

LFC Requester:

Sanchez, Scott

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** 1/22/26*Check all that apply:***Bill Number:** SB 41Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Charley, Steinborn, Muñoz**Agency Name  
and Code**AOC  
218**Short Title:** STATUTE OF LIMITATIONS**Number:**

FOR CERTAIN SEX CRIMES

**Person Writing**

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**Phone:** 505-470-3214**Email** [aoccaj@nmcourts.gov](mailto:aoccaj@nmcourts.gov)**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(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>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with SB 32 (also amending Section 30-1-8 NMSA 1978).

Duplicates/Relates to Appropriation in the General Appropriation Act:

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: SB 41 amends Section 30-1-8 NMSA 1978, within the Criminal Code, to eliminate the statute of limitations for the following crimes:

- (1) A capital felony, as provided in Section 31-18-14 NMSA 1978;
- (2) a first degree violent felony;
- (3) second degree murder, as provided in Section 30-2-1(B) NMSA 1978;
- (4) second, third or fourth degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;
- (5) second, third or fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;
- (6) second, third or fourth degree attempt to commit a felony, as provided in Section 30-28-1 NMSA 1978, if the crime attempted is:
  - (a) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
  - (b) criminal contact of a minor, as provided in Section 30-9-13 NMSA 1978;
- (7) second, third or fourth degree conspiracy, as provided in Section 30-28-2 NMSA 1978, if the crime conspired to be committed is:
  - (a) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
  - (b) criminal contact of a minor, as provided in Section 30-9-13 NMSA 1978;
- (8) second, third or fourth degree criminal solicitation, as provided in Section 30-28-3 NMSA 1978, if the crime solicited is:
  - (a) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
  - (b) criminal contact of a minor, as provided in Section 30-9-13 NMSA 1978.

SB 41 also amends Section 30-1-9.1 NMSA 1978, to provide that the applicable time period for commencing prosecution pursuant to Section 30-1-8 NMSA 1978 shall not commence to run for an alleged violation of abandonment or abuse of a child, as provided in Section 30-6-1 NMSA 1978 until the victim attains the age of 18 or the violation is reported to a law enforcement agency, whichever occurs first.

SB 41 repeals Section 30-1-9.2 NMSA 1978, governing tolling of the statute of limitations for criminal sexual penetration.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The extension and elimination of time limitations for commencing prosecutions are likely to result in more prosecutions and potentially in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time,

courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services. There may also be challenges to the constitutionality of stale or now unavailable testimonial evidence in violation of the Confrontation Clause of the Sixth Amendment to the U.S. Constitution and Section 14 of the New Mexico Constitution.

Additionally, the elimination of statutes of limitations for numerous crimes could result in dated or “stale” evidence that requires more careful vetting by judges and defendants, which in turn results in lengthier, more complex trials and appeals that require a greater commitment of the judicial branch’s fiscal and administrative resources.

## **SIGNIFICANT ISSUES**

1) The SB 82 amendments extending and eliminating time limitations for commencing prosecutions are likely to result in more prosecutions and potentially in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

Additionally, the expanded statutes of limitation could result in dated or “stale” evidence that requires more careful vetting by judges and defendants, which in turn results in lengthier, more complex trials and appeals that require a greater commitment of the judicial branch’s fiscal and administrative resources.

2) SB 82 does not contain a requirement that the prosecution act diligently in bringing charges against a defendant for those crimes for which there is no statute of limitations. Excluding standards of diligence is problematic when considering that evidence brought forth in these cases is more likely to have deteriorated with the passage of time. Convictions based upon stale or now unavailable testimonial evidence may be challenged as in violation of the Confrontation Clause of the Sixth Amendment to the U.S. Constitution and Section 14 of the New Mexico Constitution.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

## **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

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

Conflicts with SB 32 (also amending Section 30-1-8 NMSA 1978).

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

**AMENDMENTS**