



PROSECUTION OF CHILDREN AS ADULTS IN NEW MEXICO:

Policy History, Impact, & Alternatives

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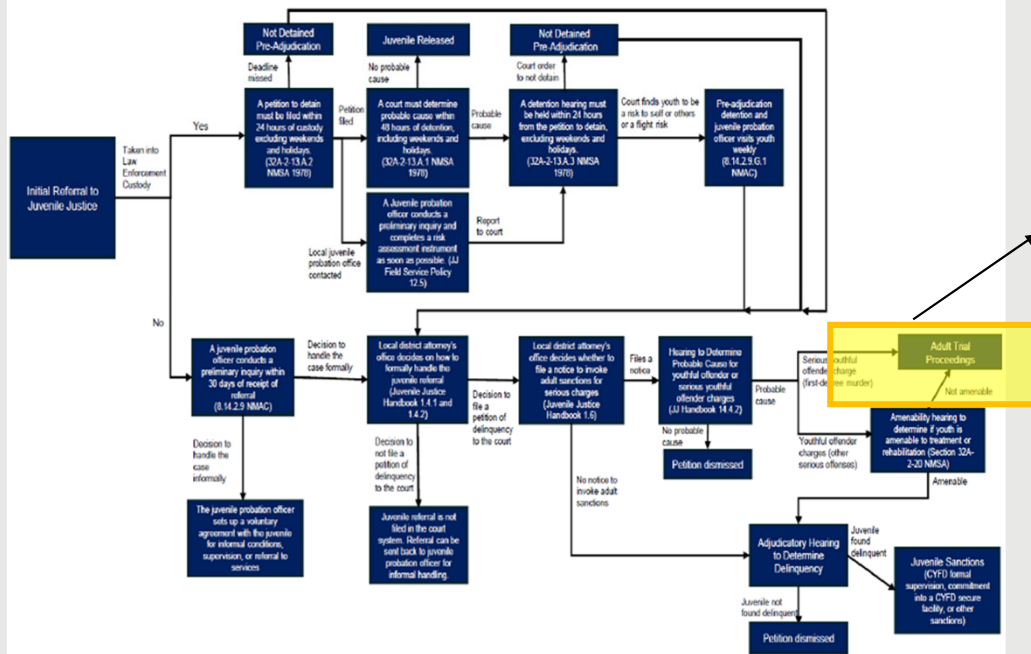


OUR GOALS:

- Explain the history of the current legal pathways through which a child receives an adult sentence
- Review the body of data showing that adult incarceration of youth leads to worse public safety outcomes and the roots of these negative outcomes
- Provide a first-hand account of the experience of being a child sentenced as an adult and sent to adult prison
- Offer alternative investments proven to meaningfully reduce youth recidivism, youth violence, and gun-related crimes.

ADULT PROSECUTION OF CHILDREN: ISSUE SPOTLIGHT

Appendix B. Detailed Juvenile Justice Process Map



LFC Juvenile Policy Spotlight (Nov. 2025), p 39

Presentation Handout:

Transfer Provisions of the New Mexico Children's Code:

Youthful Offenders (YOs): Discretionary Adult Prosecution

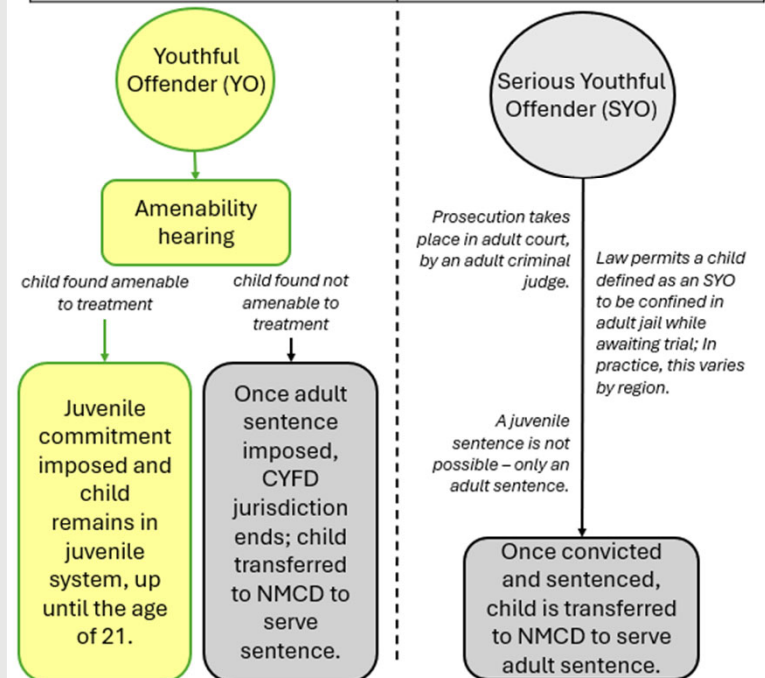
A child who is defined as a YO is entitled to an amenability hearing in which a judge determines whether an adult sentence is appropriate.

**YO is a child 14 – 17 charged with specific violent felonies.
NMSA § 31A-2-3**

Serious Youthful Offenders (SYOs): Automatic Adult Prosecution

A child who is defined as a SYO is statutorily excluded from the Children's Code and juvenile system and is treated as an adult.

**SYO is a child 15 – 17 charged with first-degree murder.
NMSA § 31A-2-3**



**YO is a child 14 – 17 charged with
specific violent felonies
NMSA § 31A-2-3**

Youthful
Offender (YO)

Amenability
hearing

*child found amenable
to treatment*

Juvenile
commitment
imposed and
child
remains in
juvenile
system, up
until the age
of 21.

*child found not
amenable to
treatment*

Once adult
sentence
imposed,
CYFD
jurisdiction
ends; child
transferred
to NMCD to
serve
sentence.

**SYO is a child 15 – 17 charged with
first-degree murder.
NMSA § 31A-2-3**

Serious Youthful
Offender (SYO)

*Prosecution takes
place in adult court,
by an adult criminal
judge.*

*Law permits a child
defined as an SYO
to be confined in
adult jail while
awaiting trial; In
practice, this varies
by region.*

*A juvenile
sentence is not
possible – only an
adult sentence.*

Once convicted
and sentenced,
child is transferred
to NMCD to serve
adult sentence.

NM POLICY HISTORY RELATED TO PROSECUTION OF CHILDREN AS ADULTS:

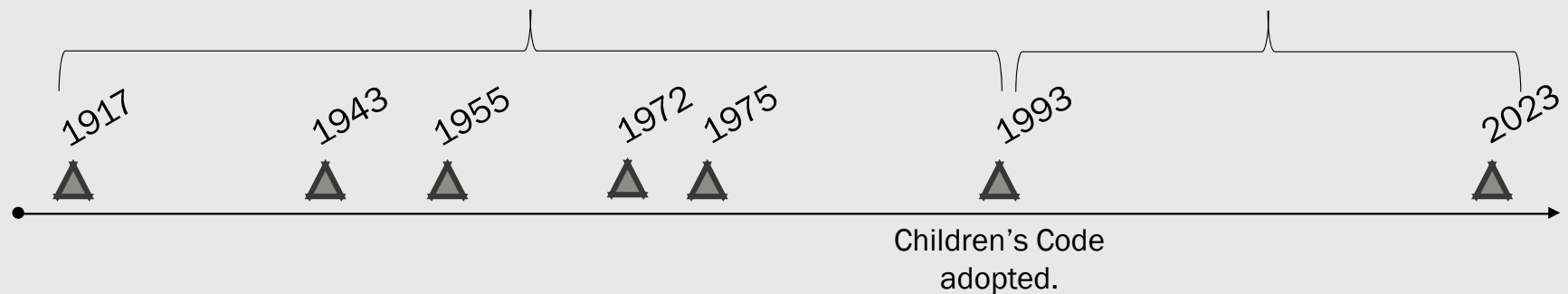


- New Mexico established the first juvenile court in 1917, defined to have jurisdiction over “delinquent children” under sixteen years of age. 1917 N.M. Laws, ch. 4.
- Statutes related to “delinquent children” were significantly amended in 1943. 1943. N.M. Laws, ch. 40 § 4.
- In 1955, the legislature adopted a full juvenile code, setting the first age a minimum age for adult prosecution and other eligibility criteria for sentencing children as adults. 1955 N.M. Laws, ch. 205, § 9.
- In 1972, the legislature expanded procedural safeguards for children who were eligible for adult sentences. 1972 N.M. Laws, ch. 97.
- New Mexico was one of the first states to protect children sentenced as adults from the death penalty, doing so in 1975. 1975 N.M. Laws, ch. 320, § 5.
- The entire juvenile system was overhauled in 1993 with the adoption of the Children’s Code, which introduced to SYO and YO categories and dramatically altered the way in which children in New Mexico are tried and sentenced as adults. The SYO category began the era of automatic adult sentencing of children in New Mexico. The New Mexico Children’s Code, NMSA 1978 §§ 32A-1 to 6 (1993).
- In 2023, New Mexico banned life without parole as a sentencing option for children and created a parole eligibility system for children sentenced as adults to life and long prison sentences. NMSA 1978 § 31-18-15.3 (2023); NMSA 1978 § 32A-2-20 (2023); and NMSA 1978 § 31-21-10.2 (2023).

1993: THE INTRODUCTION OF AUTOMATIC ADULT SENTENCING

Between 1917 and 1993, prosecution of children as adults requires judicial discretion.

In 1993, the newly-created SYO category allows for automatic adult prosecution of children.



- The 1993 Children's Code completely overhauled abuse, neglect, and delinquency law.
- The Code created the SYO/YO system still in place today, introducing for the first time in NM's history, the policy of automatically prosecuting and sentencing children as adults based on the criminal charge.
- This new policy of automatic adult prosecution was a reflection of a broader nation-wide push in the '90s towards harsher consequences for children involved in causing harm.

THE MYTH OF THE “SUPER-PREDATOR” AND THE POLICIES THE MYTH SUPPORTED:

- Youth violence rose sharply in the late '80s to the mid-'90s.
- In the face of rising youth violence, political scientist John Dilulio predicted a coming wave of remorseless youth and called for “genuine get-tough law enforcement strategies against the super-predators.”
- Fear of the rise of super-predators swept the country and shaped policy, increasing out-of-home juvenile placements, building boot camp style interventions, and sending more children to adult courts and prison, sometimes automatically.
- The theory never came to pass (youth violence dropped by the late '90s).
- Dilulio even renounced his own prediction.¹ However, the policy damage was done. Today, 28 states and D.C. have automatic transfer statutes similar to New Mexico's serious youthful offender category.

1. Becker, E. (2001, February 9). As ex-theorist on young 'superpredators,' Bush aide has regrets. *The New York Times*.

OUTCOMES: PROSECUTION OF CHILDREN AS ADULTS LEADS TO MORE RE-OFFENSE, LESS SAFE COMMUNITIES

- Following the super-predator era was a period of greater scientific insights into adolescent brain development, insights which reveal that developmental characteristics of youth have a direct bearing on criminal culpability as well as their ability to experience rehabilitation and positive transformation.
- Additionally, data shows that children prosecuted as adults have worse public safety outcomes than children who stay in the juvenile system.²
- Of children who remain in the juvenile system, those diverted from incarceration to community resources yield the best public safety and violence prevention outcomes.³

2. Naugle, O. (2025). *Automatically charging youth as adults*. The Sentencing Project; Centers for Disease Control and Prevention. (2007). *Effects on violence of laws and policies facilitating the transfer of youth from the juvenile to the adult justice system: A report on recommendations of the task force on community preventive services*; Redding, R. (2008). Juvenile transfer laws: an effective deterrent to delinquency? *Juvenile Justice Bulletin*.

3. New Mexico Legislative Finance Committee. (2025). *Policy spotlight: Juvenile justice*; Mendel, R. (2025). *From punishment to prevention: A better approach to addressing youth gun possession*. The Sentencing Project.

WHY JUVENILE COURT WORKS BETTER THAN ADULT COURTS, AND WHY DIVERSION WORKS BETTER THAN DETENTION AND COMMITMENT:

- Along with and related to the increased scientific insights into adolescent brain development was an increased understanding of trauma on the brain and on behavior.
- Trauma is at the root of most of the behaviors our juvenile and adult criminal legal systems response to. As LFC notes, 87% of children in our juvenile justice system had four or more ACEs.⁴
- System responses that exacerbate that trauma (isolation, shame, disconnection from community, exposure to more violence) will exacerbate the problem. Responses that address trauma (behavioral health treatment, community-based connections and services, opportunities to find meaning and belonging) will alleviate them.

4. New Mexico Legislative Finance Committee (2025). *Policy spotlight: Juvenile justice* , pg. 6.

ALTERNATIVE INVESTMENTS:

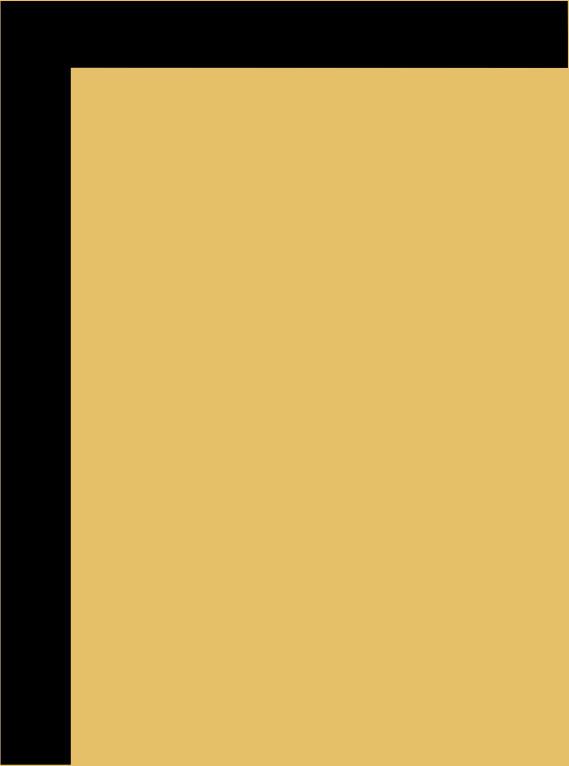
- Grow investments in prevention
- Grow investments in youth-serving behavioral health structure
- Build evidence-based diversion programs
 - *Examples of effective diversion program opportunities:*
 - Treatment diversion/treatment courts
 - Victim-initiated/restorative justice diversion for crimes of violence
 - Gun-specific diversion programs

TAKE AWAYS:

- Automatic adult sentencing of children is relatively new policy in New Mexico's juvenile justice history.
- Children prosecuted as adults (either through discretionary or automatic processes) have worse public safety outcomes than children who stay in the juvenile system.
- When reforms seek to expand the Youthful Offender and Serious Youthful Offender definitions, it exposes more children to adult prison sentences, proven to negatively impact safety.
- If our goal is safety and violence prevention, our investments should be in prevention, treatment, and diversion.

ADDITIONAL RESOURCES:

- Naugle, O. (2025). *“Automatically Charging Youth As Adults.”* The Sentencing Project.
- Rovner, J. (2026). *“Youth Courts vs. Adult Courts: Why the Juvenile Justice System Works Better.”* The Sentencing Project.
- Sedillo, A. (2025). *“Will There Be Anything Left of Me When I Leave This New Mexico Prison?”* Prison Journalism Project.



THANK YOU

