

**LFC Requester:** \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.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}*

*Check all that apply:*

**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 29 January 2025

**Bill No:** SB 94-280

**Sponsor:** Jeff Steinborn  
Statute of Limitations for  
**Short Title:** Certain Sex Crimes

**Agency Name and Code Number:** 280 Law Offices of the Public Defender [LOPD]  
**Person Writing:** Kate Baldrige  
**Phone:** 505-395-2890    **Email:** Kathleen.baldrige@lopdm.us

**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 Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **HB 86 & SB 74 (removing the statute of limitations for human trafficking)**

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 94 is similar to SB 97 (proposed 2020), SB 310 (proposed 2021) and SB 82 (proposed 2023).

Section 1 of SB 94 would amend NMSA 1978, Section 30-1-8 to provide a new statute of limitations for criminal sexual penetration against a minor. The proposed change would allow prosecution to commence any time after the occurrence of the crime and until the alleged victim reaches the age of thirty-five. It would not apply to violent first-degree felonies or to paragraph 1 of subsection G of the criminal sexual penetration statute, which is criminal sexual penetration in the fourth degree “perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child[.]”

Section 2 of SB 94 would amend NMSA 1978, Section 30-1-9.1, which tolls the time for commencing prosecution for crimes committed against children under NMSA 1978 Sections 30-6-1, 30-9-11, and 30-9-13, until the child reaches the age of 18 or the violation is reported to a law enforcement officer, whichever occurs first. This section of the bill would add fourth-degree criminal sexual penetration of a minor under paragraph 1 of subsection G of Section 30-9-11.

**FISCAL IMPLICATIONS**

The proposed change significantly increases the potential for criminal charges that would have otherwise failed to be viable due to the expiration of statutory time limits. It is impossible to predict how many new cases would be charged under this proposed bill, but could result in an increase in work for the Law Offices of the Public Defender.

One issue is that any resulting charges would be older and “colder” than cases charged within the existing time limits, and, because older, delayed cases tend to have issues as to the collection of evidence which has gone “cold”, resolution of such cases by plea agreements would be less likely, thus resulting in more cases going to trial, requiring more attorney work time as well as more court resources. Additionally, many such cases will need to be handled by higher-paid, more experienced attorneys. Defense attorneys handling cold cases are more likely to require the

assistance of limited investigative staff and expert witness consultation.

Defense of such cases and hearings would likely be handled by mid-level felony capable LOPD criminal defense attorneys (Associate Trial Attorneys). Depending on the volume of cases in the geographic location there may be a significant recurring increase in needed FTEs for the office and contract counsel compensation. An Associate Trial Attorney's mid-point salary including benefits is \$136,321.97 in Albuquerque/Santa Fe and \$144,811.26 in the outlying areas (due to necessary salary differential to maintain qualified employees). Recurring statewide operational costs per attorney would be \$12,909.00 with start-up costs of \$5,210.00; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$123,962.51. Again, assessment of the impact would be necessary after the implementation of the proposed legislation, but such is likely to result in a requirement for additional funds to LOPD in order to provide constitutionally required effective assistance of counsel.

Any increase in the number of trials or prosecutions would require a concomitant increase in resources for the courts, DAs, LOPD and Corrections.

## **SIGNIFICANT ISSUES**

While statutes of limitation for most crimes have been a feature of American criminal law since the early days of the Republic, their application has been far from universal (England appears to have no general statute of limitation to criminal actions) and the time limits for prosecution of given crimes vary widely across the various states. *See* Listokin, Efficient Time Bars: A New Rationale for the Existence of Statutes of Limitations in Criminal Law, 31 J. Legal Stud. 99 (2002).

However, the passage of time almost inevitably results in the loss of evidence available for both the prosecution and the defense of criminal charges. The loss of physical evidence and the fading of memories can make it difficult to mount legitimate defenses to allegations which arise many years after an alleged event. Statutes of limitations are designed to limit the ability of the state to reach back in time and charge suspects for past alleged deeds, and to provide a sense of certainty for all parties.

## **PERFORMANCE IMPLICATIONS**

*See Fiscal Implications and Performance Implications, above.*

## **ADMINISTRATIVE IMPLICATIONS**

*See Fiscal Implications and Performance Implications, above.*

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 86 & SB 74 (proposing to remove the statute of limitations for human trafficking).

## **TECHNICAL ISSUES**

**None noted.**

**OTHER SUBSTANTIVE ISSUES**

**None noted.**

**ALTERNATIVES**

**None noted.**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**Status quo**