

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

**BILL NUMBER:** CS/Senate Bill 165/SJCS

**SHORT TITLE:** Delinquency Act Changes

**SPONSOR:** Senate Judiciary Committee

**LAST ORIGINAL**  
**UPDATE:** 2/17/2026      **DATE:** 2/11/2026      **ANALYST:** Ceballes/Malone

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>CYFD Juvenile Justice Services</b>	Indeterminate but minimal	Up to \$45,000	\$37,500	\$82,500	Nonrecurring/recurring	General fund
<b>AOC</b>	Indeterminate but minimal	At least \$936	At least \$936	At least \$1,872	Recurring	General fund
<b>County Jails and Detention Facilities</b>	Indeterminate but minimal	Indeterminate	Indeterminate	Indeterminate	Recurring	County revenue
<b>Public Defenders</b>	Indeterminate but minimal	At least \$584	At least \$584	At least \$1,168	Recurring	General fund
<b>District Attorneys</b>	Indeterminate but minimal	At least \$584	At least \$584	At least \$1,168	Recurring	General fund
<b>Total</b>	<b>Indeterminate but minimal</b>	\$47,104	\$39,604	\$86,708	Recurring	General fund/county revenue

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill(s) and Senate Bill(s)  
 SB 147, SB 180, HB 5, HB 105, HB 125, HB 182, HB 339

### Sources of Information

LFC Files  
 U.S. Office of Juvenile Justice and Delinquency Prevention

Agency or Agencies Providing Analysis  
 New Mexico Sentencing Commission (NMSC)  
 Department of Public Safety (DPS)  
 Administrative Office of the District Attorneys (AODA)  
 Law Office of the Public Defender (LOPD)  
 Children’s Youth and Families Department (CYFD)

## SUMMARY

### Synopsis of SJC Substitute for Senate Bill 165

The Senate Judiciary Committee Substitute Senate Bill 165 (SB165) proposes numerous amendments that significantly modify the Delinquency Act, Sections 32A-2-1 et. seq. NMSA 1978, and the Juvenile Community Corrections Act, Sections 33-9A-1 et seq NMSA 1978. The bill adds definitions that expand the scope of the Delinquency Act, adjusts procedures, and extends commitment terms. With regard to the Juvenile Community Corrections Act, SB165 expands the population eligible for services under the Act.

**Section 1** amends definitions contained in Section 31-18-15.2 of the Criminal Sentencing Act. Changes would do the following:

- Amend the definition of “serious youthful offender” to mean “a person alleged to be a serious youthful offender in accordance with the Delinquency Act.”
- Add the definition of “serious youthful offender offense” to include: 1) murder in the first or second degree; and 2) shooting at a dwelling or occupied building or at or from a motor vehicle that results in great bodily harm. Currently, only murder in the first degree is included in the definition.
- Amend the definition of “youthful offender” to mean “a person adjudicated as a youthful offender in accordance with the Delinquency Act.”

**Section 2** amends Section 31-18-15.3 of the Criminal Sentencing Act to provide that a serious youthful offender be initially incarcerated in a CYFD facility until the age of 21 and then transferred to an adult prison. A serious youthful offender may be transferred to an adult prison between the ages of 18 and 21 if they commit a new violent offense within the CYFD facility and the agency finds they are a danger to other youth at the facility and there is no alternative safe placement. SB165 requires CYFD to promulgate rules for such a determination and early transfer to adult prison.

**Section 3** amends definitions contained in Section 32A-2-3 of the Delinquency Act. Changes would do the following:

- Amend the definition of “serious youthful offender” to include a child age 15-18 who is indicted or charged and bound over for trial for: 1) murder in the first or second degree; and 2) shooting at a dwelling or occupied building or at or from a motor vehicle that results in great bodily harm. Currently, only murder in the first degree is included in the definition.
- Amend the definition of “youthful offender” to remove second degree murder (moved to the definition of serious youthful offender) and add voluntary manslaughter.
- Expands the definition of youthful offender to include a 14-year-olds 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 4** amends Section 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 be conducted within thirty days of juvenile probation services receipt of the referral instead of from law enforcement. It adds a new section (H) stating 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 5** amend Section 32A-2-11, criteria for detention, 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 replaces it with “may be detained only in accordance with Section 32A-2-10 and only if” a detention risk assessment is completed. This section also requires 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. Additionally, the section requires the department to provide a written report to the legislature on the risk instrument every year.

**Section 6** amends Section 32A-2-19, disposition of an adjudicated delinquent offender, youthful offender—juvenile sanctions (applicable to both delinquent children and youthful offenders who receive juvenile sanctions) retains the short-term and long-term dispositions currently in statute but would increase the duration of both detention potential and supervised release within existing statute.

**Section 7** amends Section 32A-2-20, disposition of a youthful offender—adult sentence-amenability, to update the statute for sentencing a youthful offender consistent with the provisions in Section 2 (above) providing for detention in a juvenile facility up to the age of 21.

**Section 8** amends Section 32A-2-23, limitations on dispositional judgments, to remove references to 90-day probation for consistency with revised short- and long-term dispositions in Section 6 (above).

**Section 9** amends Section 32A-2-25, from parole revocation to revocation of supervised release procedures, to remove parole and replace with supervised release. It also provides that the issuance of a warrant alleging that a child has absconded from supervised release shall toll the supervised release period and permits the tolled time to be added on to the supervised release term if the court finds that the child knowingly and willfully absconded.

**Section 10** amends Section 33-9A-2, definitions as used in the Juvenile Community Corrections Act, to remove “delinquent” and instead add “justice-involved youth” to mean 1) 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 years old.

**Section 11** amends Section 33-9A-3, juvenile community corrections grant fund, to increase the percent of money in the fund available for administration and program monitoring to 12 percent from 10 percent. The amendment requires that the secretary promulgate rules for awarding grants for eligible programs or services for justice-involved youth that are evidence- or research-based.

**Section 12** amends 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.

**Section 13** amends 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 must 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.

**Section 14** amends 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.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## **FISCAL IMPLICATIONS**

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in juvenile detention facilities, jail, or prison and the length of time served in prison, juvenile detention, or jail that might result from this bill could have significant fiscal impacts. The creation of any new crime, increase in severity, removing alternatives to incarceration, or increase of sentencing penalties will likely increase the population of New Mexico’s juvenile detention facilities, prisons, and jails, consequently increasing long-term costs to state and county general funds.

Overall, SB165 makes it more likely that juveniles committing certain crimes will be detained, provides greater discretion to the court related to probation and commitment, and broadens the list of crimes that come under the “serious youthful offender” and “youthful offender” definitions in statute.

The bill will, thus, increase costs associated with the detention of juveniles and increase costs associated with the prosecution of youthful offender and serious youthful offender cases, which the Law Offices of the Public Defender (LOPD) reports are more involved than delinquency cases. As a result, costs associated with the judiciary, district attorneys, public defenders, and juvenile probation officers will likely increase.

### **County Juvenile Detention Centers**

Currently, four juvenile detention centers are operated in New Mexico by Bernalillo, Doña Ana, Lea, and San Juan counties. These facilities are county-operated but some have received state funding in the past, most recently from state funding for recruitment of detention officers. SB165 would likely increase the number of youth detained in these facilities, creating a risk of potentially exceeding the capacity. A 2025 LFC program evaluation policy spotlight on juvenile justice found that recent increases in populations have placed pressure on existing county juvenile detention centers. Although detention center populations remain below bed capacity currently, the changes contained in SB165 could result in populations increasing sufficiently to exceed capacity.

County jails and youth detention facilities would likely experience a fiscal impact from this bill. The 2025 LFC policy spotlight found that county juvenile detention centers cost roughly \$21.5 million, with differing costs in Bernalillo (\$13.9 million), Doña Ana (\$3.5 million), Lea (\$1.2 million), and San Juan (\$2.9 million) counties. While the cost to counties from increased youth detention populations could be significant, it is listed as “indeterminate” in the tables above.

### **Judiciary**

The designation of additional offenses as serious youthful offender and youthful offender

offenses is likely to increase the complexity of juvenile cases, increasing the time for disposition. Both changes are likely to meaningfully impact the court's burden. The total cost to add one additional judge, including administrative costs, is \$468.1 thousand. This analysis assumes the state would need to add at least two judgeships, for a potential cost of \$936 thousand.

The Administrative Office of the Courts (AOC) reports a minimal administrative cost for statewide update, distribution, and documentation of statutory changes and reports any new laws have the potential to increase caseloads in the courts, thus requiring additional resources.

Both the Administrative Office of the District Attorneys (AODA) and LOPD indicate the bill would likely require additional resources for district attorneys and public defenders. LOPD assumes the cost of a mid-point level attorney, including benefits, support staff, and operating costs, to be roughly \$292 thousand annually. Assuming the LOPD must hire at least two additional attorneys to implement SB165, the state may assume an annual recurring cost of at least \$582 thousand annually. While the AODA did not provide specific fiscal analysis, LFC estimates the state would need to need to hire at least two additional prosecutors at a similar cost, including salary, benefits, and other support costs.

### **Juvenile Justice Services and Juvenile Justice Facilities (State Operated)**

The bill would almost certainly result in increased costs to Juvenile Justice Services operations within CYFD, associated with supervising those on probation longer, increasing severity of juvenile offenses, and potentially housing more juveniles committed to the age of 21. CYFD notes that the agency will be required to provide housing, medical, educational or vocational programming, mental health, and supervision services in facilities as well as on supervised release services. Considering current populations at the two existing secured facilities in the state, CYFD assumes it would need to open an additional facility for increased populations resulting from SB165. The agency notes it could re-open its Camino facility in Albuquerque but would require \$12 million for infrastructure and staffing. Because CYFD does not disaggregate the capital expenses and the staffing expenses, this analysis assumes that \$7.5 million is needed for capital improvements.

The 2025 LFC policy spotlight on juvenile justice noted the per-client cost in a secure juvenile justice facility was about \$345 thousand. Assuming this cost, if New Mexico were to increase the number of youths in secure juvenile justice facilities by 100 clients, the state could experience estimated annual cost increases of \$34.5 million.

The LFC policy spotlight report also estimated the per-referral, per-year cost of field supervision to be about \$15 thousand annually. If the number of juveniles under field supervision were to increase by 200 individuals, the state could expect a cost of almost \$3 million annually.

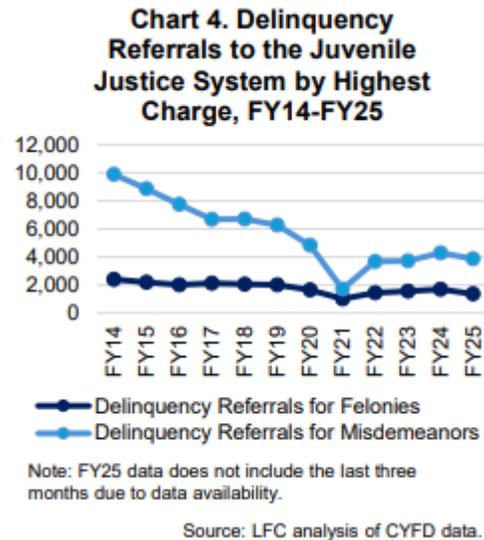
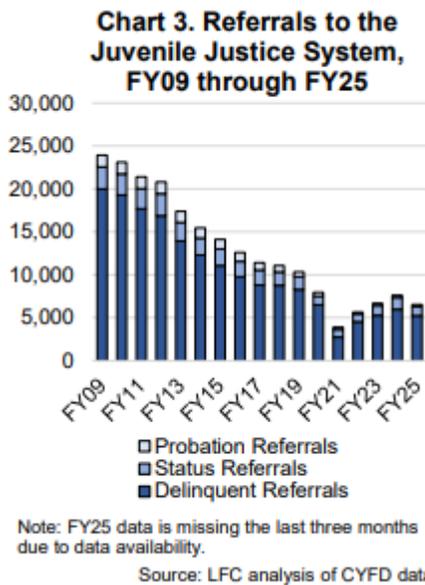
## **SIGNIFICANT ISSUES**

In 2006, New Mexico reached a settlement agreement aimed at improving juvenile justice in New Mexico. Subsequently, New Mexico implemented two sets of evidence-based juvenile justice reforms in the early- and mid-2000s: diverting more low-risk youth away from the justice system and making CYFD facilities for high-risk youth more rehabilitative. Referrals of youth to the juvenile justice system steadily decreased over time after these reforms, reached a low point in 2021 during the Covid-19 pandemic, and have recently increased since the pandemic low

point.

Between FY08 and FY23, referrals to Juvenile Justice Services at CYFD, almost all from law enforcement because of a violation of the Delinquency Act, declined from nearly 24 thousand in FY08 to a low of less than 5,000 during the pandemic in FY21. A 2023 LFC juvenile justice progress report attributed this decline to a variety of factors, including a drop in the state’s youth population and the state’s reforms in juvenile justice. In FY22, referrals to Juvenile Justice Services began to increase.

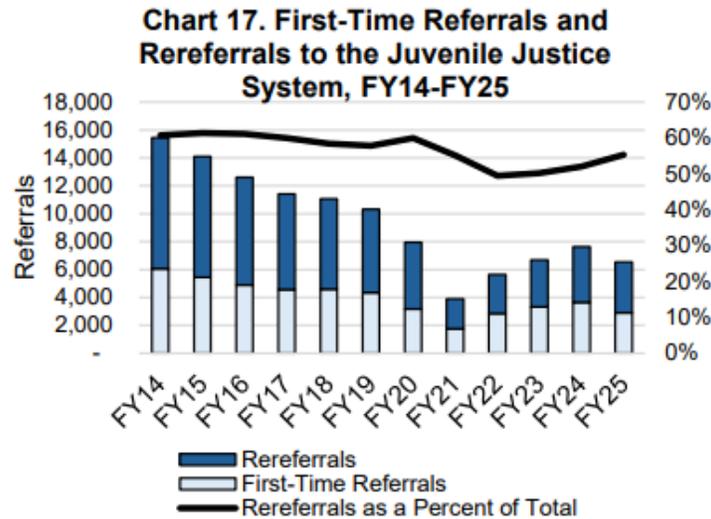
In FY24, a total of 7,634 juveniles were referred to Juvenile Justice Services (JJS). Once referred to JJS, the case may either be handled informally (roughly 57 percent of cases in FY24) or formally through the filing of a petition in court (roughly 43 percent of cases in FY24). In FY23, the five most common offenses for delinquent referrals were battery, battery against a household member, possession of cannabis products, public fighting, and resisting or evading an officer.



As a result of the reforms and declines in juvenile justice system referrals, the population in secure facilities in New Mexico declined, and New Mexico closed two secure facilities and two reintegration centers. In addition, following over 15 years of a downward trend, the population in CYFD’s secure juvenile justice facilities increased in FY24 and the beginning of FY25. In FY24, CYFD reports average daily census in the state’s secure facilities averaged 96 young people, following a low of 80 in FY23, and average daily census reached over 120 in FY25. While census in secure facilities has increased, the secure population remains below the overall capacity of 156 at the state’s two operational secure facilities.

The 2025 LFC policy spotlight on juvenile justice reported that research shows simply incarcerating juveniles does not address the root causes of delinquency and can increase the chances of reoffending, while programs that focus on therapy, mentoring, life skills, and family support can help reduce juvenile recidivism when implemented well in community and institutional settings. However, the report found that, although recidivism rates for formally adjudicated youth are low, rereferrals to the system are high, indicating many juveniles are

cycling back to the system after initial lower-level offenses.



Note: FY25 data does not include the last three months due to data availability.

Source: LFC analysis of CYFD data.

The report found that local delinquency prevention programs, currently funded through local Juvenile Justice Advisory Committee (JJAC) continuums, had low program participation and programs were not being implemented where most needed (Bernalillo, namely). SB165 would permit another funding source to be leveraged for delinquency preventions (Juvenile Community Corrections). CYFD reports that the changes to the Juvenile Community Corrections Act will allow the agency to serve more clients in communities throughout the state. However, while delivery of effective community-based services is necessary, insufficient JJAC funding does not appear to have been a binding constraint in recent years.

### Changing Definitions of Serious Violent Offenders and Serious Youth Offenders

Currently, the Delinquency Act creates three tiers for juvenile offenses:

- “Delinquent acts,” which are prosecuted and punished exclusively as a juvenile;
- “Youthful offender,” which are prosecuted as a juvenile and may incur adult sanctions only after adjudication and after assessing the juvenile’s “amenability to treatment”; and
- “Serious youthful offender,” which triggers automatic adult prosecution and sentencing.

Currently, the only “serious youthful offender” charge is first degree murder. The bill would expand this definition to include juveniles charged with second-degree murder, voluntary manslaughter, robbery while armed with a deadly weapon, and shooting at or from a motor vehicle or at a dwelling resulting in great bodily harm.

In addition, the bill would amend the definition of “youthful offender,” moving conduct previously treated exclusively in a juvenile capacity to a category where adult sentencing becomes possible and increasing the number of children as young as 14 facing potential adult sentencing.

Between July 2023 and February 2025, under the current definition of “serious violent offenders,” the Sentencing Commission reported 34 unique cases representing 33 people (one person had two separate cases). Under the proposed definition, there would have been 84 unique cases, representing 80 people.

The Sentencing Commission reports that in FY24 there were 313 cases adjudicated that were committed by those under the age of 18 on the offense date, containing offenses included in the definition of a youthful offender. After removing duplicates, this represents 294 unique offenders. For serious youthful offenders, in FY24 there were 19 juveniles with cases adjudicated with a lead offense of first-degree murder (who were between the ages of 14 and 18 on the offense date). Under the provisions of SB165, some of these youthful offender cases would shift to the serious youthful offender status.

This section of the bill aims to deter juvenile crime, particularly violent crime, by increasing punishment, and AODA notes its support for the reforms. However, 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.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Numerous related and potentially conflicting bills addressing the Children’s Code and juvenile justice have been introduced during the current legislative session, including SB147, SB180, HB5, HB105, HB125, HB182, and HB339.

Amendments in this bill conflict with amendments in SB147, HB5, HB125, HB182, and HB339, which all make changes to the Delinquency Act, the Juvenile Community Corrections Act, and/or the Juvenile Community Corrections Grant Fund.

Amendments in this bill relate to SB180, which restricts strip or body cavity searches within detention facilities, though the two bills do not directly conflict.