

April 4, 2019

SENATE EXECUTIVE MESSAGE NO. 38

The Honorable Mary Kay Papen, President Pro Tempore and
Members of the New Mexico State Senate
State Capitol Building
Santa Fe, NM 87501

Honorable President Pro Tempore Papen and Members of the Senate:

Pursuant to my authority under Article IV, Section 22 of the New Mexico Constitution, I have vetoed SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SENATE BILL 55, as amended (“SB 55”), enacted by the Fifty-Fourth Legislature, First Session, 2019.

I agree with the intention behind SB 55, which is to extend the time limits for prosecuting certain crimes against children. However, the version of SB 55 ultimately enacted by the Legislature fails to achieve this goal due to what is likely a technical drafting error.

Under current law, there is a special tolling provision for certain crimes committed against children. The special tolling provision states that the statute of limitations does not begin to run for the crimes of abandonment or abuse of a child, criminal sexual penetration, and criminal sexual contact of a minor until the victim reaches the age of eighteen or the violation is reported to a law enforcement agency, whichever occurs first.

SB 55 keeps the special tolling provision under current law for the crime of abandonment or abuse of a child and amends that special tolling provision to remove the crimes of criminal sexual penetration and criminal sexual contact of a minor. SB 55 then adds a provision to New Mexico’s general statute of limitations allowing, with certain exceptions, a prosecution for the crime of criminal sexual penetration committed against a child to commence any time until the victim reaches the age of thirty. I agree with this change by the Legislature.

Unfortunately, SB 55 does not place the crime of criminal sexual contact of a minor under any special tolling rule or extended limitations period despite removing that offense from the special tolling provision that applies to it under current law. This means that SB 55, likely unintentionally, removes tolling protections for children who are victims of the crime of criminal sexual contact of a minor. The result is that victims of criminal sexual contact may be afforded less time to report the crime than that provided by current law.

I am therefore compelled to veto SB 55 so that children who are victims of the crime of criminal sexual contact of a minor maintain the special tolling protections that they are afforded under the operative statute. I am optimistic that the error in this bill will be corrected and returned to my office for consideration during the next legislative session.

Respectfully yours,

Michelle Lujan Grisham
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: _____ a.m. p.m.

Date: _____ 2019

By _____
Secretary of State

Time: _____ a.m. p.m.

Date: _____ 2019

By _____
Chief Clerk of the Senate