

1 SENATE BILL 428

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CHILD WELFARE; ENACTING THE CROSSOVER YOUTH ACT;
12 CREATING THE CROSSOVER YOUTH PROGRAM; REQUIRING CROSSOVER YOUTH
13 TRAINING; REQUIRING INTRA-AGENCY AND INTERAGENCY COLLABORATION;
14 PROVIDING BASIC RIGHTS; MAKING AN APPROPRIATION.

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

17 SECTION 1. A new section of the Children's Code is
18 enacted to read:

19 "[NEW MATERIAL] SHORT TITLE--Sections 1 through 6 of this
20 act may be cited as the "Crossover Youth Act"."

21 SECTION 2. A new section of the Children's Code is
22 enacted to read:

23 "[NEW MATERIAL] DEFINITIONS--As used in the Crossover
24 Youth Act:

25 A. "crossover youth" means a child who is

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1 simultaneously involved in both the child welfare and juvenile
2 justice systems, whether or not the child has been adjudicated
3 in those systems; and

4 B. "dually involved eligible adult" means a person
5 who is being served by the fostering connections program
6 pursuant to the Fostering Connections Act and who is
7 simultaneously involved in the juvenile justice system or adult
8 criminal justice system."

9 SECTION 3. A new section of the Children's Code is
10 enacted to read:

11 "[NEW MATERIAL] CROSSOVER YOUTH PROGRAM CREATED--PROGRAM
12 COORDINATOR--DUTIES.--

13 A. The "crossover youth program" is created within
14 the department. The department shall appoint a program
15 coordinator to administer the crossover youth program.

16 B. The crossover youth program coordinator shall:

17 (1) facilitate collaboration between the
18 protective services division and the juvenile justice division
19 of the department in all cases involving crossover youth;

20 (2) facilitate collaboration between the
21 fostering connections program and the adult criminal justice
22 system in all cases involving dually involved eligible adults;

23 (3) collect data, including data related to
24 New Mexico crossover youth who are housed in a facility in
25 another state or who have been adjudicated in the juvenile

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1 justice system in another state, regarding final determinations
2 by the courts in all cases involving crossover youth and dually
3 involved eligible adults;

4 (4) act as the department's lead coordinator
5 to develop and deliver annual mandatory training materials to
6 the department, the judiciary, the public defender department,
7 the district attorneys' offices and the office of family
8 representation and advocacy. The training materials shall
9 include information on the Crossover Youth Act and issues
10 related to crossover youth as required under Section 4 of the
11 Crossover Youth Act; and

12 (5) assist the department with the
13 promulgation of rules pursuant to the provisions of the
14 Crossover Youth Act."

15 SECTION 4. A new section of the Children's Code is
16 enacted to read:

17 "[NEW MATERIAL] CROSSOVER YOUTH TRAINING.--

18 A. The department shall develop and deliver annual
19 mandatory training to all staff assigned to the protective
20 services division and the juvenile justice division of the
21 department, including all children's court attorneys. The
22 training shall include information on:

23 (1) crossover youth issues, including issues
24 concerning delinquent offenders, youthful offenders, victims'
25 rights, the federal Indian Child Welfare Act of 1978, the

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1 Indian Family Protection Act, the Fostering Connections Act,
2 the negative impact of juvenile justice involvement on youth
3 who are exiting from the foster care system, the impact of
4 trauma on child development and the eight core strategies of
5 the juvenile detention alternatives initiative that are
6 incorporated into the Children's Code; and

7 (2) cultural humility and racial and ethnic
8 disparities impacting youth who are involved in the juvenile
9 justice system and the child welfare system. The mandatory
10 training shall also be provided for all leadership assigned to
11 the protective services division and the juvenile justice
12 division of the department, including the general counsel.

13 B. The public defender department, all district
14 attorneys' offices and the office of family representation and
15 advocacy shall, in collaboration with the department, develop
16 and deliver annual mandatory training for all attorneys,
17 including contract attorneys, court-appointed guardians ad
18 litem and youth attorneys, and appropriate support staff
19 working on cases with crossover youth in the juvenile justice
20 and child welfare systems. The training shall include
21 information on:

22 (1) crossover youth issues, including issues
23 concerning delinquent offenders, youthful offenders, victims'
24 rights, the federal Indian Child Welfare Act of 1978, the
25 Indian Family Protection Act, the Fostering Connections Act,

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1 the negative impact of juvenile justice involvement on youth
2 who are exiting from the foster care system, the impact of
3 trauma on child development and the eight core strategies of
4 the juvenile detention alternatives initiative that are
5 incorporated into the Children's Code; and

6 (2) cultural humility and racial and ethnic
7 disparities impacting youth who are involved in the juvenile
8 justice system and the child welfare system.

9 C. The department, in collaboration with the
10 administrative office of the courts, shall develop and deliver
11 annual mandatory training regarding crossover youth to all
12 judicial officers assigned to children's court divisions of the
13 district courts. The training shall include information on:

14 (1) crossover youth issues, including issues
15 concerning delinquent offenders, youthful offenders, victims'
16 rights, the federal Indian Child Welfare Act of 1978, the
17 Indian Family Protection Act, the Fostering Connections Act,
18 the negative impact of juvenile justice involvement on youth
19 who are exiting from the foster care system, the impact of
20 trauma on child development and the eight core strategies of
21 the juvenile detention alternatives initiative that are
22 incorporated into the Children's Code;

23 (2) cultural humility and racial and ethnic
24 disparities impacting youth who are involved in the juvenile
25 justice system and the child welfare system; and

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1 (3) practices and procedures regarding the
2 importance of having one judge for one family in cases
3 involving crossover youth when possible and the importance of
4 having judges confer with one another when one judge for one
5 family is not possible in crossover youth cases."

6 SECTION 5. A new section of the Children's Code is
7 enacted to read:

8 "[NEW MATERIAL] INTRA-AGENCY COLLABORATION--INTERAGENCY
9 COLLABORATION.--

10 A. In all cases involving crossover youth, the
11 protective services division and the juvenile justice division
12 of the department shall jointly manage the cases. The
13 department shall develop protocols to ensure that case
14 coordination between the divisions occurs on a formal basis.

15 B. In all cases involving crossover youth, the
16 crossover youth program coordinator shall facilitate
17 interagency collaboration to provide support and services to
18 crossover youth and their families. The crossover youth
19 program coordinator shall work with the department, the public
20 education department, the department of health, the health care
21 authority and any other appropriate departments and agencies."

22 SECTION 6. A new section of the Children's Code is
23 enacted to read:

24 "[NEW MATERIAL] BASIC RIGHTS.--

25 A. When a crossover youth is placed in the legal

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1 custody of the department or another person and siblings of the
2 crossover youth have not been jointly placed, the siblings
3 shall have reasonable rights of visitation, unless the court
4 finds that visitation would be contrary to the safety or well-
5 being of any of the siblings.

6 B. When a crossover youth is placed in the legal
7 custody of the department or another person, any parent,
8 guardian or custodian of the crossover youth shall have
9 reasonable rights of visitation, unless the court finds that
10 the best interests of the crossover youth preclude any
11 visitation."

12 SECTION 7. Section 32A-2-3 NMSA 1978 (being Laws 1993,
13 Chapter 77, Section 32, as amended) is amended to read:

14 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

15 A. "crossover youth" means a child who is
16 simultaneously involved in both the child welfare and juvenile
17 justice systems, whether or not the child has been adjudicated
18 in those systems;

19 [A.] B. "delinquent act" means an act committed by
20 a child that would be designated as a crime under the law if
21 committed by an adult, not including a violation of Section
22 30-9-2 NMSA 1978, including the following offenses:

23 (1) any of the following offenses pursuant to
24 municipal traffic codes or the Motor Vehicle Code:

25 (a) driving while under the influence of

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1 intoxicating liquor or drugs;

2 (b) failure to stop in the event of an
3 accident causing death, personal injury or damage to property;

4 (c) unlawful taking of a vehicle or
5 motor vehicle;

6 (d) receiving or transferring of a
7 stolen vehicle or motor vehicle;

8 (e) homicide by vehicle;

9 (f) injuring or tampering with a
10 vehicle;

11 (g) altering or changing of an engine
12 number or other vehicle identification numbers;

13 (h) altering or forging of a driver's
14 license or permit or any making of a fictitious license or
15 permit;

16 (i) reckless driving;

17 (j) driving with a suspended or revoked
18 license; or

19 (k) an offense punishable as a felony;

20 (2) buying, attempting to buy, receiving,
21 possessing or being served any alcoholic liquor or being
22 present in a licensed liquor establishment, other than a
23 restaurant or a licensed retail liquor establishment, except in
24 the presence of the child's parent, guardian, custodian or
25 adult spouse. As used in this paragraph, "restaurant" means an

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1 establishment where meals are prepared and served primarily for
2 on-premises consumption and that has a dining room, a kitchen
3 and the employees necessary for preparing, cooking and serving
4 meals. "Restaurant" does not include an establishment, as
5 defined in regulations promulgated by the director of the
6 special investigations unit of the department of public safety,
7 that serves only hamburgers, sandwiches, salads and other fast
8 foods;

9 (3) a violation of Section 30-29-2 NMSA 1978,
10 regarding the illegal use of a glue, aerosol spray product or
11 other chemical substance;

12 (4) a violation of the Controlled Substances
13 Act;

14 (5) escape from the custody of a law
15 enforcement officer or a juvenile probation or parole officer
16 or from any placement made by the department by a child who has
17 been adjudicated a delinquent child;

18 (6) a violation of Section 30-15-1.1 NMSA 1978
19 regarding unauthorized graffiti on personal or real property;

20 (7) a violation of an order of protection
21 issued pursuant to the provisions of the Family Violence
22 Protection Act; or

23 (8) trafficking cannabis as provided in
24 Section 26-2C-28 NMSA 1978;

25 [~~B.~~] C. "delinquent child" means a child who has

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1 committed a delinquent act;

2 ~~[G-]~~ D. "delinquent offender" means a delinquent
3 child who is subject to juvenile sanctions only and who is not
4 a youthful offender or a serious youthful offender;

5 ~~[D-]~~ E. "detention facility" means a place where a
6 child may be detained under the Children's Code pending a court
7 hearing and does not include a facility for the care and
8 rehabilitation of an adjudicated delinquent child;

9 ~~[E-]~~ F. "felony" means an act that would be a
10 felony if committed by an adult;

11 ~~[F-]~~ G. "misdemeanor" means an act that would be a
12 misdemeanor or petty misdemeanor if committed by an adult;

13 ~~[G-]~~ H. "restitution" means financial reimbursement
14 by the child to the victim or community service imposed by the
15 court and is limited to easily ascertainable damages for injury
16 to or loss of property, actual expenses incurred for medical,
17 psychiatric and psychological treatment for injury to a person
18 and lost wages resulting from physical injury, which are a
19 direct and proximate result of a delinquent act. "Restitution"
20 does not include reimbursement for damages for mental anguish,
21 pain and suffering or other intangible losses. As used in this
22 subsection, "victim" means a person who is injured or suffers
23 damage of any kind by an act that is the subject of a complaint
24 or referral to law enforcement officers or juvenile probation
25 authorities. Nothing contained in this definition limits or

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1 replaces the provisions of Subsections A and B of Section
2 32A-2-27 NMSA 1978;

3 ~~[H.]~~ I. "serious youthful offender" means an
4 individual fifteen to eighteen years of age who is charged with
5 and indicted or bound over for trial for first degree murder.
6 A "serious youthful offender" is not a delinquent child as
7 defined pursuant to the provisions of this section;

8 ~~[I.]~~ J. "supervised release" means the release of a
9 juvenile, whose term of commitment has not expired, from a
10 facility for the care and rehabilitation of adjudicated
11 delinquent children, with specified conditions to protect
12 public safety and promote successful transition and
13 reintegration into the community. A juvenile on supervised
14 release is subject to monitoring by the department until the
15 term of commitment has expired and may be returned to custody
16 for violating conditions of release; and

17 ~~[J.]~~ K. "youthful offender" means a delinquent
18 child subject to adult or juvenile sanctions who is:

19 (1) fourteen to eighteen years of age at the
20 time of the offense and who is adjudicated for at least one of
21 the following offenses:

22 (a) second degree murder, as provided in
23 Section 30-2-1 NMSA 1978;

24 (b) assault with intent to commit a
25 violent felony, as provided in Section 30-3-3 NMSA 1978;

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1 (c) kidnapping, as provided in Section
2 30-4-1 NMSA 1978;

3 (d) aggravated battery, as provided in
4 Subsection C of Section 30-3-5 NMSA 1978;

5 (e) aggravated battery against a
6 household member, as provided in Subsection C of Section
7 30-3-16 NMSA 1978;

8 (f) aggravated battery upon a peace
9 officer, as provided in Subsection C of Section 30-22-25 NMSA
10 1978;

11 (g) shooting at a dwelling or occupied
12 building or shooting at or from a motor vehicle, as provided in
13 Section 30-3-8 NMSA 1978;

14 (h) dangerous use of explosives, as
15 provided in Section 30-7-5 NMSA 1978;

16 (i) criminal sexual penetration, as
17 provided in Section 30-9-11 NMSA 1978;

18 (j) robbery, as provided in Section
19 30-16-2 NMSA 1978;

20 (k) aggravated burglary, as provided in
21 Section 30-16-4 NMSA 1978;

22 (l) aggravated arson, as provided in
23 Section 30-17-6 NMSA 1978; or

24 (m) abuse of a child that results in
25 great bodily harm or death to the child, as provided in Section

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1 30-6-1 NMSA 1978;

2 (2) fourteen to eighteen years of age at the
3 time of the offense, who is adjudicated for any felony offense
4 and who has had three prior, separate felony adjudications
5 within a three-year time period immediately preceding the
6 instant offense. The felony adjudications relied upon as prior
7 adjudications shall not have arisen out of the same transaction
8 or occurrence or series of events related in time and location.
9 Successful completion of consent decrees is not considered a
10 prior adjudication for the purposes of this paragraph; or

11 (3) fourteen years of age and who is
12 adjudicated for first degree murder, as provided in Section
13 30-2-1 NMSA 1978."

14 SECTION 8. Section 32A-2-7 NMSA 1978 (being Laws 1993,
15 Chapter 77, Section 36, as amended) is amended to read:

16 "32A-2-7. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY--
17 NOTICE--TIME WAIVER.--

18 A. Complaints alleging delinquency shall be
19 referred to probation services, which shall conduct a
20 preliminary inquiry to determine the best interests of the
21 child and of the public with regard to any action to be taken.

22 B. During the preliminary inquiry on a delinquency
23 complaint, the matter may be referred to another appropriate
24 agency and conferences may be conducted for the purpose of
25 effecting adjustments or agreements that will obviate the

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1 necessity for filing a petition. At the commencement of the
2 preliminary inquiry, the parties shall be advised of their
3 basic rights pursuant to Section 32A-2-14 NMSA 1978, and no
4 party may be compelled to appear at any conference, to produce
5 any papers or to visit any place. The child shall be informed
6 of the child's right to remain silent. The preliminary inquiry
7 shall be completed within the time limits set forth in the
8 Children's Court Rules.

9 C. Prior to a preliminary inquiry being conducted
10 with a child who is detained, the child's parent, guardian or
11 custodian or the child's attorney shall be given reasonable
12 notice by the juvenile probation and parole officer and an
13 opportunity to be present at the preliminary inquiry. Prior to
14 a preliminary inquiry being conducted with a crossover youth
15 who is detained, the crossover youth's parent, guardian or
16 custodian, the crossover youth's attorney and guardian ad litem
17 and the protective services division of the department shall be
18 given reasonable notice by the juvenile probation and parole
19 officer and an opportunity to be present at the preliminary
20 inquiry. If a child is not detained, the preliminary inquiry
21 shall be conducted within thirty days of receipt of the
22 referral from law enforcement. The thirty-day time period may
23 be extended upon a determination by the department that an
24 extension is necessary to conduct a thorough preliminary
25 inquiry and that the extension is not prejudicial to the best

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1 interests of the child.

2 D. When a child is in detention or custody and the
3 children's court attorney does not file a petition within the
4 time limits authorized by the Children's Court Rules, the child
5 shall be released immediately. If a child is not detained and
6 a determination is made to file a petition, the petition shall
7 be filed within sixty days of completion of the preliminary
8 inquiry, unless a motion is granted to extend the time limit
9 for good cause shown. If a child is not in custody or
10 detention, a petition shall not be dismissed for failure to
11 comply with the time limit set forth in this subsection unless
12 there is a showing of prejudice to the child.

13 E. After completion of the preliminary inquiry on a
14 delinquency complaint involving a misdemeanor, probation
15 services may notify the children's court attorney and recommend
16 an appropriate disposition for the case. If the child has been
17 referred for three or more prior misdemeanors within two years
18 of the instant offense, probation services shall notify the
19 children's court attorney and recommend an appropriate
20 disposition for the case.

21 F. Probation services shall notify the children's
22 court attorney of the receipt of any complaint involving an act
23 that constitutes a felony under the applicable criminal law.
24 Probation services shall also recommend a disposition to the
25 children's court attorney.

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1 G. The child, through counsel, and the children's
2 court attorney may agree, without judicial approval, to a
3 waiver of time limitations imposed after a petition is filed.
4 A time waiver defers adjudication of the charges. The
5 children's court attorney may place restrictions on a child's
6 behavior as a condition of a time waiver. If the child
7 completes the agreed upon conditions and no new charges are
8 filed against the child, the pending petition shall be
9 dismissed. If the children's court attorney files a new
10 petition against the child, the children's court attorney may
11 proceed on both the original petition and the new charges. The
12 department shall become a party if probation services are
13 requested as a condition of the time waiver."

14 **SECTION 9.** Section 32A-2-24 NMSA 1978 (being Laws 1993,
15 Chapter 77, Section 53, as amended) is amended to read:

16 "32A-2-24. PROBATION REVOCATION--DISPOSITION--CROSSOVER
17 YOUTH.--

18 A. A child on probation incident to an adjudication
19 as a delinquent child who violates a term of the probation may
20 be proceeded against in a probation revocation proceeding. A
21 proceeding to revoke probation shall be begun by filing in the
22 original proceeding a petition styled as a "petition to revoke
23 probation". Petitions to revoke probation shall be screened,
24 reviewed and prepared in the same manner and shall contain the
25 same information as petitions alleging delinquency. Procedures

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1 of the Delinquency Act regarding taking into custody and
2 detention shall apply. The petition shall state the terms of
3 probation alleged to have been violated and the factual basis
4 for these allegations.

5 B. The standard of proof in probation revocation
6 proceedings shall be evidence beyond a reasonable doubt and the
7 hearings shall be before the court without a jury. In all
8 other respects, proceedings to revoke probation shall be
9 governed by the procedures, rights and duties applicable to
10 proceedings on a delinquency petition. If a child is found to
11 have violated a term of the child's probation, the court may
12 extend the period of probation or make any other judgment or
13 disposition that would have been appropriate in the original
14 disposition of the case.

15 C. During a probation revocation proceeding for a
16 crossover youth, the petition to revoke probation shall include
17 a statement filed by the juvenile justice division of the
18 department that the division made reasonable efforts to help
19 the crossover youth with the successful completion of all
20 probation requirements, including the specific details of such
21 efforts."

22 SECTION 10. APPROPRIATION.--One hundred thousand dollars
23 (\$100,000) is appropriated from the general fund to the
24 children, youth and families department for expenditure in
25 fiscal year 2026 to create and staff the crossover youth

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1 program as provided in the Crossover Youth Act. Any unexpended
2 or unencumbered balance remaining at the end of fiscal year
3 2026 shall revert to the general fund.

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