

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.state.nm.us/AgencyAnalysis.nmlegis.gov) and email to 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: 6 February 2026 *Check all that apply:*
Bill Number: SB 245 Original Correction
 Amendment Substitute

Sponsor: Brantley **Agency Name and Code Number:** New Mexico Sentencing Commission (354)
Short Title: Indecent exposure to child out of public view **Person Writing:** Douglas Carver
Phone: 505-239-8362 **Email:** dhmcarver@unm.edu

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
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:

SB 245 creates a new crime, “indecent exposure to a child out of public view”, which consists of a person 18 years of age or older knowingly and intentionally exposing the person's primary genital area to a child in a lewd and lascivious manner, when the person and child are in a nonpublic place. The penalty is a fourth degree felony.

FISCAL IMPLICATIONS

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 conduct in SB 245 already seems to be unlawful under existing law. Section 30-6-3 NMSA 1978, regarding contributing to a delinquency of a minor, consists of any person committing any act or omitting the performance of any duty, which act or omission causes or tends to cause or encourage the delinquency of any person under the age of 18, and is a fourth degree felony. Under New Mexico case law, writing an explicit letter to a minor was found to be criminal conduct under this statute (*see State v. Garcia, 2013-NMCA-005*); or when a person laid down naked next to a child (*see State v. Bent, 2013-NMCA-108*).

Additionally, the Criminal Code has two existing statutes on indecent exposure, Section 30-9-14 NMSA 1978, indecent exposure; and Section 30-9-14.3, aggravated indecent exposure. Aggravated indecent exposure comes in many forms – for the purposes of SB 245, it consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses, exposure to a child less than 18 years of age (Section 30-9-14.3(A)(1)). The penalty for aggravated indecent exposure is a fourth degree felony.

If there is some confusion in the law concerning what is a public space, and there might be considering some of the case law (*see, for instance, State v. Romero, 1985-NMCA-096*), it would be better to amend the existing statutes than creating a new statute that could be in conflict.

The tables below show the FY24 dispositions of cases under Section 30-6-3, 30-9-14, and 30-9-14.3:

**Cases Disposed in
FY2024**

	Lead Offense	Victim of Sex Crime	# Cases of Lead Offense	Findings of Guilt	Conditional Discharge	Dismissal	Incompetency	Acquittal
30-9-14	Indecent Exposure	Adult	105	12%	5%	63%	19%	1%
30-9-14	Indecent Exposure	Child	0					
30-9-14.3	Aggravated "	Adult	2	50%	0%	50%	0%	0%
30-9-14.3	Aggravated "	Child	10	10%	0%	50%	40%	0%
30-6-3	Contributing to the Delinquency of a Minor	n/a	267	20%	11%	68%	1%	0%

	In Conjunction with a Sex Crime	Victim of Sex Crime	# Cases Including Offense	Findings of Guilt	Conditional Discharge	Dismissal	Incompetency	Acquittal
30-6-3	Contributing to the Delinquency of a Minor	Child	92	36%	9%	53%	0%	2%

It is difficult to determine what the effect of passing SB 245 would be on the state's prison population. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

