

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 134

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO DELINQUENCY; AMENDING THE DELINQUENCY ACT TO EXPAND
THE DEFINITIONS FOR "SERIOUS YOUTHFUL OFFENDER" AND "YOUTHFUL
OFFENDER"; MAKING CONFORMING AMENDMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. 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

1 intoxicating liquor or drugs;

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

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

6 (d) receiving or transferring of a
7 stolen vehicle or motor vehicle;

8 [~~(e)~~] ~~homicide by vehicle;~~
9 ~~(f)~~] (e) injuring or tampering with a
10 vehicle;

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

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

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

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

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

21 (2) buying, attempting to buy, receiving,
22 possessing or being served any alcoholic liquor or being
23 present in a licensed liquor establishment, other than a
24 restaurant or a licensed retail liquor establishment, except in
25 the presence of the child's parent, guardian, custodian or

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1 adult spouse. As used in this paragraph, "restaurant" means an
2 establishment where meals are prepared and served primarily for
3 on-premises consumption and that has a dining room, a kitchen
4 and the employees necessary for preparing, cooking and serving
5 meals. "Restaurant" does not include an establishment, as
6 defined in regulations promulgated by the director of the
7 special investigations unit of the New Mexico state police
8 division of the department of public safety, that serves only
9 hamburgers, sandwiches, salads and other fast foods;

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

13 (4) a violation of the Controlled Substances
14 Act;

15 (5) escape from the custody of a law
16 enforcement officer or a juvenile probation or parole officer
17 or from any placement made by the department by a child who has
18 been adjudicated a delinquent child;

19 (6) a violation of Section 30-15-1.1 NMSA 1978
20 regarding unauthorized graffiti on personal or real property;

21 (7) a violation of an order of protection
22 issued pursuant to the provisions of the Family Violence
23 Protection Act; or

24 (8) trafficking cannabis as provided in
25 Section 26-2C-28 NMSA 1978;

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1 B. "delinquent child" means a child who has
2 committed a delinquent act;

3 C. "delinquent offender" means a delinquent child
4 who is subject to juvenile sanctions only and who is not a
5 youthful offender or a serious youthful offender;

6 D. "detention facility" means a place where a child
7 may be detained under the Children's Code pending a court
8 hearing and does not include a facility for the care and
9 rehabilitation of an adjudicated delinquent child;

10 E. "felony" means an act that would be a felony if
11 committed by an adult;

12 F. "misdemeanor" means an act that would be a
13 misdemeanor or petty misdemeanor if committed by an adult;

14 G. "restitution" means financial reimbursement by
15 the child to the victim or community service imposed by the
16 court and is limited to easily ascertainable damages for injury
17 to or loss of property, actual expenses incurred for medical,
18 psychiatric and psychological treatment for injury to a person
19 and lost wages resulting from physical injury, which are a
20 direct and proximate result of a delinquent act. "Restitution"
21 does not include reimbursement for damages for mental anguish,
22 pain and suffering or other intangible losses. As used in this
23 subsection, "victim" means a person who is injured or suffers
24 damage of any kind by an act that is the subject of a complaint
25 or referral to law enforcement officers or juvenile probation

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1 authorities. Nothing contained in this definition limits or
2 replaces the provisions of Subsections A and B of Section
3 32A-2-27 NMSA 1978;

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

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

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

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

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

22 I. "supervised release" means the release of a
23 juvenile, whose term of commitment has not expired, from a
24 facility for the care and rehabilitation of adjudicated
25 delinquent children, with specified conditions to protect

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1 public safety and promote successful transition and
2 reintegration into the community. A juvenile on supervised
3 release is subject to monitoring by the department until the
4 term of commitment has expired and may be returned to custody
5 for violating conditions of release; and

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

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

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

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

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

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

20 ~~[(e)]~~ (d) aggravated battery against a
21 household member, as provided in Subsection C of Section
22 30-3-16 NMSA 1978;

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

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underscored material = new
[bracketed material] = delete

1 ~~[(g)]~~ (f) shooting at a dwelling or
 2 occupied building that does not result in great bodily harm to
 3 another person or shooting at or from a motor vehicle that does
 4 not result in great bodily harm to another person, as provided
 5 in Section 30-3-8 NMSA 1978;

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

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

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

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

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

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

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

21 (n) involuntary manslaughter, as
 22 provided in Section 30-2-3 NMSA 1978;

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

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

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

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

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

21 ~~(3) fourteen years of age and who is~~
22 ~~adjudicated for first degree murder, as provided in Section~~
23 ~~30-2-1 NMSA 1978]."~~