

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: 2/11/25 *Check all that apply:*
SB SB 326 Original Correction
 Amendment Substitute

Sponsor: Senator Pete Campos **Agency Name and Code** Office of Family Representation & Advocacy 6800
Short Title: Delinquency Act Changes **Number:** _____
Person Writing Wolfgang J. Bomgardner
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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 revenue 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)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Expands a list of specifically enumerated actions defined as “delinquent acts.”

Redefines “serious youthful offender” from a child aged 15-18 indicted on allegations of first degree murder to a child aged 14-18 indicted on allegations of first degree murder, second degree murder, voluntary manslaughter, armed robbery, shooting at a building or at or from a moving car resulting in great bodily harm.

Redefines “youthful offender” from a child aged 14-18 at the time of an act to a child who is presently 14-18; removes indictment for alleged second degree murder; and adds indictment for alleged unlawful possession of a handgun, homicide by vehicle, involuntary manslaughter, and failing to stop a vehicle when involved in an accident resulting in death or great bodily injury.

Requires a child to be transported to district court upon the court’s request.

Removes the requirement that a risk assessment instrument be used prior to detaining a child.

Mandates that children who reach age 18 in juvenile detention be transported to a county jail.

Permits the court to *sua sponte* order a probable cause hearing be held remotely. Removes requirements for remote probable cause hearings, specifically that they be recorded, that the child shall have legal counsel, that pleas are prohibited, that the court must find undue hardship will result from an in-person hearing, and that the hardship would outweigh the prejudice or harm likely to result from a remote hearing.

Allows for a child 14 or older who is adjudicated as a youthful offender to waive the right to an amenability hearing.

Makes voluntary the requirement that the adult probation and parole division of the corrections department prepare predisposition reports prior to sentencing.

Allows consideration of a juvenile disposition at a later hearing on conditions of release and sentencings.

Allows a child to be detained until age 25 instead of 21 and removes 2-year commitment cap.

Prohibits consent decrees for children indicted as youthful offenders or serious youthful offenders.

Removes the exclusive jurisdiction of the Children Youth and Families Department (CYFD)

to release a child during the term of the child’s commitment and eliminates eligibility for children to be released during the term of their commitment.

FISCAL IMPLICATIONS

Although there are no appropriations associated with this bill, it is likely that it would increase caseloads in juvenile and criminal court. An increase in case load without a commensurate increase in appropriations may lead to budget shortfalls, delays in processing cases, and failure to provide adequate legal representation.

Even with increased caseloads in juvenile and criminal court, this bill would not likely have a fiscal impact on the Office of Family Representation and Advocacy (OFRA), which represents children and youth in certain civil children’s court cases, but not in delinquency or criminal cases.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

This bill would diminish the due process rights of children alleged to have committed delinquent, youthful offender, and serious youthful offender acts under the Children’s Code. It will likely result in more children being convicted of higher level crimes, resulting in more children and youth being incarcerated and more children being incarcerated for longer durations. Increasing detention of children and taking away their protections in court destabilizes the futures of those children, their families, and their communities. This bill’s approach—increasing the severity of crimes charged and punishments imposed—is inconsistent with research showing that certainty and swiftness of being caught for criminal/delinquent activity is a more powerful deterrent to crime than increased/more severe punishment. See, e.g., *Update on Crime in New Mexico and Bernalillo County*, New Mexico Legislative Finance Committee, p.4 (July 15, 2024), <https://www.nmlegis.gov/handouts/ALFC%20071524%20Item%202%20Policy%20Spotlight%20-%20Bernalillo%20County%20Criminal%20Justice%20System%20Update.pdf>; and *Five Things About Deterrence*, National Institute of Justice, (May 2016), <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS