

LFC Requester:	Rachel Mercer-Garcia
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/30/2025 *Check all that apply:*
Bill Number: HB 163 Original Correction
 Amendment Substitute

Sponsor: Andrea Reeb, Willam A. Hall II, Nicole Chavez **Agency Name and Code** AOC 218
Short Title: ADDITIONS TO "DELINQUENT ACT" **Number:** _____
Person Writing Alison B. Pauk
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	N/A	

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	N/A	

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	N/A	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 134 (Conflict)
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 163 expands Section 32A-2-3(A) NMSA 1978 of the Delinquency Act to include cannabis-related offenses. The bill reorganizes Subsection A, renumbering and lettering the section. It also moves alcohol-related offenses to the end of the subsection in order to add them to cannabis-related offenses under Subsection A(2). Under Subsection A(2), new language is added listing cannabis-related activities that are delinquent acts and include the following: -

- buying, attempting to buy, receiving, or possessing cannabis pursuant to Section 26-2C-30 NMSA 1978,
- being present in a licensed retail cannabis establishment, except in the presence of the child's parent, guardian, custodian or adult spouse,
- buying, attempting to buy, receiving, or possessing or being serviced a cannabis product;
- smoking a cannabis product in a public place or privately owned property or producing cannabis;

Finally, the amendments include an exception for possession under the Lynn and Erin Compassionate Use Act.

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is June 20, 2025, which is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced delinquency proceedings, including court hearings. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

House Bill 163 makes cannabis-related offenses delinquent acts and groups them in the same subsection as alcohol-related offenses. Thus, actions taken by a child involving cannabis subjects the child undertaking the actions, and their parents, to the provisions of the Delinquency Act, which could include inquiries, detention, court hearings, trials, probation, and even possibly commitments.

HB 163 references Section 26-2C-30 NMSA 1978 stating that the offenses pursuant to that statute of "buying, attempting to buy, receiving or possessing cannabis" are delinquent acts. Section 26-2C-30, entitled "unlawful possession of cannabis; penalties," states in Subsection A, "A person who violates this subsection is guilty of a civil violation." Alternatively, possession of alcohol by a minor, also considered delinquent acts and found in Section 60-7B-1 NMSA 1978, is a criminal offense punishable as a misdemeanor. Additionally, trafficking cannabis, also in

current law as a delinquent act and found in Section 26-2C-28 NMSA 1978, is a criminal offense as well. Therefore, HB 163 seeks to criminalize offenses for children that would only be civil penalties for adults under the age of 21.

PERFORMANCE IMPLICATIONS.

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 134 seeks to amend multiple sections of the Children’s Code, including the section HB 163 amends. The reorganization of this bill (HB 163), specifically the renumbering in Subsection A, is in direct conflict with HB 134.

TECHNICAL ISSUES

The second sentence of Subsection A(2)(b) repeats the previous sentence when it states, “buying, attempting to buy, receiving, [or] possessing...” It is unclear if these acts are different from those listed in relation to Section 26-2C-30 NMSA1978 in the previous sentence.

New Subsection A(2)(b) adds the offense of “producing cannabis.” This is redundant, as the statute already includes the delinquent offense of “trafficking cannabis as provided in Section 26-2C-28 NMSA 1978,” (see HB 163’s Subsection A(1)(g).) Section 26-2C-28 states, “‘trafficking cannabis products’ means to: (1) produce, manufacture, distribute, courier or sell illegal cannabis products...” Additionally, the drafter did not move “trafficking cannabis” to the subsection that discusses the rest of the cannabis-related and alcohol-related offenses.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS