

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 29, 2025

Check all that apply:

Bill Number: SB 94

Original x Correction
Amendment Substitute

Sponsor: Sen. J. Steinborn

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Criminal Sexual Penetration
Time Limit

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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 revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

This bill amends NMSA 1978, § 30-1-8 (2002) and NMSA 1978, § 30-1-9.1 (1987) to increase the statutes of limitations for certain forms of criminal sexual penetration of a minor (CSPM), which is criminalized under NMSA 1978, § 30-9-11 (2009). Section 1 adds Subsection (H) to Section 30-1-8 as described below, and Section 2 provides the tolling provision described below.

Section 30-9-11 proscribes criminal sexual penetration and sets forth four forms of CSPM: (1) aggravated CSPM, a special first-degree felony, *see* § 30-9-11(C); (2) first-degree CSPM, *see* § 30-9-11(D); (3) second-degree CSPM, *see* § 30-9-11(E)(1); and (4) fourth-degree CSPM, *see* § 30-9-11(G)(1)-(2). Under the current scheme, there is no statute of limitations for the first two forms of CSPM - aggravated CSPM and first-degree CSPM. *See* § 30-1-8(I) (stating that there is no statute of limitation for a capital or first-degree violent felony). That would remain unchanged under the proposed bill.

This bill increases the statute of limitation for second-degree CSPM and one of the two forms of fourth-degree CSPM. (Section 1) Currently, the statute of limitations for second-degree CSPM is 6 years, *see* § 30-1-8(A); and the statute of limitations for fourth-degree CSPM is 5 years, *see* § 30-8-1(B). There is also a tolling provision applicable to both these forms of CSPM, which provides that the statute of limitations for CSPM does not commence until the victim has reached the age of 18 or the violation is reported to law enforcement. *See* § 30-1-9.1. (Section 2)

This bill, increasing the statute of limitations for second-degree and fourth-degree CSPM, will allow a prosecution to commence at any time before the victim reaches the age of 35. It does carve out an exception to the expanded statute of limitations for one form of fourth-degree CSPM under Section 30-9-11(G)(1), which is a so-called statutory rape prohibition.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 73 addresses expanding the statute of limitation for civil actions for damages relating to childhood sexual abuse.

TECHNICAL ISSUES

The language “provided that this subsection shall not apply to violent first degree felonies” appears to be surplusage. Capital felonies and first-degree violent felonies are already exempted from having a statute of limitations.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A