

LFC Requester:

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Mar. 7, 2025

Bill No: HB 255-280

Sponsor: Elizabeth "Liz" Thomson, Antonio Maestas, Art De La Cruz, Anita Gonzales, Linda M. Lopez
Short Title: Rename "Juvenile Corrections Act"

Agency Name and Code LOPD-280
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **HB 39** (criminalizing adult firearm possession based on delinquency history); **HB 134** (amending Delinquency Act, expanding adult sanctions); **HB 163** (amending Delinquency Act); **HB 434** (amending Delinquency Act, expanding commitment terms); **SB 244** (preventing juvenile firearm access); **SB 326** (duplicate of HB 134, amending Delinquency Act); **SB 329 & 330** (addressing juvenile gang activity); **SB 428, 489, 509** (providing rehabilitative interventions for system-involved youth).

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

The bill summary distinguishes between the original bill and the HJC-Substitute by underlining the changes/additions made in the substitute.

Synopsis: HB 255, as filed, would have amended Sections 33-9A-1, -2, and -3, to convert the Juvenile Community Corrections Act to the Juvenile Community Connections Act, which currently funds “programs and services “for the diversion of adjudicated delinquents.” The bill would expand those services to any children or youth referred by CYFD, defining “youth” as “a person who is eighteen years or older but less than twenty-six years old.”

The original Section 4 would amend Section 33-9A-4 to prioritize “prevention, intervention and diversion” of delinquent or criminal behavior, and reframes “community corrections” language to “services for adjudicated delinquents or children or youth referred by [CYFD].”

The original Section 5 would also amend Section 33-9A-5, governing CYFD selection panels that screen and identify delinquents in CYFD custody for participation in the Community Connections programs, removing some current restrictions, and clarifying panel creation and membership.

The original Sections 6 and 7 of the bill update definitions in Section 41-4-3 of the Tort Claims Act, and Section 41-13-2 of the Governmental Immunity Act, to incorporate language changes in Sections 1-5.

The HJC-Substitute for HB 255 includes these changes as Sections 4-8, and 10-11, with some modification. It would make minor amendments to definitions in Section 5. Section 6 would clarify that youthful offenders subject to juvenile sanctions are eligible for community corrections programming. Section 7 would clarify that applications for Community Connections funding must relate to programs that provide “prevention, intervention or diversion services to delinquent children or youthful offenders subject to juvenile sanctions or children or youth referred by [CYFD].” Section 7 would also add a new Subsection B

giving funding priority in descending order to programs for (1) decreasing gun violence, substance use, gang activity, and mental health improvement; (2) education, literacy, job training, and food and housing services; and (3) arts, sports, music, and leadership programs. Section 8 would add public defender and district attorney representation to the selection panels for determining Community Connections eligibility.

The HJC-Substitute also adds as Section 9 amendments to Section 33-9A-6 requiring a judge sentencing a delinquent child to community corrections to consider beneficial services during juvenile probation.

Section 1 of the HJC-Substitute would amend Delinquency Act definitions in Section 32A-2-3 to add voluntary manslaughter (Section 30-2-3) to the list of “youthful offender” crimes that allow for the possibility of adult sentencing if a court finds a juvenile disposition inadequate under the facts and circumstances of the case. (Currently, only a juvenile disposition is available for voluntary manslaughter.)

Section 2 would increase the duration of a “supervised release” period during a juvenile commitment, leaving the maximum duration for the custodial commitment term in place.

Section 3 of the HJC-Substitute creates a tolling provision for juvenile supervised release comparable to the process for adults, which would toll time during which a child “knowingly and willfully absconded from supervised release” thus allowing the court to continue the supervision period once the child is located.

The HJC-Substitute also adds Section 12, creating a pilot project granting monetary stipends to fund higher education to former foster children, people formerly incarcerated as juveniles, or who “aged out of the fostering connections program, who are under 26 years old.

FISCAL IMPLICATIONS

The Fiscal Implications address the HJC-Substitute without differentiating the original bill.

Juvenile cases, especially cases where a child is facing an adult sentence, require specialized training for attorneys and often require additional staff, including social workers. Preparation for an amenability hearing often involves the use of expert witnesses. LOPD would likely need more attorneys and staff to handle the increased workload and additional funding for experts if this bill passed. Expanding “youthful offender” to include voluntary manslaughter increases incrementally the percentage of juvenile cases that carry the potential for adult sentencing. This reduces options for pleading homicide cases to a charge of voluntary manslaughter, and youthful offender cases must be litigated with different strategic considerations than delinquency cases. They involve the addition of an amenability hearing, which often requires expert witnesses. This change alone will have a tangible fiscal impact on LOPD, although the exact fiscal impact is difficult to calculate in advance.

Other provisions in the bill are likely to have fiscal impacts on CYFD, but do not directly impact the LOPD budget.

SIGNIFICANT ISSUES

The Significant Issues address the HJC-Substitute without differentiating the original bill.

HJC-Substitute, Section 1: expand “youthful offender”

New Mexico law has long recognized the psychological science that differences between youth and adults compel a different, and often more protective, rehabilitative treatment for youth. See *State v. Jones*, 2010-NMSC-012, ¶ 10, 148 N.M. 1 (“We interpret this legislative history as evidence of an evolving concern that children be treated as children so long as they can benefit from the treatment and rehabilitation provided for in the Delinquency Act.”) Prioritizing delinquency dispositions over adult sentencing recognizes the unique vulnerabilities of children. See e.g., *Miller v. Alabama*, 132 S.Ct. 2455 (2012); *Graham v. Florida*, 130 S.Ct. 2011 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

The expansion of “youthful offender” crimes that carry the possibility of adult sentencing can undermine the understanding that juveniles who commit crimes need treatment and rehabilitation, not long prison sentences which do not protect either the child nor the public. Adult prison should always be the last possible resort, as it drastically reduces the possibility that a young person will ever lead a productive adult life. While crimes committed by juveniles cannot be condoned, and public safety must be addressed, our existing statutory scheme balances that interest with the powerful societal interest in safeguarding children’s potential futures and not just giving up on them.

HJC-Substitute, Sections 2 & 3: changes to “supervised release”

Increase the duration of a “supervised release” period during a juvenile commitment may increase the potentiality of a violation, and thus revocation resulting in custodial commitment. On the other hand, it may also provide CYFD with more time and opportunity to provide rehabilitative services. Having addition time for such services in a delinquency commitment could increase the likelihood of youthful offenders receiving a juvenile disposition instead of adult prison, thus reducing overall incarceration rates. It is difficult to predict how this change will impact trends overall.

Meanwhile, tolling supervised release could lead to delayed supervision periods that are less impactful if not temporally tied to the underlying criminal conduct. (Swift and certain punishment is more effective at deterring recidivism.) As absconding may itself be a basis for revocation, this provision is also most likely to result in automatically revoking the supervision period and imposing custodial commitment instead. Finally, the bill does not expressly account for a juvenile who absconds until after the age of 21, the maximum age for imposing juvenile commitment or supervision. LOPD assumes that such a case would still require automatic discharge from supervision upon their 21st birthday, even if tolling would otherwise extend the term beyond that time.

HJC-Substitute, Sections 4-11: amend and focus “community corrections”

Expanding community corrections alternatives to commitment in a juvenile facility would reduce recidivism for participating children and youth, and could provide services unavailable in a custodial environment that could help those children transition to adulthood with the tools for success. The HJC-Substitute critically ensures that youthful offenders subject to juvenile

sanctions are eligible for community corrections programming. Once found amenable to treatment as a juvenile, those children and youth should receive all of the programming opportunities available to delinquent children.

HJC-Substitute, Section 12: higher education stipend pilot project

As with expanded services and programming, incentivizing and facilitating the pursuit of higher education for formerly system-involved youth (including both foster and delinquency systems) helps to close a gap currently felt by youth who lack the family support and financial stability that gives young people a leg up in garnering the educational foundation for a successful future.

Addressing root causes of juvenile crime.

If the Legislature wishes to reduce juvenile crime, it must understand why it is occurring in the first place and address the source: childhood trauma and neglect. The near-universal understanding of this issue is that the juvenile justice system is driven by Adverse Childhood Experiences (ACEs). Justice-involved youth experience high rates of ACEs, placing them in great need of behavioral health treatment. Policy makers, government agencies, and professionals working with justice-involved youth have called for trauma-informed juvenile justice reform.

Young people in the juvenile justice system have extremely high ACE histories. The study, “The Prevalence of Adverse Childhood Experiences (ACE) in the Lives of Juvenile Offenders”¹ surveyed 64,329 juvenile offenders in Florida, and only 2.8% reported no childhood adversity; and 50% reported 4 or more ACEs putting them in the high risk category. “When you raise a child with violence, they have a tendency to become violent. Fortunately, the same is also true when you raise a child with love and kindness.” Kerry Jamieson, *ACEs and Juvenile Justice*, Center for Child Counseling.²

The only way to successfully reduce juvenile crime is to *prevent and address childhood trauma*. New Mexico needs more robust assistive, *non-punitive*, intervention for families that struggle to meet children’s needs at a basic level (neglect) and a more complex level (when there is affirmative dysfunction including substance misuse and family violence in the home). New Mexico also needs robust, accessible behavioral health treatment *for adolescents and teenagers* who have already experienced ACEs in their lives. Wraparound services, counseling, educational programming, and mentorship opportunities will have a far greater impact on juvenile justice than any increase in punitive response ever could.

While increasing potential for adult sanctions is a step in the wrong direction, provisions within the HJC-Substitute for HB 255 that expand services and programming, and incentivize and facilitate the pursuit of higher education provide a counterpoint to punitive responses to juvenile crime. These approaches are more appropriate for juvenile offenders and more likely to be effective in addressing and preventing adolescent misbehavior.

LOPD encourages considering similar support and treatment based proposals, such as those in SB 428 (Crossover Youth Act), SB 489 (Behavioral Health for Abused Children), and

¹ Available at https://www.prisonpolicy.org/scans/Prevalence_of_ACE.pdf.

² Available at <https://www.centerforchildcounseling.org/aces-and-juvenile-justice/>.

SB 509 (Pathway Act for Foster Children), in conjunction with any expansion of a delinquency response to juvenile offenders.

PERFORMANCE IMPLICATIONS

See Fiscal Implications.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 39 (criminalizing adult firearm possession based on delinquency history); **HB 134** (amending Delinquency Act, expanding adult sanctions); **HB 163** (amending Delinquency Act); **HB 434** (amending Delinquency Act, expanding commitment terms); **SB 244** (preventing juvenile firearm access); **SB 326** (duplicate of HB 134, amending Delinquency Act); **SB 329 & 330** (addressing juvenile gang activity); **SB 428, 489, 509** (providing rehabilitative interventions for system-involved youth);

TECHNICAL ISSUES

The definition of “youthful offender” on page 16 is confusing. The term is already defined within the Delinquency Act in terms of the offender’s age and charges/adjudicated offenses. In HB 255, the definition provided for purposes of community corrections is the subset of youthful offenders “subject to juvenile sanctions and does not include a delinquent child subject to adult sanctions.”

This definition presents two technical issues. First, despite including the language “subject to juvenile sanctions” in the definition, the remaining sections of the bill nevertheless repeatedly qualify the phrase as “a youthful offender subject to juvenile sanctions,” thus rendering that portion of the definition superfluous.

Moreover, the second phrase excluding “a delinquent child subject to adult sanctions” is meaningless, as a delinquent child *cannot* be subject to adult sanctions. Analyst assumes the second phrase was intended to exclude “a *youthful offender* subject to adult sanctions.”

In light of these two issues, Analyst recommends striking the definition in its entirety as it is both confusing and unnecessary.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS