

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}*Date Prepared: 2/2/2026

Check all that apply:

Bill Number: HB292Original X  Correction Amendment  Substitute Sponsor: Dayan Hochman-VigilShort New Mexico Prison RapeTitle: Elimination ActAgency Name  
and Code770- NMCD

Number:

Person Writing

A. Griego QuintanaPhone: 505-479-2296Email Anisa.griego-quinta@cd.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	0	Significant	Significant	Significant	Recurring	General

(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: House Bill 292 creates the New Mexico Prison Rape Elimination Act, creating statewide requirements to reform how state and local prisons, jails, mental health lockups and other facilities respond to sexual abuse and harassment.

The bill applies to jails, prisons, community treatment centers, halfway houses, restitution centers, mental health facilities, alcohol or drug rehabilitation centers, residential reentry centers, including if they are hired to hold people on behalf of another agency or entity.

These agencies must have a written policy against sexual abuse and sexual harassment; designate agency-wide coordinators and facility-wide compliance managers; create an adequate staffing plan and document all deviations from it; follow a comprehensive, authoritative evidence protocols for investigating alleged sexual abuse; investigate all allegations and refer them out when needed; train staff, volunteers and contractors every two years on their responsibilities to prevent sexual abuse and harassment and provide special training to investigators and mental health practitioners.

After an investigation, agencies must inform incarcerated people about its outcome and the status of staff or fellow incarcerated person who abused them. The bill outlines discipline and corrective actions for staff and disciplinary sanctions for incarcerated people. Agencies must also conduct an incident review within one month, even if the allegation was not substantiated unless it was determined to be unfounded, and report on any possible improvements to better prevent, detect or respond to abuse.

Agencies must conduct unannounced rounds to deter staff from sexually abusing or harassing incarcerated people; require their staff to immediately report any information or suspicion of abuse, retaliation or neglect; notify other agencies or facilities within three days of learning about alleged abuse at those facilities;

Agencies must educate incarcerated people about their rights and how to report incidents; create multiple ways for people to privately report abuse; screen them for their risk of being sexually abused by others or abusive toward others; limit the use of solitary confinement for the purpose of protecting a victim from abusers; provide confidential access to outside victim advocates. The bill also requires victims to receive access to emergency medical and mental health services.

### **FISCAL IMPLICATIONS**

HB292 presents significant fiscal risk driven primarily by litigation exposure rather than new programmatic costs. By placing detailed, prescriptive PREA-like requirements directly into state statute, the bill fundamentally changes the legal landscape governing detention facilities.

For NMCD, while the Department already operates under federal PREA standards and does not anticipate substantial new operational expenditures, the bill materially increases legal and financial exposure. Codifying operational standards into statute creates new, independent causes of action and enforcement mechanisms that are distinct from federal PREA. Compliance is no longer evaluated primarily through audits and corrective action plans, but through statutory

interpretation and judicial review. Even minor deviations from statutory timelines, documentation requirements, investigation protocols, or reporting obligations could be alleged as violations of state law. This significantly lowers the threshold for litigation and increases exposure to civil lawsuits, injunctive relief, expanded discovery obligations, public records demands, and associated defense costs. These risks are difficult to quantify but represent a real and ongoing fiscal exposure for the Department.

The fiscal implications for county and municipal detention facilities are substantially greater. Many county jails do not currently meet full PREA standards and lack the staffing, investigative capacity, training infrastructure, and documentation systems required to comply with the bill's mandates. Counties would likely face immediate and sustained costs related to staffing, training, investigation capacity, policy development, and reporting systems. Counties would be exposed to heightened litigation risk for noncompliance, including claims seeking damages and court-ordered injunctive relief. Absent significant new resources, the bill creates a substantial risk of unfunded mandates and downstream fiscal pressure on local governments.

In sum, while direct operational costs may be limited for state facilities, HB292 carries substantial fiscal risk through expanded statutory liability and enforcement exposure, with particularly acute cost and litigation implications for county detention facilities. As a result, good-faith compliance with professional standards may no longer be sufficient to mitigate liability. Minor deviations, judgment calls, or documentation gaps could be reframed as statutory violations, increasing exposure to litigation and court oversight even where facilities are substantially compliant with PREA and accepted correctional practices.

## **SIGNIFICANT ISSUES**

HB292 converts operational standards that are currently implemented through policy, regulation, and professional accreditation into binding statutory requirements. Unlike administrative standards, which can be updated, clarified, or adapted as practices evolve, statutory mandates are fixed and may only be changed through subsequent legislation. This significantly reduces the stakeholder's ability to respond to emerging best practices.

Current PREA standards are intentionally structured as regulatory requirements that allow for interpretation, corrective action, and continuous improvement. By contrast, codifying detailed operational requirements into statute eliminates necessary flexibility and risks locking the system into rigid compliance rules that may become outdated or unworkable over time.

The bill also raises serious evidentiary concerns. Practices that are currently assessed under administrative and audit-based frameworks would instead be evaluated under legal standards that invite litigation and judicial scrutiny. Compliance determinations could effectively be shifted toward criminal or quasi-criminal burdens of proof, including expectations that agencies affirmatively prove the absence of violations. This creates a "prove a negative" problem, particularly for allegations involving timing, documentation, discretion, or subjective determinations.

## **PERFORMANCE IMPLICATIONS**

None

**ADMINISTRATIVE IMPLICATIONS**

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The proposed legislation mostly duplicates federal regulations promulgated under the Prison Rape Elimination Act but also conflicts with some requirements of the regulations and forthcoming updated versions of the regulations.

**TECHNICAL ISSUES**

None

**OTHER SUBSTANTIVE ISSUES**

None

**ALTERNATIVES**

None

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

Status quo

**AMENDMENTS**

None