

1 HOUSE BILL 434
2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY
4 Joseph L. Sanchez
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10 AN ACT

11 RELATING TO CHILDREN; EXPANDING THE MANDATORY SUPERVISED
12 RELEASE TIME FRAME TO UP TO ONE HUNDRED EIGHTY DAYS FOR AN
13 ADJUDICATED DELINQUENT CHILD.
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 32A-2-19 NMSA 1978 (being Laws 1993,
17 Chapter 77, Section 48, as amended) is amended to read:

18 "32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT
19 OFFENDER.--

20 A. At the conclusion of the dispositional hearing,
21 the court may make and include in the dispositional judgment
22 its findings on the following:

23 (1) the interaction and interrelationship of
24 the child with the child's parents and siblings and any other
25 person who may significantly affect the child's best interests;

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1 (2) the child's adjustment to the child's
2 home, school and community;

3 (3) the mental and physical health of all
4 individuals involved, including consideration of such factors
5 as the child's brain development, maturity, trauma history and
6 disability;

7 (4) the wishes of the child as to the child's
8 custodian;

9 (5) the wishes of the child's parents as to
10 the child's custody;

11 (6) whether there exists a relative of the
12 child or other individual who, after study by the department,
13 is found to be qualified to receive and care for the child;

14 (7) the availability of services recommended
15 in the predisposition report; and

16 (8) the ability of the parents to care for the
17 child in the home.

18 B. If a child is found to be delinquent, the court
19 may enter its judgment making any of the following dispositions
20 for the supervision, care and rehabilitation of the child:

21 (1) transfer legal custody to the department,
22 an agency responsible for the care and rehabilitation of
23 delinquent children, which shall receive the child at a
24 facility designated by the secretary of the department as a
25 juvenile reception facility. The department shall thereafter

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1 determine the appropriate placement, supervision and
2 rehabilitation program for the child. The judge may include
3 recommendations for placement of the child. Commitments are
4 subject to limitations and modifications set forth in Section
5 32A-2-23 NMSA 1978. The types of commitments include:

6 (a) a short-term commitment of eighteen
7 months with up to one year in a facility for the care and
8 rehabilitation of adjudicated delinquent children. [~~No more~~
9 ~~than nine months~~] Up to one year shall be served at the
10 facility and [~~no less than ninety days~~] up to one hundred
11 eighty days shall be served on supervised release, unless: 1)
12 a petition to extend the commitment has been filed prior to the
13 commencement of supervised release; 2) the commitment has been
14 extended pursuant to Section 32A-2-23 NMSA 1978; [~~or~~] 3)
15 supervised release is revoked pursuant to Section 32A-2-25 NMSA
16 1978; or 4) there is a violation of supervised release, in
17 which case the remainder of the term shall be served in the
18 facility;

19 (b) a long-term commitment for no more
20 than two years in a facility for the care and rehabilitation of
21 adjudicated delinquent children. No more than twenty-one
22 months shall be served at the facility and [~~no less than ninety~~
23 ~~days~~] up to one hundred eighty days shall be served on
24 supervised release, unless: 1) supervised release is revoked
25 pursuant to Section 32A-2-25 NMSA 1978; or 2) the commitment is

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1 extended pursuant to Section 32A-2-23 NMSA 1978;

2 (c) if the child is a delinquent
3 offender who committed one of the criminal offenses set forth
4 in Subsection J of Section 32A-2-3 NMSA 1978, a commitment to
5 age twenty-one, unless sooner discharged; or

6 (d) if the child is a youthful offender,
7 a commitment to age twenty-one, unless sooner discharged;

8 (2) place the child on probation under those
9 conditions and limitations as the court may prescribe;

10 (3) place the child in a local detention
11 facility that has been certified in accordance with the
12 provisions of Section 32A-2-4 NMSA 1978 for a period not to
13 exceed fifteen days within a three hundred sixty-five day time
14 period; or if a child is found to be delinquent solely on the
15 basis of Paragraph (3) of Subsection A of Section 32A-2-3 NMSA
16 1978, the court shall only enter a judgment placing the child
17 on probation or ordering restitution or both; or

18 (4) if a child is found to be delinquent
19 solely on the basis of Paragraph (2), (3) or (4) of Subsection
20 A of Section 32A-2-3 NMSA 1978, the court may make any
21 disposition provided by this section and may enter its judgment
22 placing the child on probation and, as a condition of
23 probation, transfer custody of the child to the department for
24 a period not to exceed six months without further order of the
25 court; provided that this transfer shall not be made unless the

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1 court first determines that the department is able to provide
2 or contract for adequate and appropriate treatment for the
3 child and that the treatment is likely to be beneficial.

4 C. When the child is an Indian child, the Indian
5 child's cultural needs shall be considered in the dispositional
6 judgment and reasonable access to cultural practices and
7 traditional treatment shall be provided.

8 D. A child found to be delinquent shall not be
9 committed or transferred to a penal institution or other
10 facility used for the execution of sentences of persons
11 convicted of crimes.

12 E. Whenever the court vests legal custody in an
13 agency, institution or department, it shall transmit with the
14 dispositional judgment copies of the clinical reports,
15 predisposition study and report and other information it has
16 pertinent to the care and treatment of the child.

17 F. Prior to any child being placed in the custody
18 of the department, the department shall be provided with
19 reasonable oral or written notification and an opportunity to
20 be heard.

21 G. In addition to any other disposition pursuant to
22 Subsection B of this section, the court may make an abuse or
23 neglect report for investigation and proceedings as provided
24 for in the Abuse and Neglect Act. The report may be made to a
25 local law enforcement agency, the department or a tribal law

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1 enforcement or social service agency for an Indian child
2 residing in Indian country.

3 H. In addition to any other disposition pursuant to
4 this section or any other penalty provided by law, if a child
5 who is fifteen years of age or older is adjudicated delinquent
6 on the basis of Paragraph (2), (3) or (4) of Subsection A of
7 Section 32A-2-3 NMSA 1978, the child's driving privileges may
8 be denied or the child's driver's license may be revoked for a
9 period of ninety days. For a second or a subsequent
10 adjudication, the child's driving privileges may be denied or
11 the child's driver's license revoked for a period of one year.
12 Within twenty-four hours of the dispositional judgment, the
13 court may send to the motor vehicle division of the taxation
14 and revenue department the order adjudicating delinquency.
15 Upon receipt of an order from the court adjudicating
16 delinquency, the director of the motor vehicle division of the
17 taxation and revenue department may revoke or deny the
18 delinquent's driver's license or driving privileges. Nothing
19 in this section may prohibit the delinquent from applying for a
20 limited driving privilege pursuant to Section 66-5-35 NMSA 1978
21 or an ignition interlock license pursuant to the Ignition
22 Interlock Licensing Act, and nothing in this section precludes
23 the delinquent's participation in an appropriate educational,
24 counseling or rehabilitation program.

25 I. In addition to any other disposition pursuant to

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1 this section or any other penalty provided by law, when a child
2 is adjudicated delinquent on the basis of Paragraph (6) of
3 Subsection A of Section 32A-2-3 NMSA 1978, the child shall
4 perform the mandatory community service set forth in Section
5 30-15-1.1 NMSA 1978. When a child fails to completely perform
6 the mandatory community service, the name and address of the
7 child's parent or legal guardian shall be published in a
8 newspaper of general circulation, accompanied by a notice that
9 the parent or legal guardian is the parent or legal guardian of
10 a child adjudicated delinquent for committing graffiti."

11 SECTION 2. Section 32A-2-23 NMSA 1978 (being Laws 1993,
12 Chapter 77, Section 52, as amended) is amended to read:

13 "32A-2-23. LIMITATIONS ON DISPOSITIONAL JUDGMENTS--
14 MODIFICATION--TERMINATION OR EXTENSION OF COURT ORDERS.--

15 A. A judgment transferring legal custody of an
16 adjudicated delinquent child to an agency responsible for the
17 care and rehabilitation of delinquent children divests the
18 court of jurisdiction at the time of transfer of custody,
19 unless the transfer of legal custody is for a commitment not
20 exceeding fifteen days pursuant to the provisions of
21 Section 32A-2-19 NMSA 1978, in which case the court retains
22 jurisdiction.

23 B. A judgment of probation or protective
24 supervision shall remain in force for an indeterminate period
25 not to exceed the term of commitment from the date entered.

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1 C. A child shall be released by an agency and
2 probation or supervision shall be terminated by juvenile
3 probation and parole services or the agency providing
4 supervision when it appears that the purpose of the order has
5 been achieved before the expiration of the period of the
6 judgment. A release or termination and the reasons therefor
7 shall be reported promptly to the court in writing by the
8 releasing authority.

9 D. Prior to the expiration of a short-term
10 commitment of eighteen months with up to one year in a
11 facility, as provided for in Section 32A-2-19 NMSA 1978, the
12 court may extend the judgment for up to one six-month period if
13 the court finds that the extension is necessary to safeguard
14 the welfare of the child or the public safety. If a short-term
15 commitment is extended, the mandatory [~~ninety-day~~] up to one
16 hundred eighty days of supervised release, as required by
17 Section 32A-2-19 NMSA 1978, shall be included in the extension.
18 Notice and hearing are required for any extension of a
19 juvenile's commitment.

20 E. Prior to the expiration of a long-term
21 commitment, as provided for in Section 32A-2-19 NMSA 1978, the
22 court may extend the judgment for additional periods of one
23 year until the child reaches the age of twenty-one if the court
24 finds that the extension is necessary to safeguard the welfare
25 of the child or the public safety. If a long-term commitment

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1 is extended, the mandatory [~~ninety-day~~] up to one hundred
2 eighty days of supervised release, as required by Section
3 32A-2-19 NMSA 1978, shall be included in the extension. Notice
4 and hearing are required for any extension of a juvenile's
5 commitment.

6 F. Prior to the expiration of a judgment of
7 probation, the court may extend the judgment for an additional
8 period of one year until the child reaches the age of twenty-
9 one if the court finds that the extension is necessary to
10 protect the community or to safeguard the welfare of the child.

11 G. The court may dismiss a motion if it finds after
12 preliminary investigation that the motion is without substance.
13 If the court is of the opinion that the matter should be
14 reviewed, it may, upon notice to all necessary parties, proceed
15 to a hearing in the manner provided for hearings on petitions
16 alleging delinquency. The court may terminate a judgment if it
17 finds that the child is no longer in need of care, supervision
18 or rehabilitation or it may enter a judgment extending or
19 modifying the original judgment if it finds that action
20 necessary to safeguard the child or the public interest.

21 H. A child may make a motion to modify a children's
22 court or adult disposition within thirty days of the judge's
23 decision. If the court is of the opinion that the matter
24 should be reviewed, it may, upon notice to all necessary
25 parties, proceed to a hearing in the manner provided for

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1 hearings on petitions alleging delinquency.

2 I. The department may seek a bench warrant from the
3 court when the child absconds from supervised release."

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