

LFC Requester: _____

**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 Feb. 10, 2026

Bill No: SB-165-280

Sponsor: Linda M. Trujillo and Crystal Brantley
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
FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	-	At least \$1.2 million	At least \$1.2 million	At least \$2.4 million	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with:

- **HB 105 Child Offender Commitment Extensions** (amending standard delinquency commitments to age 25 with no default long or short-term commitments)
- **HB 125 Delinquency Act Changes** (an alternative approach with significant overlap to this bill) (CPAC Tabled 2/7)
- **HB 339 Juvenile Justice Changes** (alternate to this bill)

SECTION III: NARRATIVE

This analysis of the SJC Substitute updates the analysis for SB 165 as-filed. New material in this analysis is underlined.

BILL SUMMARY

Synopsis:

The original bill amended definitions of “delinquent act,” “detention facility,” serious youthful offender,” “supervised release,” and “youthful offender” and added definitions of “child” and “juvenile corrections facility” within Section 32A-2-3 of the Delinquency Act to expand offenses receiving adult sentences (either automatically or with judicial discretion) and change which category of child is subject to particular forms of custody and supervision.

Section 3 of the SJC-Substitute only amends the definitions of “youthful offender” and “serious youthful offender” in Section 32A-2-3, and Sections 1 and 2 of the bill incorporate those definitions into the adult criminal sentencing statutes, as outlined further below:

- **Definition of “serious youthful offender”** The bill’s most significant change would be expanding the definition of “serious youthful offender” (hereinafter, “SYO”). A serious youthful offender is prosecuted and sentenced entirely as an adult. Current law only includes children age 15-18 charged with *first-degree murder* in the definition of SYO.

Section 1 of SB 165 would amend the definition of SYO to add a child age 15-18 who is charged with: *second degree murder* and *shooting at a dwelling* or occupied building or *shooting at or from a motor vehicle that results in great bodily harm*. Those crimes would remain “youthful offender” offenses if they do not result in great bodily harm.

Under current law and SB 165, “delinquent acts” are the catch-all for things that *would be crimes* if committed by adults, but which are only eligible for a juvenile disposition (no adult prison option).

Where SYOs receive *automatic adult* procedures and sentencing, youthful offenders (hereinafter “YO”) receive a post-adjudication “amenability hearing,” at which a judge decides whether to impose a juvenile disposition *or* sentence them as an adult. This bill would move some YO offenses into the SYO category, but also moves some from the delinquency category into the “adult sentence optional” category of YO offenses.

Definition of “youthful offender” The bill would add voluntary manslaughter and all SYO offenses (*see above*, first and second-degree murder and shootings resulting in great bodily harm) if committed by 14-year-olds to the definition of “youthful offender” (if older than 14 they would be SYOs). Under current law, because they were not enumerated as YO or SYO offenses, they are “delinquent acts.”

- ~~Section 1 would amend 1978, Section 32A-2-3 to change the definition of a child to include someone 18 years or older who committed a delinquent act as a minor. This definition is included in the SJC-Substitute.~~
- ~~Section 1 would remove from the definition of a delinquent act the following: 1) failure to stop in the event of an accident causing death; 2) unlawful taking of a motor vehicle; 3) receiving or transferring of stolen vehicle.~~
- ~~Section 1 would amend the definition of a detention facility to specify it is where a child may be detained pending a court hearing before adjudication or where a child may be committed after adjudication only for a period not to exceed 15 days within a 365 day period. It would create a new definition for “juvenile corrections facility” to mean a place established where an adjudicated child may be committed for care and rehabilitation as part of the child’s disposition.~~
- ~~Section 1 would also amend the definition of “youthful offender” to remove second degree murder since it was moved to the definition of serious youthful offender. It also makes clear that aggravated battery and aggravated battery against a household member (currently listed) are the felony versions of the crime and makes clear that aggravated battery upon a peace officer is a youthful offender offense only when committed with a deadly weapon or in a manner that could result in death or great bodily harm. It further clarifies that shooting at or from a motor vehicle or occupied building is a youthful offender offense only when it does *not* result in great bodily harm (as those offenses were added to the “SYO” definition). It adds voluntary manslaughter and attempt to commit any of the enumerated offenses to the definition of youthful offender offenses.~~

- ~~Section 1 also expands the definition of youthful offender to include a 14-year-old adjudicated for first or second-degree murder and shooting at or from a motor vehicle or occupied dwelling that results in great bodily harm.~~
- ~~Section 2 would amend 32A-2-5, juvenile probation services, and removes parole from the title.~~

Under current law, a SYO is sentenced as an adult, with a prohibition on “life without the possibility of release or parole.” See Section 31-18-15.3(D). Under current law, if a YO is not found amenable to juvenile disposition and the court imposes an adult sentence, they “shall be treated as an adult offender and shall be transferred to the legal custody of” Corrections.

Section 2 of the SJC-Substitute for SB 165 would modify that slightly by requiring that a SYO sentenced to imprisonment under adult sentencing shall be initially incarcerated in a CYFD facility until age 21 and then transferred to an adult prison. For SYOs, it allows for transfer to adult prison between age 18 and 21 if that SYO commits a new violent offense within the CYFD facility and CYFD finds they are a danger to the other children at the juvenile facility and there is no alternative safe placement. It would require CYFD to promulgate rules for such a determination and early transfer to adult prison.

Section 7 of the SJC-Substitute for SB 165 would provide the same procedure for a YO who receives an adult sentence. Under Section 7(G), it appears the children’s court would retain “jurisdiction” over a YO case until their transfer to adult prison (at age 21 or sooner based on dangerousness).

- ~~Section 3 would amend 32A-2-7, the complaints, referral, preliminary inquiry, notice, time waiver. Subsection C would require that if the child is not detained, the preliminary inquiry to be conducted within thirty days of juvenile probation services receipt of the referral instead of from law enforcement. These changes do not appear in the SJC-Substitute.~~

Section 4 of the SJC-Substitute for SB 165 would add a new section (H) that states that after reviewing a case after the preliminary inquiry, if the children’s court attorney decides not to file a delinquency petition, the children’s court attorney may refer the child back to juvenile probation services and recommend an appropriate disposition.

- ~~Section 4 would amend 32A-2-9 taking a child into custody, and clarifies when a child may be detained or taken into custody. These changes do not appear in the SJC-Substitute.~~
- Section 5 would amend 32A-2-11, “Criteria for detention,” and would amend subsection A to remove the language stating a child taken into custody for an alleged delinquent act “shall not be placed in detention unless” a detention risk assessment is completed and instead would indicate that a delinquent child “may” be detained “only if” a detention

risk assessment is completed and the court determines they are a risk to themselves or others, or a flight risk.

- Section 5 (B) replaces current language that “the criteria for detention in this section shall govern ... whether detention is appropriate prior to a detention hearing” with a statement that the provisions in (A) “apply to all circumstances in which a child may be detained before a detention hearing.” The intended distinction from the new phrasing is unclear.
- This section would also require in Subsection C that the department validate an instrument to conduct a risk assessment and collect and analyze data regarding the application and effectiveness every three years and update the instrument based on the data. Subsection D would require the department to provide a written report to the legislature on the risk instrument every year. The SJC-Substitute makes slight alteration in the language but does not appear to alter its effect.
- ~~Section 6 would amend 32A-2-12, placement or detention, including to subsection 3 that removes the judicial review within thirty days of placement for a temporary placement at a shelter-care facility. It would also add Subsection C, to require that before adjudication, a child alleged to be a delinquent child or youthful offender shall not be detained at a juvenile correctional facility. It would also add Subsection D stating a child who is 18-25 who was adjudicated as a youthful offender who is violent towards staff or other residents may be transferred and detained, pending a court hearing, in a county jail.~~
- ~~Section 7 would amend 32A-2-13, detention hearing required on detained children, to remove the authorization for a telephonic probable cause hearing. It would add Subsection B to require a petition be filed within 24 hours if the children’s court attorney or the department proposes detention of the child. These changes do not appear in the SJC-Substitute.~~
- Section [8] 6 would amend 32A-2-19, “Disposition of an adjudicated delinquent offender,” ~~youthful offender — juvenile sanctions, which applies to both delinquent children and youthful offenders who receive juvenile sanctions.~~ It would remove the short-term and long-term dispositions currently in the statute. If a child is found delinquent solely for violating offenses enumerated in paragraphs 2-4 of Subsection B of 32A-2-3 (driving-related offenses) Subsection (4)(b) allows the suspension or denial of driving privileges. The SJC-Substitute would maintain current language recognizing a “delinquent offender” includes YOs who receive a juvenile disposition, removing cumbersome explanatory language. It would maintain the current structure for dispositional options, including short- and long-term commitments to a juvenile facility, but would increase the duration of both detention potential and supervised release thereafter within both the short- and long-term provisions. It would also authorize juvenile commitment of a youthful offender up to age 25 “unless sooner discharged” (currently up to age 21).

- ~~Section 9 would add a new section, 32A-2-19.1, to the Delinquency Act, titled Standard terms of commitment for an adjudicated delinquent offender or youthful offender. Subsection A states that a delinquent child shall be transferred to the custody of the department for commitment in a juvenile corrections facility and that a delinquent child shall not be committed to a penal institution unless the child is a youthful offender subject to an adult sentence.~~
- ~~Subsection C of the new 32A-2-19.1 would set two standard commitment options for an adjudicated delinquent offender. Subsection C(1) of the statute to define a short term commitment as not to exceed 18 months, with no more than 12 months at a juvenile facility and no more than 180 days on supervised release. Subsection C(2) would define long term commitment as not to exceed 30 months, with no more than 24 months in a juvenile facility and no more than 180 days of supervised release.~~
- Section 9 would create Subsection D of the statute to define the standard term of commitment for a child who is “adjudicated as a delinquent offender for an offense that would have otherwise made the child a youthful offender” [presumably, because they were younger than 14 when it was committed] begins on the date of the dispositional judgment and ends on the date the child reaches age 21 (by definition, a commitment of at least 8 years). Subsection E states that the standard term of commitment for a child adjudicated as a youthful offender with juvenile sanctions begins on the date of the dispositional judgment and ends on the date the child reaches the age of 25 (a commitment of at least 7 years). This new material does not appear in the SJC-Substitute.
- Section [40] 7 would amend Section 32A-2-20, “disposition of a youthful offender” [adult sentence amenability], updates the statute for sentencing of 14 year old charged with first degree murder but convicted of lesser offenses consistent with the other changes in the statute. as discussed above under the “youthful offender” discussion following Section 3 (requiring an adult sentence be imposed in a juvenile facility until transfer to Corrections at age 21).
- Section [41] 8 would amend Section 32A-2-23, “limitations on dispositional judgments,” to allow for the extension of a long term commitment from age 21 to age 25 in Subsection E. Subsection F would allow for extensions of probation for an additional period of one year until the child reaches age 25. It would also amend Subsection I to require the court to issue a bench warrant if the child absconds from probation. The SJC-Substitute avoids the subtle reframing of the original bill and would simply remove references to a “90-day” probation term, as the durations were amended in Section 6 of the bill.
- ~~Section 12 would amend Section 32A-2-24, probation revocation, disposition, and adds a new Subsection C to allow a juvenile probation officer with reasonable cause to believe~~

~~that a child on probation has violated a condition of probation or consent decree or is at risk of absconding, the officer may take the child into custody provided the child may be placed in detention only in accordance with the provisions of Sections 21A-2-11 and 12. These changes do not appear in the SJC-Substitute.~~

- Section [13] 9 would amend Section 32A-2-25, from “parole” revocation to revocation of “supervised release” procedures. It makes changes throughout to remove “parole” and replace with “supervised release.” It avoids much of the subtle redrafting of existing provisions and still adds a Subsection C to state that the issuance of a warrant alleging that a child has absconded from supervised release shall toll the supervised release period. It allows the tolled time to be added on to the supervised release term if the court finds that the child knowingly and willfully absconded.
- Section [14] 10 would amend Section 33-9A-2 (part of Chapter 33 “Correctional Institutions,” Article 9A “Juvenile Community Corrections”), definitions as used in the juvenile community corrections act, and would remove “delinquent” and instead add Subsection C—“justice-involved youth” to mean 1) ~~[children or adults]~~ persons who were adjudicated pursuant to the Delinquency Act; 2) children subject to a delinquency complaint 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; 3) persons involved in the juvenile or criminal justice system who are at least 18 years old but less than ~~[26]~~ 25 years old.
- Section [15] 11 would amend Section 33-9A-3, juvenile community corrections grant fund. It changes Subsection C to state that no more than 12 percent of the money in the fund shall be used for administration and program monitoring, up from 10 percent. Subsection D requires that the secretary promulgate rules for awarding grants for eligible programs or services for justice-involved youth that are evidence-or research based. With slightly different drafting choices, the SJC-Substitute makes the same basic changes.
- Section [16] 12 would amend 33-9A-4, applications—criteria, to provide that applicants for programs are research-based and incorporates best practices in risk reduction for justice-involved youth. With slightly different drafting choices, the SJC-Substitute makes the same basic changes.
- Section [17] 13 would amend Section 33-9A-5, selection panels, requiring the department to establish a statewide panel to determine eligibility for programs created pursuant to the Juvenile Community Corrections Act. The panel shall immediately identify a child or adult adjudicated pursuant to the Delinquency Act who is transferred to the legal custody of the department and screen for eligibility for community service or restitution. With slightly different drafting choices, the SJC-Substitute makes the same basic changes.
- Section [18] 14 would amend 33-9A-6, Sentencing, to continue to require predisposition reports for an adjudicated child who is subject to a potential disposition that includes

commitment to a facility and requiring community corrections when a judge finds it appropriate. With slightly different drafting choices, the SJC-Substitute makes the same basic changes.

- ~~Section 19 would repeal Section 32A-2-2, which is the Purpose of the Delinquency Act. These changes do not appear in the SJC-Substitute.~~

FISCAL IMPACT:

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, 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).

Currently, only children age 15-18 charged with first-degree murder are classified as SYOs. This bill would dramatically increase that classification to include children charged with second-degree murder, 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). They would no longer be eligible for a juvenile disposition if convicted, regardless of circumstances.

The bill would also expand the youthful offender category to include voluntary manslaughter and attempt crimes for enumerated youthful offender offenses. Those offenses currently *cannot* receive an adult sentence, and under this bill, they *may* (depending on amenability).

The SJC-Substitute does delay a YO or SYO's transfer to adult prison until age 21 (or sooner based on dangerousness) but does not otherwise limit the potential exposure to decades-long adult sentences.

Currently, it is common to plead SYO first-degree murder charges to second-degree murder to trigger an amenability hearing and thus the *possibility* of a juvenile disposition. Moving second-degree murder into the SYO category would dramatically limit current plea practices and increase the number of SYO trials. Similarly, adding shooting crimes to SYO and voluntary manslaughter to YO definitions will have significant impacts on pleas and sentencing. With more juveniles facing adult sentencing, the need for robust and zealous sentencing mitigation will increase both attorney time and expert witness costs. 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.

SYO cases are very time-consuming and expensive to take to trial. In 2025, if the provisions of this bill were in effect, LOPD would have faced \$1.2 million more in attorney and staff time to represent these children in court. This estimate does not include the costs of experts or the impact of contract attorneys representing these children; many of these cases would qualify for complex case litigation hourly pay.

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. 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

The bill would significantly expand the category of crimes that result in a classification as a Serious Youthful Offender (SYO) resulting in more children being sentenced as adults. It is admittedly good policy to prevent 18-year olds from being incarcerated in prison. However, while the SJC-Substitute delays the transfer to adult prison, most YOs and SYOs are close to age 21 by the time they are sentenced anyway, so the impact will not dramatically reduce total years spent in adult prison by most YOs and SYOs.

Even with delayed transfer, it is important to note that children charged as SYOs do not get the protections of the Children’s Code and are instead treated as adults. SYOs have no possibility

of a juvenile disposition, even for lesser offenses charged within the same case with an SYO offense. If there is one SYO offense charged, they receive adult sentences across the board if convicted. **NMSA 1978, § 31-18-15.3(D)**. Currently, only first-degree murder is classified as such. This is because it is the most serious crime in New Mexico law and should remain the only offense for which children are given no possible path to a juvenile outcome. Expanding SYO offenses to include second-degree murder will dramatically impact plea negotiations, as that is a common offense to plead to in order to trigger an amenability hearing in the hope of a juvenile disposition. Moreover, including reckless infliction of great bodily harm (shooting at a dwelling or shooting at or from a motor vehicle require *no intent to injure anyone*) alongside the most culpable loss of life under the law (an intentional killing) is a dramatic expansion of automatic adult prosecution.

The bill would also expand the classification of Youthful Offenders, moving a variety of conduct previously treated exclusively in a juvenile capacity to a category where adult sentencing becomes possible, increasing the number of children as young as 14 facing significant felony sentences in our *adult prisons* well into their adulthood, notwithstanding the delayed transfer from CYFD custody.

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.

~~Additionally, Sections 9 and 11 impose longer commitment terms that do not allow for the flexibility and discretion that is necessary in juvenile cases. For example, Section 9, which allows for an extended commitment could result in young children facing commitments in some cases over a decade long. Section 11 extends Children’s Court jurisdiction to age 25 in some circumstances may 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 may not 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. These changes do not appear in the SJC-Substitute.~~

Section 6 would authorize juvenile commitment of a youthful offender up to age 25 “unless sooner discharged.” 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, and the option of transfer to adult prison (correctly) does not apply to anyone who received a juvenile disposition. It also is incongruent to allow for commitment until age 25 without simultaneously expanding the age range for *incurring* juvenile charges, *i.e.*, recognizing reduced culpability for the commission of delinquent acts into early adulthood. Because youthful offenders may be as young as 14, a commitment to age 25 at the outset would mean incarceration in a CYFD facility for fully a decade. Youthful offender offenses include third degree felonies with three-year sentences if committed by an adult, and the bill has no limitation on commitment to the maximum exposure for an adult. While CYFD custody is less punitive than a lengthy sentence in adult prison at the Department of Corrections, but unlike default durations for short- and long-term delinquency commitments (with options for extension) the bill provides judges with little guidance for determining the appropriate length of a youthful offender commitment. Compare NMSA 1978, § 32A-2-20(C) (providing eight statutory factors judges “shall consider” in determining whether a youthful offender should receive a juvenile disposition or adult sentence). The bill therefore allows for a potential 10-year commitment with no requirement for incremental increases (such as one year at a time to be re-justified each year), or individualized factors to consider in the extension. As with the expansion of SYO offenses, these changes fail to recognize the unique protections New Mexico has traditionally provided its children.

~~The bill also appears to remove the discretion of the juvenile probation officer to handle cases informally without sending them to the prosecutor. Currently, minor offenses can be handled informally. The bill also removes the special master’s ability to release a child. These changes have the potential to result in more children in custody and the potential to overwhelm the jails, courts, the prosecutors, and the public defenders. These changes do not appear in the SJC-Substitute.~~

Although some of the changes made by this bill are laudable, including requiring reporting on the effectiveness of risk assessment instruments, delayed transfer to adult prison for YOs and SYOs, and requiring evidence-based services for grant recipients, overall the bill seeks to limit the discretion of the district court in carefully crafting sentences for children who commit crimes. To move second-degree murder and “shooting at or from” crimes to classification as a serious youthful offender offense means that these children will receive mandatory adult sentences and will not be able to benefit from the rehabilitative opportunities afforded by sentencing as juvenile.

Overall, SB 165 simply does not give enough weight to the importance of rehabilitating 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, SB 165 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

None noted.

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, and not the default setting as it is under Section 9(C) of the bill (within new material, proposed as 32A-12-19.1).

As discussed above, youthful offender commitments up to age 25 at initial disposition create the potential for decade-long commitments in CYFD and expanding the qualifying offenses for automatic adult sentencing will certainly result in more juvenile offenders serving time in adult prisons. 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

SB 165 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/>.