

LFC Requester:	
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**AGENCY BILL ANALYSIS
2026 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 February 6, 2026
Bill No: SB 245-280

Sponsor: Crystal Brantley
Short Title: Indecent Exposure to Child out of Public View

Agency Name and Code Number: LOPD 280
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

Existing law criminalizes indecent exposure “in public view.” NMSA 1978, § 30-9-14.

SB 245 would create the fourth-degree felony offense of indecent exposure to a child out of public view. The crime would consist of a person 18 or older “knowingly and intentionally exposing the person’s primary genital area to a child in a lewd and lascivious manner” and would apply when the person and child are in a nonpublic place.

FISCAL IMPLICATIONS

The financial impact SB 245 would have on the LOPD is unknown, but it does add a new felony crime. If charged broadly, it could result in additional charges in virtually every case involving sex offenses or it could result in charges for potentially innocuous behavior. If infrequently charged, then its impact on department resources could be minimal. Regardless, any increase in crimes or charges would trigger a corresponding increase in LOPD resources of which there is already a shortage.

A recent workload study by an independent organization and the American Bar Association concluded that New Mexico faces a critical shortage of public defense attorneys. The study concluded, “A very conservative analysis shows that based on average annual caseload, the state needs an additional 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment.”

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lsc-laid-moss-adams-nm-proj.pdf.

Barring some other way to reduce indigent defense workload, any increase in the number of serious, complex felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep the LOPD’s workload crisis from spreading.

In addition to the impact on LOPD, courts, DAs, AGs, and NMCD could anticipate increased costs.

SIGNIFICANT ISSUES

Although SB 245 is similar to language in NMSA 1978, Section 30-9-14 (indecent exposure) and NMSA 1978, Section 30-9-14.3 (aggravated indecent exposure)—which punish indecent exposure in public view.

The conduct with which this bill is concerned is largely already addressed under existing laws. Enticement of a child to “persuade” a child to go into any secluded place with the intent of committing a sex offense already constitutes Enticement of a child. *See* NMSA 1978, 30-9-1. Moreover, if an adult exposes themselves to a child in a lewd and lascivious manner, it is certainly already punishable as contributing to the delinquency of a minor, a fourth-degree felony. *See* NMSA 1978, § 30-6-3. Finally, if there is any contact with any intimate part whatsoever, it would be punishable as criminal sexual contact of a minor (including if the minor touches the adult). *See* NMSA 1978, § 30-9-13 (“Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one’s intimate parts.”)

Because this conduct is likely to be charged alongside related conduct, the indecent exposure in SB 245 could potentially result in additional charges in cases involving sex offenses, creating the need for double jeopardy litigation. (It is difficult to imagine a criminal sexual penetration offense that would not involve exposure of a person’s privates.)

Second, because SB 245 would cover conduct which occurs in the privacy of the home, it could potentially result in punishment of people for lifestyle choices involving nudity in their own home. While the requirement that they act in a “lewd and lascivious manner” could be used as a defense for a person in a household with a higher threshold for nudity, “lewd and lascivious” is not defined in the statute, subjective, and open to interpretation. It therefore has the potential to result in disparate enforcement or to provide insufficient notice as to what conduct is covered.

PERFORMANCE IMPLICATIONS

None known

ADMINISTRATIVE IMPLICATIONS

None known

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None known

TECHNICAL ISSUES

Analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

None known

ALTERNATIVES

Status Quo

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

None known