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# FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Reeb/Hall/Chavez, N. **ORIGINAL DATE** 2/6/2025

**BILL**

**SHORT TITLE** Additions to "Delinquent Act" **NUMBER** House Bill 163

**ANALYST** Garcia

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>AODA</b>	Indeterminate but minimal	At least \$291.0	At least \$291.0	\$582.0	Recurring	General Fund
<b>LOPD</b>	Indeterminate but minimal	At least \$291.0	At least \$291.0	\$582.0	Recurring	General Fund
<b>CYFD (Juvenile Justice Services)</b>	Indeterminate but minimal	\$1,400.0 to \$2,600.0	\$1,400.0 to \$2,600.0	\$2,800.0 to \$5,200.0	Recurring	General Fund
<b>AOC</b>	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
<b>Total</b>	Indeterminate but minimal	\$1,982.0 to \$3,182.0	\$1,982.0 to \$3,182.0	\$3,964.0 to \$6,364.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Conflicts with House Bill 134

### Sources of Information

LFC Files

#### Agency Analysis Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Law Office of the Public Defender (LOPD)  
 New Mexico Sentencing Commission  
 Office of Family Representation and Advocacy (OFRA)  
 Children, Youth and Families Department (CYFD)

#### Agency Analysis was Solicited but Not Received From

List all agencies that failed to respond to a request for analysis.

## SUMMARY

### Synopsis of House Bill 163

House Bill 163 amends Section 32A-2-3(A) NMSA 1978 of the Delinquency Act by reorganizing and creating new language about alcohol-related and cannabis-related offenses. New violations include:

- Buying, attempting to buy, receiving, or possessing cannabis;
- Being present in a licensed retail cannabis establishment, except in the presence of the child’s parent, guardian, custodian, or adult spouse;
- Smoking a cannabis product in a public place or privately owned property or producing cannabis.

The bill includes an exemption for medical cannabis possession under the Lynn and Eric Compassionate Use Act.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

Incarceration drives costs in the criminal justice system; any change in the number of individuals in juvenile detention facilities, jail, or prison and the length of time served in juvenile detention or a secure facility that might result from this bill could have significant fiscal impacts. The creation of any new delinquent act may increase the population of New Mexico’s juvenile secure facilities and being supervised in the community, consequently increasing long-term costs to state.

### **Juvenile Justice Services at CYFD**

In 2020, the Justice Policy Institute estimated the national average cost for secure confinement of juvenile was \$588 per day, or \$214 thousand annually. The 2023 LFC Program Evaluation Unit progress report on Juvenile Justice Services noted the per-client cost in a secure juvenile justice facility was \$383 thousand, though the evaluation noted the cost per client had increased 44 percent since FY19, as the number of clients in secure facilities decreased. The bill could result in more juveniles placed in secure facilities, increasing JJS costs.

The bill would result in more referrals of Delinquent Act offenses to Juvenile Justice Services, which would require CYFD to respond to referrals and supervise more juveniles. CYFD notes, since a pandemic low, JJS has experienced an annual increase of 1,000 referrals to JJS, almost all from law enforcement, and projects an increase of up to 900 referrals annually associated with Delinquency Act changes proposed in the bill.

CYFD projects JJS would need to hire 10 additional juvenile probation officers to assist with handling the projected increase in referrals at a cost of \$1.4 million annually. The 2023 LFC juvenile justice report estimated the per-referrals, per-year cost of field supervision to be \$2,900, which could translate to increased costs of up to \$2.6 million annually.

Thus, this analysis assumes increased costs to CYFD JJS ranging between \$1.4 million and \$2.6 million, given the projected increase in referrals. In recent years, JJS actual expenditures have been below budgeted levels, and CYFD could potentially absorb some of the cost increases within their existing budget.

### **Judiciary**

AOC reports the courts would likely experience minimal administrative costs associated with

updating, distributing, and documenting statutory changes, and any bill that results in additional hearings or caseloads in the court may result in increased costs. The courts did not provide a precise estimate for fiscal impact.

LOPD notes offenders would be entitled to public defender representation, resulting in the need for additional attorneys and administrative costs. LOPD estimates the need for an additional attorney, including benefits, support staff, and operating costs, to be roughly \$291 thousand annually.

AODA also reports the bill could increase case filings against delinquent children and, thereby, increase the workload of district attorneys' offices and administrative costs. AODA did not provide a specific cost estimate. This analysis assumes AODA may have additional costs at a level similar to LOPD.

## **SIGNIFICANT ISSUES**

The bill makes cannabis-related offenses delinquent acts under the Delinquency Act, which applies to juveniles, and groups them in the same subsection as alcohol-related offenses. The bill references Section 26-2C-30 NMSA 1978, stating the offenses pursuant to that statute of "buying, attempting to buy, receiving or possessing cannabis" are delinquent acts and increases consequences to a juvenile for these actions.

Section 26-2C-30 provides that a person under 21 shall not possess cannabis products and a person in violation is guilty of a civil violation, resulting in a sentence to a four-hour drug education course and four hours of community service.

Delinquent offenses are punishable for up to two years in a juvenile facility.

CYFD reports, prior to New Mexico's legalization of cannabis in 2021, the possession of cannabis was a delinquent offense and in the top 15 delinquent offenses received by JJS each year. JJS reported 800 to 1,000 referrals annually in FY16 through FY19.

Due to the widespread access, availability, and use of cannabis, CYFD JJS anticipates a significant increase in referrals to JJS should this bill be enacted.

AOC notes House Bill 163 would criminalize offenses for children that would only be civil penalties for adults under the age of 21:

Section 26-2C-30 NMSA 1978 makes a person who violates this subsection is guilty of a civil violation. Meanwhile, possession of alcohol by a minor, also listed as a delinquent act in Section 60-7B-1 NMSA 1978 is a criminal offense punishable by a misdemeanor.

## **PERFORMANCE IMPLICATIONS**

AOC notes the courts reports on performance-measures related to cases disposed and cases filed, and this bill could impact performance on these measures.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 163 conflicts with House Bill 134, which makes broad changes to the Delinquency Act within the Children’s Code, some of which conflict with the organization of House Bill 163.

## **TECHNICAL ISSUES**

Several agencies note the language and punctuation in Subsection A as drafted are confusing and redundant.

RMG/rl/hg