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FISCAL IMPACT REPORT

SPONSOR	Reps. Thomson and Matthews/Sens. Chavez and Sedillo Lopez	LAST UPDATED	
		ORIGINAL DATE	2/3/25
SHORT TITLE	Human Trafficking Changes	BILL NUMBER	House Bill 86
		ANALYST	Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
LOPD	No fiscal impact	At least \$290.0	At least \$290.0	At least \$580.0	Recurring	General Fund
NMCD	No fiscal impact	At least \$28.2	At least \$28.2	At least \$56.4	Recurring	General Fund
Total	No fiscal impact	At least \$318.2	At least \$318.2	At least \$636.4	Recurring	General Fund

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

Duplicates Senate Bill 74

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AODA)
 Law Offices of the Public Defender (LOPD)
 New Mexico Sentencing Commission (NMSC)
 Healthcare Authority (HCA)
 Department of Health (DOH)
 Children, Youth and Families Department (CYFD)
 Crime Victims Reparation Commission (CVRC)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of House Bill 86

House Bill 86 (HB86) proposes several significant amendments to New Mexico’s criminal statutes concerning human trafficking and the sexual exploitation of children. The bill eliminates the statute of limitations for prosecuting human trafficking offenses under Section 30-1-8 NMSA 1978. HB86 also raises the age threshold for the crime of sexual exploitation of children by prostitution from 16 to 18 years under Section 30-6A-4 NMSA 1978. It specifies that it is not a defense if the victim was a law enforcement officer posing as a minor. HB86 expands the scope

of human trafficking under Section 30-52-1 NMSA 1978 by including harboring, maintaining, patronizing, and providing individuals for labor, services, or commercial sexual activity. It also removes the requirement that a trafficker have actual knowledge of coercion, replacing it with a "knew or should have known" standard.

HB86 adds human trafficking to the definition of "racketeering" under Section 30-42-3 NMSA 1978 and subjects convicted traffickers to asset forfeiture under the Forfeiture Act. Furthermore, it prohibits human trafficking victims from being charged with prostitution, expands the definition of "coercion" to include physical restraint, and defines "harm" broadly to include physical, psychological, and financial harm. HB86 also amends the Victims of Crime Act in Section 31-26-3 NMSA 1978 to include victims of human trafficking and sexual exploitation of children. It classifies human trafficking as a serious violent offense under Section 33-2-34 NMSA 1978, thereby limiting earned meritorious deductions (commonly known as "good time credit") for offenders.

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, so the primary fiscal implications examined in this analysis relate to changes in the number of individuals in prison and the length of time served in prison that might result from this bill. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and long-term costs to the general fund. In addition to the potential of new crimes to send more individuals to prison, increased sentence lengths decrease releases relative to the rate of admissions, pushing the overall prison population higher. NMCD reported the average cost to incarcerate a single inmate in FY24 was \$56.7 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per year across all facilities. HB86 is anticipated to increase the time individuals spend incarcerated for this crime. This bill will likely increase the number of individuals incarcerated and increase the time they spend incarcerated

The Law Offices of the Public Defender (LOPD) anticipate an increased caseload due to the expanded scope of human trafficking crimes and heightened penalties. LOPD estimates that hiring experienced attorneys to handle these complex cases costs approximately \$291 thousand per year in the Albuquerque/Santa Fe areas and \$299.6 thousand per year in outlying areas. Given New Mexico's existing shortage of public defenders, an increase in serious felony cases requiring legal representation could exacerbate existing workload challenges.

Additionally, the judiciary anticipates increased trial rates, as higher penalties often discourage plea deals. More jury trials will result in additional costs for judges, courtroom staff, and jury fees. However, a precise estimate of the total increased judicial costs remains undetermined.

The Department of Public Safety (DPS) supports the bill, noting it will provide additional legal tools to combat human trafficking. However, enforcement of new forfeiture provisions under the Forfeiture Act could impose administrative costs on state agencies involved in asset seizure and processing. These costs are not explicitly quantified but should be considered.

The Children, Youth, and Families Department (CYFD) highlights that HB 86 expands protections for victims of human trafficking and sexual exploitation of children, which may increase demand for safe house programs and behavioral health services. CYFD currently operates the Domestic Minor Sex Trafficking (DMST) Safe House Program, expected to launch in spring of FY25, which will provide 24/7 trauma-responsive services for trafficking victims aged 14-18. While CYFD does not anticipate direct fiscal impacts, the expansion of statutory protections may increase the number of children eligible for state-funded services.

SIGNIFICANT ISSUES

HB86 significantly expands the definition of human trafficking under Section 30-52-1 NMSA 1978, adding harboring, maintaining, patronizing, and providing individuals for labor, services, or commercial sexual activity. It also lowers the burden of proof by replacing the requirement for actual knowledge with a "should have known" standard, which could increase the number of prosecutions but may raise due process concerns for individuals who are only indirectly involved. The bill eliminates the statute of limitations for human trafficking, aligning New Mexico with federal law. Increased penalties could also have broader implications, as the bill raises trafficking of minors under 18 to a first-degree felony with a mandatory sentence of 12 to 18 years and trafficking of adults to a second-degree felony, potentially contributing to longer prison stays and raising concerns about proportionality in sentencing.

By adding human trafficking to the definition of racketeering under Section 30-42-3 NMSA 1978, the bill enables prosecutors to use RICO-like (racketeer-influenced and corrupt organizations) statutes to seize assets from traffickers, which could be a powerful tool in dismantling trafficking networks but may also raise concerns about potential misuse of forfeiture laws. It would also prohibit victims of trafficking from being charged with prostitution, strengthening victim protections, but the increase in the legal age for prostitution victims from 16 to 18 could create inconsistencies with New Mexico's existing consent laws and complicate prosecution strategies. Law enforcement officials support the bill, arguing that trafficking penalties should be at least as severe as those for drug trafficking, but note that human trafficking cases are difficult to investigate due to victims' reluctance to testify. DPS points out that the success of prosecutions will depend on victims' willingness to cooperate, and while the bill could lead to more cases being charged, securing convictions remains a challenge.

CVRC also highlights disparities in New Mexico's trafficking laws compared to neighboring states, where mandatory minimum sentences are already in place, suggesting that weaker sentencing laws could make New Mexico a more attractive location for trafficking networks. For example, Texas imposes a mandatory minimum of two years, and Arizona sentences offenders to 4-13 years, depending on the victim's age. At the same time, research indicates that increasing penalties alone does little to deter criminals who are often unaware of specific sentencing laws.

CYFD notes the bill's expanded protections for child trafficking victims may lead to increased demand for trauma-informed services, particularly as CYFD prepares to launch a new Safe House Program for minors affected by trafficking in FY25. While CYFD has not projected additional costs, lawmakers should consider whether the state's victim support infrastructure is adequately prepared to handle a potential increase in trafficking survivors seeking services.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates Senate Bill 74, Time Limit for Prosecuting Certain Crimes.

SS/SL2/rl