

LFC Requester:	Austin Davidson
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**AGENCY BILL ANALYSIS
2024 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 1/19/24
Bill No: HB 109

Sponsor: S Lord, J Vincent, J Block **Agency Name and Code Number:** NM Crime Victims Reparation Commission/78000
Short Title: Crimes Punishable by Death **Person Writing:** Frank Zubia, C. Harwell
Title: Crimes Punishable by Death **Phone:** 505-553-1223 **Email:** Frank.zubia@cvrc.nm

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The bill creates a capital offense for criminal sexual penetration of minors excepting only the offense of statutory rape, which continues to be a fourth-degree felony. Aggravated criminal sexual penetration and commercial sexual trafficking of a minor are made capital offenses under the proposed law. Fines are increased to \$100,000 for both Aggravated Criminal Sexual Penetration and First-Degree Criminal Sexual Penetration of a Child.

FISCAL IMPLICATIONS

Fines are so rarely collected that it is highly unlikely that any budget impact would be realized for this agency.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The bill proposes capital punishment for crimes that do not involve death of the victim. This has been found to be unconstitutional under the Eighth Amendment of the U.S. Constitution. Kennedy v. Louisiana, 128 S.Ct. 2641, 554 U.S. 407, No. 07-343. (Jun 25, 2008)

The bill elevates lower-level felonies in existing law to the highest level of felony.

The bill reinstates the death penalty and eliminates stepped penalties for criminal conduct. These would both constitute significant public policy shifts.

PERFORMANCE IMPLICATIONS

Collection of fines has been an ongoing subject of significant controversy due to the judicial resources required and the historically low success rate for these efforts.

ADMINISTRATIVE IMPLICATIONS

None for this agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relationship:

HB 116 Removes the statute of limitations for human trafficking, causes human trafficking to be a form of racketeering, eliminates certain defenses, and changes definitions of prohibited conduct and harms.

HB 77 Reinstates the death penalty, or alternatively imposes a sentence of life without parole if the death penalty is legally invalidated by the courts.

TECHNICAL ISSUES

None noted for this agency.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Penalties for specific sexual crimes against children will remain the same.

AMENDMENTS

None suggested.