

HOUSE BILL 266

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO CHILDREN; INCREASING CERTAIN PENALTIES FOR SEXUAL EXPLOITATION OF CHILDREN; INCREASING THE INTEREST RATE ON DELINQUENT CHILD SUPPORT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-6A-3 NMSA 1978 (being Laws 1984, Chapter 92, Section 3, as amended) is amended to read:

"30-6A-3. SEXUAL EXPLOITATION OF CHILDREN.--

A. It is unlawful for a person to intentionally possess any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of

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1 age. A person who violates the provisions of this subsection
2 is guilty of a [fourth] third degree felony for sexual
3 exploitation of children and shall be sentenced pursuant to the
4 provisions of Section 31-18-15 NMSA 1978. When a separate
5 finding of fact made by a court or jury shows beyond a
6 reasonable doubt that a child depicted in the visual or print
7 medium is a child under the age of thirteen, the basic sentence
8 shall be increased by [one year] five years, and the sentence
9 imposed by this subsection shall be the first [year] three
10 years served and shall not be suspended or deferred; provided
11 that when the offender is a youthful offender, the sentence
12 imposed by this subsection may be increased by one year.

13 B. The provisions of Subsection A of this section
14 shall not apply to a depiction possessed by a child under the
15 age of eighteen in which the depicted child is between the ages
16 of fourteen and eighteen and the depicted child knowingly and
17 voluntarily consented to the possession, and:

18 (1) the depicted child knowingly and
19 voluntarily consented to the creation of the depiction; or
20 (2) the depicted child knowingly and
21 voluntarily produced the depiction without coercion.

22 This subsection shall not prohibit prosecution nor create
23 an immunity from prosecution for the possession of depictions
24 that are the result of coercion.

25 C. It is unlawful for a person to intentionally

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1 distribute any obscene visual or print medium depicting any
2 prohibited sexual act or simulation of such an act if that
3 person knows or has reason to know that the obscene medium
4 depicts any prohibited sexual act or simulation of such act and
5 if that person knows or has reason to know that one or more of
6 the participants in that act is a child under eighteen years of
7 age. A person who violates the provisions of this subsection
8 is guilty of a [third] second degree felony for sexual
9 exploitation of children and shall be sentenced pursuant to the
10 provisions of Section 31-18-15 NMSA 1978.

11 D. It is unlawful for a person to intentionally
12 cause or permit a child under eighteen years of age to engage
13 in any prohibited sexual act or simulation of such an act if
14 that person knows, has reason to know or intends that the act
15 may be recorded in any obscene visual or print medium or
16 performed publicly. A person who violates the provisions of
17 this subsection is guilty of a third degree felony for sexual
18 exploitation of children and shall be sentenced pursuant to the
19 provisions of Section 31-18-15 NMSA 1978 unless the child is
20 under the age of thirteen, in which event the person is guilty
21 of a second degree felony for sexual exploitation of children
22 and shall be sentenced pursuant to the provisions of Section
23 31-18-15 NMSA 1978.

24 E. It is unlawful for a person to intentionally
25 manufacture any obscene visual or print medium depicting any

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1 prohibited sexual act or simulation of such an act if one or
2 more of the participants in that act is a child under eighteen
3 years of age. A person who violates the provisions of this
4 subsection is guilty of a second degree felony for sexual
5 exploitation of children and shall be sentenced pursuant to the
6 provisions of Section 31-18-15 NMSA 1978.

7 F. It is unlawful for a person to intentionally
8 manufacture any obscene visual or print medium depicting any
9 prohibited sexual act or simulation of such an act if that
10 person knows or has reason to know that the obscene medium
11 depicts a prohibited sexual act or simulation of such an act
12 and if that person knows or has reason to know that a real
13 child under eighteen years of age, who is not a participant, is
14 depicted as a participant in that act. A person who violates
15 the provisions of this subsection is guilty of a fourth degree
16 felony.

17 G. It is unlawful for a person to intentionally
18 distribute any obscene visual or print medium depicting any
19 prohibited sexual act or simulation of such an act if that
20 person knows or has reason to know that the obscene medium
21 depicts a prohibited sexual act or simulation of such an act
22 and if that person knows or has reason to know that a real
23 child under eighteen years of age, who is not a participant, is
24 depicted as a participant in that act. A person who violates
25 the provisions of this subsection is guilty of a third degree

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1 felony.

2 H. The penalties provided for in this section shall
3 be in addition to those set out in Section 30-9-11 NMSA 1978."

4 SECTION 2. Section 40-4-7.3 NMSA 1978 (being Laws 1999,
5 Chapter 299, Section 1, as amended) is amended to read:

6 "40-4-7.3. ACCRUAL OF INTEREST--DELINQUENT CHILD AND
7 SPOUSAL SUPPORT.--

8 A. Interest shall accrue on delinquent child
9 support at the rate of [four] six and one half percent and
10 spousal support at the rate set forth in Section 56-8-4 NMSA
11 1978 in effect when the support payment becomes due. [and]
12 Interest on a delinquent support payment shall accrue from the
13 date the support is delinquent until the date the support is
14 paid.

15 B. Interest shall accrue on a consolidated judgment
16 for delinquent child support at the rate of four percent when
17 the consolidated judgment is entered until the judgment is
18 satisfied.

19 C. Unless the order, judgment, decree or wage
20 withholding order specifies a different due date, [other than
21 ~~the first day of the month~~] support shall be due on the first
22 day of each month and, if not paid by that date, shall be
23 delinquent.

24 D. In calculation of support arrears, payments of
25 support shall be first applied in the following order: first,
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1 to the current support obligation, next to any delinquent
2 support, next to any consolidated judgment of delinquent
3 support, next to any accrued interest on delinquent support and
4 next to any interest accrued on a consolidated judgment of
5 delinquent support.

6 E. The ~~human services department~~ health care
7 authority shall have the authority to forgive accrued interest
8 on delinquent child support assigned to the state and not
9 otherwise specified in an order, judgment, decree or income
10 withholding order if, in the judgment of the secretary of
11 ~~human services~~ health care authority, forgiveness will likely
12 result in the collection of more child support, spousal support
13 or other support and will likely result in the satisfaction of
14 the judgment, decree or wage withholding order. This authority
15 shall include the ability to authorize the return of suspended
16 licenses."

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