

LFC Requester:	Sanchez, Scott
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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: 2/20/25 *Check all that apply:*
Bill Number: HB 451 Original Correction
 Amendment Substitute

Sponsor: Rep. Linda Serrato **Agency Name and Code:** AOC
Short Title: Indecent Exposure to Child Out of View **Number:** 218
Person Writing: Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 451 creates the misdemeanor crime of “Indecent Exposure to a Child out of Public View”, consisting of a person eighteen years of age or older knowingly and intentionally exposing the person’s primary genital area to a child in a lewd and lascivious manner, then the person and child are in a nonpublic place.

HB 451 defines “child” and “primary genital area.”

HB 451 provides that the law is retroactive and applies to all actions not currently pending based on indecent exposure to a child out of public view, regardless of the date of the exposure and regardless of whether any statute of limitations on such actions expired prior to the effective date of this 2025 Act.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

What is essentially an elimination of a time limitation for commencing prosecutions for indecent exposure to a child out of public view for actions that occurred prior to the effective date of the Act is likely to result in more prosecutions and potentially in more defendants invoking their right to trials, as well as to jury trials. (While the penalty may be minor, the stigma of conviction for the crime is not.) More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

Additionally, the elimination of a time limitation for commencing prosecutions for indecent exposure to a child out of public view for actions that occurred prior to the effective date of the Act could result in the introduction of dated or “stale” evidence that requires more careful vetting by judges and defendants, which in turn results in lengthier, more complex trials and appeals that require a greater commitment of the judicial branch’s fiscal and administrative resources.

SIGNIFICANT ISSUES

- 1) What is essentially an elimination of a time limitation for commencing prosecutions for indecent exposure to a child out of public view for actions that occurred prior to the effective date of the Act is likely to result in more prosecutions and potentially in more defendants invoking their right to trials, as well as to jury trials. (While the penalty may be minor, the stigma of conviction for the crime is not.) More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

Additionally, the elimination of a time limitation for commencing prosecutions for indecent exposure to a child out of public view for actions that occurred prior to the effective date of the Act could result in the introduction of dated or “stale” evidence that requires more careful vetting by judges and defendants, which in turn results in lengthier, more complex trials and appeals that require a greater commitment of the judicial branch’s fiscal and administrative resources.

- 2) New Mexico’s criminal indecent exposure statute, Section 30-9-14 NMSA 1978, states that the crime consists of a person knowingly and intentionally exposing his primary genital area to public view.

An annotation to the statute reads:

No exposure to "public view". — The defendant, who deliberately displayed his genital area before a minor child in the household wherein he was living, did not indecently expose himself to "public view" as proscribed by this section. *State v. Romero*, [1985-NMCA-096](#), [103 N.M. 532](#), [710 P.2d 99](#), cert. denied, 103 N.M. 525, 710 P.2d 92.

The new crime of Indecent Exposure to a Child Outside of Public View would apply to the situation described in *State v. Romero*, above.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

- 1) HB 451 does not define the term “nonpublic place.” It is possible that there could be some ambiguity about where a public space ends and a private space begins. See *Non-Public Area* definition, Law Insider, <https://www.lawinsider.com/dictionary/non-public-area#:~:text=More%20Definitions%20of%20Non%2DPublic,Sample%201> , for a variety of definitions of “non-public area”.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

- 1) See “Technical Issues,” #1, above.