

LFC Requester:

Henry Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov/AgencyAnalysis) 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: 2/6/2026

Check all that apply:

Bill Number: SB 232Original Correction Amendment Substitute

Sponsor: Crystal Brantley
 Short Title: Determine Competency of a Child

Agency Name

and Code

AOC-218

Number:

Person Writing

Adam LeuschelPhone: 505-699-6451Email aocapl@nmcourts.gov**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: SB 232 creates a new standard for determining the competency of a child as follows:

- Allowing either the court or any party to raise the question of a child's competency
- Allowing the court to order a competency determination if a compelling reason exists to do so, but specifying that a child's age is not a compelling reason
- Stating that a child defendant shall be presumed to be competent
- Requiring the child's competency to be evaluated by an independent child psychologist
- Establishing four factors that must be evaluated when determining a child's competency: 1) the child's ability to understand relevant information; 2) the child's ability to appreciate the consequences of choices; 3) the child's reasoning skills in weighing options and outcomes, and 4) the child's ability to express a choice clearly
- Defining a child as a person under 18 years of age

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

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 any increase in motions to determine competency in juvenile proceedings, associated competency hearings, and commenced commitment actions and appeals. The time needed to conduct a child competency evaluation may also impact case disposal rates. 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) SB 232 may lead to more motions related to a child's competency and requests for hearing, therefore increasing court hearings. This will require additional judge time, courtroom staff time, and courtroom availability. 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 child competency will compound busy family court dockets and negatively affect availability for emergency hearings, case closure rates, and the need for timely decisions.

2) SB 232 proposes a unique standard for evaluating a child's competency. This standard presumes a child is competent, evaluates the child's understanding and reasoning skills, and states that the child's age cannot be used as a reason to evaluate competency. A "child" is anyone who is under eighteen years of age.

Children exhibit great variability in behavior as they move through different stages of

development. Research shows that youths' capabilities as trial defendants vary, with those aged 16-17 scoring similarly to adults on reason and understanding and those aged 15 and younger performing more poorly than adults on average. Larson & Grisso, *Developing Statutes for Competence to Stand Trial in Juvenile Delinquency Proceedings: A Guide to Lawmakers*, p.17, https://www.modelsforchange.net/publications/330/Developing_Statutes_for_Competence_to_Stand_Trial_in_Juvenile_Delinquency_Proceedings_A_Guide_for_Lawmakers.pdf. 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.

There is no specific age at which children become competent or incompetent, and research only indicates how likely children of a certain age are, on average, to have competency-related deficits. *Id.* p.28. Experts therefore recommend including developmental immaturity as a predicate for incompetence to stand trial in juvenile proceedings. *Id.* p.26. Experts also recommend creating a multi-tiered system for determining child competency that includes judicial discretion to determine competence for children aged 14 and above, a rebuttable presumption of incompetence for children aged 11-13, and a presumption of per se incompetence for children aged 10 and below. *Id.* pp.30-31.

3) In the standards it sets for evaluating competency, SB 232 does not include any elements of the adult standard for competency to stand trial: 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. 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. However, SB 232 does not take into account the child's understanding of the court proceedings when determining competency.

Other states that have enacted laws specific to child competency address the child's ability to understand the court process. For example, both Maryland and Florida require an evaluation of the child's ability to appreciate the charges against them and the range of possible penalties that may be imposed, to understand the adversarial nature of the legal process, to disclose pertinent facts to counsel, and to display appropriate courtroom behavior and testify relevantly. Fla. Stat. Ann. § 985.19(1)(f); Md. Code Ann., Cts. & Jud. Proc. § 3-8A-17.3.

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 proposes to amend the Delinquency Act to add new requirements related to a child's competency to stand trial and involuntary placement commitment to residential and nonresidential treatment. HB 334 proposes a standard for evaluating the competency of a child that is distinct

from the standard proposed in SB 232.

TECHNICAL ISSUES

1) SB 232 creates new material, but does not identify a chapter of the New Mexico Statutes Annotated where the new material will be enrolled. Because SB 232 references a child defendant, it is presumed SB 232, if enacted, would be enrolled in the Children's Code, Chapter 32A.

2) Procedure related to a child's competency to stand trial is currently addressed in NMSA 1978, § 32A-2-21(G). Some portions of SB 232 overlap with existing Section 32A-2-21(G), and the interplay between SB 232 and Section 32-A-2-21(G) may cause confusion.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS