

LFC Requester:

Scott Sanchez

### AGENCY BILL ANALYSIS - 2026 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 23, 2026

Check all that apply:

Bill Number: SB41

Original  Correction   
Amendment  Substitute

Sponsor: Sens. Angel M. Charley, Jeff Steinborn, and George K. Muñoz

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

Short Title: Statute of Limitations for Certain Sex Crimes

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#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis ( ) indicate expenditure decreases)

##### 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)**

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

(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: SB41 eliminates the statute of limitations for two sets of offenses: (1) criminal sexual penetration in the second, third, and fourth degrees; and (2) criminal sexual contact of a minor in all three of its degrees (second, third, and fourth).

**Section 1** renumbers the sections of NMSA 1978, Section 30-1-8 (2022), which provide the statute of limitations for most criminal offenses. The renumbering adds a qualifier in Section 1(A), which provides the period in which prosecutions may commence for second, third, and fourth degree felonies in general, to refer the reader to certain exceptions in a revised and expanded final Subsection. Currently, Section 30-1-8(I) provides that only a capital felony, a first-degree violent felony, or second-degree murder, can be prosecuted at any time after their occurrence. The revision to that Section, which is SB41’s Section 1(H), includes all three types of offenses which already have an unlimited period in which a prosecution may commence, and adds criminal sexual penetration in the second, third, and fourth degrees, and criminal sexual contact of a minor in the second, third, and fourth degrees. It also includes the attempt, conspiracy to commit, and solicitation of, those newly added offenses.

**Section 2** amends NMSA 1978, Section 30-1-9.1 (1987) to reflect the change effectuated in Section 1. It amends the title of that statute from “Offenses against children; tolling of statute of limitations” to “Alleged violations for the abandonment or abuse of a child—tolling of statute of limitations.” Currently, Section 30-1-9.1 tolls the statute of limitations for abandonment or abuse of a child, criminal sexual penetration, and criminal sexual contact of a minor, until the victim turns eighteen years of age or the offense is reported to law enforcement, whichever happens first. SB41’s Section 2 removes the latter two sets of offenses from Section 30-1-9.1 to prevent a conflict with SB41’s Section 1.

**Section 3** repeals NMSA 1978, Section 30-1-9.2 (2003), which provides for the tolling of the statute of limitations for the prosecution of criminal sexual penetration when DNA evidence has been collected but not yet matched to a suspect. Section 30-1-9.2 is mostly obviated by SB41’s Section 1.

**FISCAL IMPLICATIONS**

None for the NMDOJ.

**SIGNIFICANT ISSUES**

Removing the statute of limitations for criminal sexual offenses strengthens the state’s ability to honor victims’ dignity and deliver justice for the harm they have endured—an essential principle guiding the work of the New Mexico Department of Justice.

According to the Rape, Abuse & Incest National Network (RAINN), given the traumatic nature of sexual abuse, less than half of adult survivors report their sexual assault to law enforcement, and if there is disclosure, it is often delayed until later in adulthood. In recognition of this reality, many states are extending or eliminating time limits for criminal prosecutions and civil claims involving sexual abuse. SB 41 aligns with this broader national trend. Furthermore, statute of limitations should not be viewed as fundamental rights, but rather legislative constructs capable of alteration. This fact was clarified over 80 years ago by the United States Supreme Court in *Chase Sec. Corp. v Donaldson*, 325 U.S. 304, 314 (1945) when it said:

“Statutes of limitation find their justification in necessity and convenience rather than in logic...They are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay. They have come into the law not through the judicial process but through legislation. They represent a public policy about the privilege to litigate. Their shelter has never been regarded as what now is called a ‘fundamental’ right or what used to be called a ‘natural’ right of the individual.”

One potential consideration for bill drafters for maximum clarity:

In SB 41’S Section 1(H)(4), “second, third or fourth degree criminal sexual penetration” is added to those crimes which may be prosecuted at any time after their occurrence. Section 1(H)(2) provides, as is existing law, that a first-degree violent felony may also be prosecuted at any time. This statutory scheme – expressly listing second through fourth-degree criminal sexual penetrations but excluding reference to aggravated criminal sexual penetration and criminal sexual penetration in the first degree in NMSA 1978, § 30-9-11(C) (D) – clearly indicates a legislative belief and intent that these most serious criminal sexual penetration offenses would be considered first-degree violent felonies, falling under existing Section 30-1-8(I) and proposed SB 41(H)(2) as offenses which may be prosecuted at any time. However, while factual predicates supporting charges of aggravated criminal sexual penetration and criminal sexual penetration in the first-degree almost certainly would amount to “first-degree violent felonies” as contemplated in the bill, the failure to enumerate them explicitly would allow defense arguments that they are excluded from this bill’s purview, and thus subject to some statute of limitations. New Mexico law does not provide a statutory definition of “first degree violent felonies,” and there are existing first-degree felony criminal offenses in New Mexico that are not violent in nature. *See, e.g.* a second of subsequent trafficking controlled substances offense under NMSA 1978, § 30-31-20. To eliminate any ambiguity and ensure that aggravated criminal sexual penetration and criminal sexual penetration in the first-degree are included under this bill, expressly listing these offenses under Section 1(H)(4) may be considered.

## **PERFORMANCE IMPLICATIONS**

SB 41 will influence the decision-making of NMDOJ special agents and prosecutors in the investigation and prosecution of criminal offenses that fall under this bill’s purview.

## **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Related to HB 69 and HB 151, which extends the time period to seek damages for personal injury caused by childhood sexual abuse.

### **TECHNICAL ISSUES**

None.

### **OTHER SUBSTANTIVE ISSUES**

Under the reasoning of *State v. Morales*, 2010-NMSC-026, 148 N.M. 305, abolishing the statute of limitations would likely not allow the state to prosecute any currently time-barred crimes, although it would extend unexpired limitation periods.

### **ALTERNATIVES**

None.

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

Status quo.

### **AMENDMENTS**

None.