

State of New Mexico  
Senate

FIFTY-SEVENTH LEGISLATURE  
FIRST SESSION

February 21, 2025

SENATE FLOOR AMENDMENT number 4 to HOUSE JUDICIARY COMMITTEE  
SUBSTITUTE FOR HOUSE BILL  
8, as amended

Amendment sponsored by Senator

1. On page 2, line 6, after "FENTANYL;", insert "EXPANDING THE DEFINITIONS FOR "SERIOUS YOUTHFUL OFFENDER" AND "YOUTHFUL OFFENDER" IN THE DELINQUENCY ACT;".

2. On page 40, between lines 5 and 6, insert:

"SECTION 18. Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as amended) is amended to read:

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

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

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

(a) driving while under the influence of intoxicating liquor or drugs;

(b) failure to stop in the event of an accident causing [~~death~~] personal injury or damage to property;

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

(d) receiving or transferring of a stolen vehicle

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or motor vehicle;

~~[(e)]~~ ~~homicide by vehicle;~~

~~(f)]~~ (e) injuring or tampering with a vehicle;

~~[(g)]~~ (f) altering or changing of an engine number or other vehicle identification numbers;

~~[(h)]~~ (g) altering or forging of a driver's license or permit or any making of a fictitious license or permit;

~~[(i)]~~ (h) reckless driving;

~~[(j)]~~ (i) driving with a suspended or revoked license; or

~~[(k)]~~ (j) an offense punishable as a felony;

(2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child's parent, guardian, custodian or adult spouse. As used in this paragraph, "restaurant" means an establishment where meals are prepared and served primarily for on-premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include an establishment, as defined in regulations promulgated by the director of the special investigations unit of the New Mexico state police division of the department of public safety, that serves only hamburgers, sandwiches, salads and other fast foods;

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

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- (4) a violation of the Controlled Substances Act;
- (5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;
- (6) a violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property;
- (7) a violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act; or
- (8) trafficking cannabis as provided in Section 26-2C-28 NMSA 1978;
- B. "delinquent child" means a child who has committed a delinquent act;
- C. "delinquent offender" means a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender;
- D. "detention facility" means a place where a child may be detained under the Children's Code pending a court hearing and does not include a facility for the care and rehabilitation of an adjudicated delinquent child;
- E. "felony" means an act that would be a felony if committed by an adult;
- F. "misdemeanor" means an act that would be a misdemeanor or petty misdemeanor if committed by an adult;
- G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is



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limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. As used in this subsection, "victim" means a person who is injured or suffers damage of any kind by an act that is the subject of a complaint or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. "serious youthful offender" is not a delinquent child and means [an individual fifteen] a child fourteen to eighteen years of age who is charged with [and indicted or bound over for trial for first degree murder. A "serious youthful offender" is not a delinquent child as defined pursuant to the provisions of this section] at least one of the following crimes:

(1) murder in the first degree or murder in the second degree, as provided in Section 30-2-1 NMSA 1978;

(2) voluntary manslaughter, as provided in Section 30-2-3 NMSA 1978;

(3) robbery while armed with a deadly weapon, as provided in Section 30-16-2 NMSA 1978; or

(4) shooting at a dwelling or occupied building that results in great bodily harm to another person or shooting at or from a motor vehicle that results in great bodily harm to another person, as provided in Section 30-3-8 NMSA 1978;

I. "supervised release" means the release of a juvenile, whose term of commitment has not expired, from a facility for the

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care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the term of commitment has expired and may be returned to custody for violating conditions of release; and

J. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is ~~[(1)]~~ fourteen to eighteen years of age ~~[at the time of the offense and who is adjudicated for at least one of the following offenses:~~

~~(a) second degree murder, as provided in Section 30-2-1 NMSA 1978]~~ and is:

(1) charged with at least one of the following offenses:

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

~~[(c)]~~ (b) kidnapping, as provided in Section 30-4-1 NMSA 1978;

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

~~[(e)]~~ (d) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;

~~[(f)]~~ (e) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

~~[(g)]~~ (f) shooting at a dwelling or occupied building that does not result in great bodily harm to another person or shooting at or from a motor vehicle that does not result in great

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bodily harm to another person, as provided in Section 30-3-8 NMSA 1978;

~~[(h)]~~ (g) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

~~[(i)]~~ (h) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

~~[(j)]~~ (i) robbery, as provided in Section 30-16-2 NMSA 1978;

~~[(k)]~~ (j) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;

~~[(l)]~~ (k) aggravated arson, as provided in Section 30-17-6 NMSA 1978; ~~or~~

~~[(m)]~~ (l) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;

(m) an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978 that is not a serious youthful offender offense and that was committed with a firearm. As used in this subparagraph, "firearm" means a weapon that will, is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of such weapon;

(n) homicide by vehicle, as provided in Section 66-8-101 NMSA 1978;

(o) involuntary manslaughter, as provided in Section 30-2-3 NMSA 1978; or

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(p) failing to stop a vehicle when the vehicle is involved in an accident that results in injury or death, as provided in Section 66-7-201 NMSA 1978; or

(2) [~~fourteen to eighteen years of age at the time of the offense, who is~~] adjudicated for [~~any~~] a felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense; provided that:

(a) the felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location; and

(b) successful completion of a consent [~~decrees is~~] decree shall not be considered a prior adjudication for the purposes of this paragraph [~~or~~

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

3. Renumber the succeeding sections accordingly.



Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_