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FISCAL IMPACT REPORT

SPONSOR <u>Steinborn</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/22/2025</u>
	BILL
SHORT TITLE <u>Statute of Limitations for Sex Crimes</u>	NUMBER <u>Senate Bill 94</u>
	ANALYST <u>Sanchez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$28.2	At least \$28.2	At least \$58.4	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund
Total	No fiscal impact	At least \$47.4	At least \$47.4	At least \$94.8	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Office of the Attorney General (NMAG)
 Law Offices of the Public Defender (LOPD)
 New Mexico Sentencing Commission (NMSC)
 Children, Youth and Families Department (CYFD)
 Crime Victims Reparation Commission (CVRC)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Senate Bill 94

Senate Bill 94 (SB94) would amend Section 30-1-8 NMSA 1978 to extend the statute of limitations for criminal sexual penetration offenses. Under the current law, prosecution for second-degree felonies must commence within six years, third- and fourth-degree felonies within five years, and misdemeanors within two years.

The bill proposes to amend this framework by allowing prosecution for crimes against minors under Section 30-9-11 NMSA 1978 to commence at any time until the victim reaches the age of thirty-five. Additionally, SB 94 amends Section 30-1-9.1 NMSA 1978 to specify that for violations

of Sections 30-6-1, 30-9-11, and 30-9-13 NMSA 1978, or Paragraph (1) of Subsection G of Section 30-9-11 NMSA 1978, the statute of limitations does not begin to run until the victim turns eighteen or the offense is reported to law enforcement, whichever occurs first. The bill also ensures that first-degree violent felonies and specific offenses under Section 30-9-11 NMSA 1978 remain exempt from any statute of limitations, permitting prosecution at any time.

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

SB94 extends the statute of limitations for prosecuting certain criminal sexual penetration offenses against minors, allowing prosecutions to be initiated until the victim reaches the age of 35. This change could result in increased prosecutions, which may have fiscal implications for the judiciary, district attorneys, public defenders, and corrections system.

An increase in prosecutions could lead to higher caseloads for courts, requiring additional judicial resources, courtroom availability, and jury costs. More cases proceeding to trial, particularly jury trials, could increase the demand for judicial staff time, public defender representation, and prosecutorial resources. The Law Offices of the Public Defender (LOPD) has indicated that defending cases involving older allegations may require additional investigative work, forensic analysis, and expert testimony, which could increase operational costs. The potential for more complex trials may also result in lengthier court proceedings, requiring greater judicial and administrative commitments.

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have significant fiscal impacts. 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 jails, consequently increasing long-term costs to state and county general funds. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY24 was \$59.3 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. LFC estimates a marginal cost (the cost per additional inmate) of \$19.2 per county jail inmate per year based on incarceration costs at the Metropolitan Detention Center. Some of SB94's provisions are anticipated to increase the number of incarcerated individuals and increase the time they spend incarcerated. Overall, the provisions of SB94 are expected to result in a net increase in incarceration costs for the state's prisons. The extent of the fiscal impact on incarceration costs will depend on the number of additional convictions and the sentencing outcomes associated with SB94's provisions. This analysis assumes the incarceration of one additional individual annually.

Additionally, records retention policies may need to be reviewed in response to the extended timeframe for prosecutions. The Children, Youth, and Families Department (CYFD) currently maintains investigative records for 19 years from the date of birth of the subject child. The extended statute of limitations under SB94 may require adjustments to record retention policies to ensure the availability of relevant documentation for potential cases.

While the precise fiscal impact of SB94 is difficult to project, the potential for an increased volume

of prosecutions, trials, and incarcerations may result in additional costs across multiple state agencies. The extent of these impacts will depend on the number of cases pursued under the extended statute of limitations and the associated demands on judicial and correctional resources.

SIGNIFICANT ISSUES

SB94 modifies the statute of limitations for certain criminal sexual penetration offenses against minors, extending the timeframe for prosecution until the victim reaches the age of 35. This change aligns with research indicating that survivors of childhood sexual abuse often delay reporting due to psychological, social, or other barriers. However, the extension of time for prosecution may also present evidentiary challenges, particularly regarding the availability and reliability of witness testimony, physical evidence, and investigative records. Courts may be required to assess the admissibility of older evidence, which could impact case outcomes.

The bill's provisions interact with existing laws governing statutes of limitations and the tolling of time limits for certain offenses against children. Some agencies note that language in SB94 could create ambiguity in how these provisions align, particularly regarding the relationship between different subsections of the criminal sexual penetration statute. Additionally, the bill's approach—tying the statute of limitations to the victim's age rather than a fixed number of years—differs from standard practice in criminal law, where limitation periods are generally measured from the date of the offense or from when the crime is reported.

SB94 does not include a requirement for prosecutorial diligence in bringing charges under the extended timeframe. While there is no statute of limitations for certain first-degree violent felonies in New Mexico, many other offenses remain subject to time restrictions to ensure timely prosecution. The absence of a diligence standard could raise questions regarding the fairness and feasibility of prosecuting offenses long after they occurred, particularly when key evidence may no longer be available. The bill also has potential implications for legal standards related to constitutional protections, including the right to a fair trial. Defendants may challenge prosecutions under an extended statute of limitations on the basis that delays in bringing charges have impaired their ability to present a defense, particularly when exculpatory evidence has been lost over time. Courts may need to address legal arguments related to due process and the Confrontation Clause when evaluating cases filed under the extended timeframe established by SB94.

PERFORMANCE IMPLICATIONS

SB94 may impact key performance measures for judicial and prosecutorial agencies by influencing case volume and trial complexity. The courts track case disposition rates and backlog trends, both of which may be affected if the bill results in an increase in long-pending prosecutions. Extended timelines for initiating charges could lead to shifts in caseload composition, with more cases involving historical allegations requiring extensive pretrial litigation.

The bill may require adjustments to investigative protocols for law enforcement agencies, particularly regarding how agencies manage and reopen cases involving offenses that would have previously fallen outside the statute of limitations. Training for officers and investigators may be necessary to ensure compliance with procedural requirements for handling delayed reports. Additionally, public defenders and prosecutors may see changes in workload distribution as cases brought under the expanded statute of limitations proceed through the criminal justice system. If

more cases proceed to trial, measures such as time to disposition and trial preparation efficiency may be impacted, requiring adjustments in resource allocation and case management strategies.

ADMINISTRATIVE IMPLICATIONS

SB94 may require agencies involved in the criminal justice process to modify internal procedures and case management systems to account for the extended statute of limitations. Prosecutors and public defenders may need to implement new protocols for evaluating and preparing cases involving older allegations, which could include enhanced training for attorneys on handling delayed disclosures, managing cases with limited physical evidence, and addressing potential legal challenges related to due process.

Law enforcement agencies may need to adjust investigative practices, particularly regarding evidence retention and the reopening of cases that were previously considered beyond the statute of limitations. Existing policies governing the storage and management of forensic evidence, witness statements, and investigative reports may require review to ensure compliance with the longer timeframe for potential prosecutions. The judiciary may also experience administrative effects related to case tracking and docket management. Courts could see an increase in the number of pretrial motions related to evidentiary issues, including motions to suppress testimony due to memory degradation or lost documentation. Additionally, jury management processes may require adjustments if older cases increase jury trials, requiring more frequent summonses and longer trial schedules.

Agencies responsible for victim services, including CYFD and victim compensation programs, may need to assess whether support services are adequately structured to assist individuals reporting offenses that occurred many years earlier. Coordination between victim advocates, law enforcement, and prosecutorial offices may become more complex as agencies work to provide assistance in cases involving delayed reporting.

TECHNICAL ISSUES

The bill references "crimes against a minor" but does not align this terminology with the specific age categories used in the existing criminal sexual penetration statute (Section 30-9-11 NMSA 1978), which differentiates between offenses based on the victim's age. Ensuring statutory consistency may help clarify the scope of the extended statute of limitations. Additionally, the bill includes language stating that the extended statute of limitations does not apply to violent first-degree felonies. Still, these offenses are already exempt from statutes of limitation under current law. Some analyses suggested that this provision may be redundant.

The amendment to Section 30-1-9.1 NMSA 1978, which tolls the statute of limitations for certain offenses against children, may also be unnecessary because the section already applies to the entire criminal sexual penetration statute. Some legal analysts indicated that the additional reference to specific subsections of the law might not substantively change the existing tolling provisions.