

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**

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.

Serious Youthful Offenders (SYOs): Automatic Adult Prosecution

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

**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.