child at a juvenile corrections facility, the department must first assess a child at a “department-designated assessment facility” to determine placement, type of supervision, and appropriate rehabilitation program; the department may take into consideration the court’s recommendations.
 - Subsection C: lists the types of commitments for adjudicated delinquent offenders to include:
 - Short-term commitment of 18 months, with no more than 12 months at a corrections facility and no more than 180 days of supervised release.
 - Long-term commitment of 30 months, with no more than 24 months at a corrections facility and 180 days on supervised release.
 - Subsection D: states the standard term of commitment for a child who is adjudicated as a youthful offender with juvenile sanctions is up to the age of 25.
- **Section 32A-2-20 NMSA 1978:** adds “adult sentence - amenability” to the title, updates language, and in Subsection F, removes language with the option that an extended commitment for a youthful offender is up to the age of 21
- **Section 32A-2-23 NMSA 1978:** updates language, and also extends the time for which a child can be committed or placed on probation to the age of 25.
- **Section 32A-2-24 NMSA 1978:** updates language.
- **Section 32A-2-25 NMSA 1978:** updates language from parole to supervised release. New Subsection D is amended to include how time tolls when a child absconds, and includes language, “if the court finds that the child knowingly and willfully absconded...”
- **Section 33-9A-2 NMSA 1978:** removes the definition of “delinquent” from the Juvenile Community Corrections Act, while adding the definition of “justice-involved youth.”
- **Section 33-9A-3 NMSA 1978:** removes the requirement that the child be an adjudicated youth and opens it up for “justice-involved youth.” Additionally, the percentage of the fund used by the department for administration is increased from 10% to 12%. Finally, requires eligible programs to provide evidence-based or research-based services.
- **Section 33-9A-4 NMSA 1978:** amends the section to update the criteria for applicants.
- **Section 33-9A-5 NMSA 1978:** amends the section to update the duties of selection panels.
- **Section 33-9A-6 NMSA 1978:** amends the section to update some of the language.

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

New Mexico is currently part of the vast majority of states where juvenile court jurisdiction ends at age 21 (see the report entitled, *Extended Age of Court Jurisdiction* found at https://ojjdp.ojp.gov/statistical-briefing-book/structure_process/faqs/qa04106 .) SB 165 proposes

to extend the children's court jurisdiction by four years, expanding the age for which a child may be placed on probation or committed from up to twenty-one years of age to twenty-five years of age [See amendments to Sections 32A-2-12(D), 32A-2-19.1(E) and 32A-2-23(F)]. This would increase the children's court caseloads based on the longer tail for possible probation violations and needs for extension of commitment.

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) Under the current Children's Code, a young person cannot be on juvenile probation or in a juvenile commitment past the age of twenty-one. Senate Bill 165 increases that age by four years to up to the age of twenty-five. Additionally, SB 165 expands the list of crimes for which a child can be charged as a "serious youthful offender," and a "youthful offender."

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, 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*](#).

According to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP), most states (39 states) end jurisdiction by age 21. See [OJJDP - Age Boundaries of JJ System](#). The OJJDP also notes several states have moved toward increasing the upper age boundary to keep older youths in the juvenile justice system, rather than having them processed in the adult criminal justice system.

In the federal OJJDP's literature review entitled, "Age Boundaries of the Juvenile Justice System," it was noted that research findings have underscored the role adolescent development plays in processing and treating youths in the justice system. See [OJJDP - Age Boundaries of JJ System](#). This research indicates that ages from as young as 10 to as old as 24 correspond to an age range of adolescence. States that have sought to expand the scope of juvenile jurisdiction generally report an intention to prevent youth from entering adult court and thereby avoid the negative effects of incarceration in adult prison, the OJJDP reports. However, according to a literature conducted by OJJDP, states that have raised the age of majority have found no impact on juvenile recidivism rates.

In addition, a 2016 meta-analysis that aggregated results from nine studies examining the specific deterrence of juvenile transfer to adult court found no statistically significant effect on recidivism; however, the studies found a small insignificant effect on increased odds for recidivism, suggesting transfers may increase likelihood of recidivating. Similarly, OJJDP research concludes that transfer laws to adult court are not a deterrent to delinquency and may increase the likelihood of future offending.

3) Senate Bill 165 also amends Subsection I of 32A-2-23 NMSA 1978 to require the court to issue a warrant for a child's arrest upon receiving a notice that a child absconded from probation or supervised release, by stating "Upon receiving such notice, the court shall issue a warrant for the child's arrest." This requirement impedes on judicial discretion in determining whether a warrant should be issued.

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

Conflict: HB 125, HB 105, SB 147

TECHNICAL ISSUES

In Section 33-9A-3, SB 165 removes the term "community corrections" when describing programs and services (see page 48, line 17). By removing this term in this section, it appears the drafters intended to generalize the description of programs and services by not limiting them to "community corrections programs and services." Yet, in Subsections 33-9A-4(D), 33-9A-6(A)

and 33-9A-6(B), the term “community corrections” is not removed or replaced with more general terms like “eligible programs or services” as used on page 49, line 11.

OTHER SUBSTANTIVE ISSUES

In the Juvenile Community Corrections Act, SB 165 seeks to expand eligibility for those young people, defined in the bill as “justice-involved youth,” who may access programs and services funded through the Juvenile Community Corrections Grant Fund. Sections 33-9A-2 and 33-9A-3 currently limit programming and services to adjudicated youth; SB 165 expands this to children who are “subject to a delinquency complaint or delinquency petition for a delinquent act that would be a felony if committed by an adult who have not yet been or will not be adjudicated pursuant to the Delinquency Act.” See SB 165’s 33-9A-2(C). Although this proposed language greatly broadens the current participation eligibility, it still excludes children who are referred to probation for misdemeanors.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS