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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 199

SHORT TITLE: Sex Offender Registration & Federal Law

SPONSOR: Brown/Dixon

LAST ORIGINAL
UPDATE: _____ **DATE:** 1/28/2026 **ANALYST:** Valdez

REVENUE* (dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
Byrne Jag Justice Assistance Grant	\$(118.7)	\$(118.7)	\$(118.7)	\$(118.7)	\$(118.7)	Recurring	Federal Funds

Parentheses indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	\$(118.7)	\$(118.7)	\$(118.7)	\$(356.1)	Choose an item.	Choose an item.

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Conflicts with Senate Bill 165, related to House Bill 125

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the District Attorneys (AODA)

Law Offices of the Public Defender (LOPD)

New Mexico Sentencing Commission (NMSC)

Children, Youth, and Families Department (CYFD)

New Mexico Adult Parole Board

New Mexico Corrections Department (NMCD)

Department of Public Safety (DPS)

Agency or Agencies That Were Asked for Analysis but did not Respond

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of House Bill 199

House Bill 199 (HB199) would bring New Mexico's Sex Offender Registration and Notification Act (SORNA) into compliance with the federal Adam Walsh Child Protection Act of 2006, among other changes. In the bill, Section 2 makes several changes to the definitions in Section 29-11A-3 NMSA 1978. Notably among those changes, the bill defines "juvenile sex offender," and includes juvenile sex offenders in the definition of "sex offender" if they have received an adult sentence. The bill goes on to define "sexually violent offense" as "aggravated criminal sexual penetration, criminal sexual penetration in the first degree, criminal sexual penetration in the second degree or criminal sexual penetration in the third degree."

In that same section, the bill adds six crimes to the definition of sex offense: (1) patronizing or (2) promoting prostitution when the person knew or should have known that the prostitution was younger than 16 years old; (3) accepting earning of a prostitute when the person knew or should have known that the prostitute was younger than 16 years old; (4) human trafficking for a sexual purpose when the victim is under 16 years of age; (5) criminal sexual communication with a child; and (4) voyeurism when the victim is younger than 18 years of age.

The bill also creates three tiers of sex offense, with Tier 1 being the least serious sex offenses, with the most lenient registration requirements, and Tier 3 covering the most serious sex offenses with the most stringent registration requirements. Tier 1 offenders would be required to register and verify annually for 15 years. Tier 2 offenders would be required to verify every six months for 25 years. Tier 3, the most serious offenders, would have to verify every 90 days for the rest of their lives.

Registration requirements outlined in Section 29-11A-4 NMSA 1978 are amended to require that both juvenile offenders and other sex offenders register with Children, Youth, and Families Department (CYFD) (for juveniles) or the local county sheriff (for adults) within three business days rather than five. This registration must happen in person. Changes in address, whether to another county or to another state, must also be reported within three days of the change. Juvenile offenders are required to register only until they are 21 years old or released from CYFD supervision.

Section 5 of the bill amends Section 29-11A-5 NMSA 1978 to extend the period during which the Department of Public Safety (DPS) must retain registration records. The bill would require: Tier 3 offenders' information to be kept for the remainder of the offender's life; Tier 2 offenders' information to be kept for 25 years, up from 10 years in the current law; and Tier 1 offenders' information to be kept for 15 years. Juvenile offenders' records must be retained until the offender turns 21 years of age. The bill further amends Section 29-11A-5.1 NMSA 1978 to use Tier 2 and Tier 3 (instead of the current list of crimes) as the list of offenses that would be forwarded to the District Attorney or chief law enforcement officers of the municipality of the offender's residence.

Finally, the bill applies to any person convicted of a sex offense on or after July 1, 1995.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

Because this bill would increase penalties for the crimes in question, defendants are likely to go to trial more often in cases where they might otherwise have reached a plea bargain. In addition, more offenders will be tempted not to register at all because they will face longer periods on the registry. These behaviors will increase the workload for the Law Offices of the Public Defender (LOPD), which will be tasked with defending many of the accused, though there is no reliable estimate of how many additional offenders would choose trials rather than plea bargains, or how many would skip registration or verification under the new stricter law.

DPS also notes:

A 10 percent penalty to federal law enforcement grant funding through the Byrne Jag Justice Assistance Grant (JAG) remains in jeopardy, contingent upon compliance with federal SORNA mandates. The current penalty for the State of New Mexico averages \$118,700 per year for expenditure on SORNA activities.

SIGNIFICANT ISSUES

This bill moves New Mexico closer to meeting federal SORNA requirements. However, while the legislation makes meaningful progress by narrowing remaining areas of non-compliance, gaps persist in registration for certain federal, military, foreign, and juvenile offenses, as well as in retroactive application and international travel notification requirements. Fully addressing these issues would require additional statutory changes, as well as interagency coordination. The advances made here are substantial and represent a consequential move toward federal alignment.

The Administrative Office of the District Attorneys (AODA) notes that juvenile offenders are not sex offenders if they are found delinquent. If the juvenile is tried and convicted as an adult, then they would subsequently be a sex offender and subject to the provisions of this bill.

LOPD notes that by requiring in-person registration within three days, the law would place a heavy burden on offenders living outside of the I-25 corridor in the state. They suggest the bill could ease this burden by including exceptions for financial or transportation reasons in addition to the hospice or nursing home exemptions that are already present.

They go on to note that the bill removes the limitation on publishing an offender's place of employment. Currently, this only applies to offenders whose work puts them in direct contact with children, but the bill would expand this to all offenders. This could increase stigma on the employer themselves, which would add an additional barrier to employment for offenders in the community.

LOPD further notes:

The other significant issue deals with this bill's specification that certain crimes qualify as a sex offense based on a special finding that the offender knew or should have known that the victim was younger than 16 years of age. For example, the bill adds Section 30-9-3 NMSA 1978, the statute criminalizing patronizing prostitutes as a qualifying sex offense. However, Section 30-9-3 NMSA 1978 does not provide a distinct penalty when the crime involves a person younger than 16 years of age, nor does the statute specify the

jury could or should make such a finding. It is unclear who and in what type of proceeding, the requisite finding triggering registration requirements would be made, nor who would bear the burden of proving the added mens rea and by what form of evidence. In so doing, the bill amends Section 30-9-3 NMSA 1978 by reference, creating a specific form of “patronizing prostitutes” for registration purposes that is not actually defined within Section 30-9-3 in declaring it a crime. This is in violation of the New Mexico Constitution, Article 4, Section 18. Specifically, Article 4, Section 18 of the NM Constitution specifies: “No law shall be revised or amended, or the provisions thereof extended by reference to its title only; but each section thereof as revised, amended or extended shall be set out in full.” Generally, only procedural law can be amended by reference and there is a legitimate argument that this bill amends substantive law, in this case the crime of patronizing prostitution, in violation of the constitution. This issue would also seem to apply to promoting prostitution in Section 30-9-4 NMSA 1978 , and accepting earnings of a prostitute in Section 30-9-4.1 NMSA 1978.

The New Mexico Sentencing Commission (NMSC) points out a few potential issues. First, they note that an “out-of-state registrant,” referenced in Section 2 of the bill, includes offenders attending school in New Mexico, but “school” is never defined. In addition, they point out:

- 1) Tier 1 includes sexual exploitation of children, as provided in Subsection A of Section 30-6A-3 NMSA 1978 . Tier 2 includes the entirety of that section of law. Thus Subsection A of Section 30-6A-3 NMSA 1978 is both a Tier 1 and a Tier 2 offense.
- 2) The bill states, “Kidnapping, as provided in Section 30-4-1 NMSA 1978, when committed with intent to inflict a sex offense and when the victim is younger than eighteen years of age,” is a Tier 3 offense. That language is confusing. It could mean that all kidnapping with intent to inflict a sex offense, regardless of age, is a Tier 3 offense, and that any kind of kidnapping of a victim younger than 18 is a Tier 3 offense. Or the language could mean that kidnapping with the intent to inflict a sex offense when the victim is under 18 is a Tier 3 offense, and thus the bill has not made any provision in the tiers for kidnapping with the intent to inflict a sex offense elsewhere in the tiers when the victim is 18 years of age or older. The language here should be clarified.

In addition, per CYFD, the bill contains several internal inconsistencies and conflicts with existing law regarding juvenile sex offender registration, creating ambiguity about CYFD’s role, the duration of registration, and the handling and disclosure of juvenile records. It is unclear whether CYFD is expected to maintain a separate registry or merely provide information to DPS, and the bill provides conflicting language on whether a juvenile’s registration obligation ends upon release from CYFD supervision or continues until age twenty-one in all cases. These ambiguities are compounded by provisions that appear to conflict with the New Mexico Children’s Code, which requires sealing of juvenile records at age eighteen or upon case disposition and strictly limits disclosure of juvenile information. As written, the bill risks violating statutory confidentiality protections, creates uncertainty about administrative versus legal registration obligations, and could expose CYFD staff to potential criminal liability if juvenile registration information is entered into or disclosed through a publicly accessible sex offender registry.

PERFORMANCE IMPLICATIONS

LOPD points out that registration requirements are already quite complex for offenders to understand their obligations. So much so, that juries require “a complex chart of SORNA versions, applicability provisions, and thus registrable offenses based on offense date...” The amendments in this bill would make the challenges to understanding obligations even more onerous.

ADMINISTRATIVE IMPLICATIONS

The Parole Board points out that this bill will require greater tracking coordination among:

- New Mexico Corrections Department (NMCD) classification units
- NMCD Probation and Parole Division
- Victim Services
- Training for Parole Board members

NMCD notes that HB 199 modifies the time frames for sex offender registration, which would require NMCD to update internal policies governing registration procedures, to ensure alignment with statutory requirements. DPS additionally notes that shorter compliance times, expanded in-person requirements, longer registration periods, and growth of this population will place increased operational demands on county sheriffs and DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with SB165, which raises the age of certain individuals subject to CYFD supervision to 25. Related to HB125.

TECHNICAL ISSUES

DPS notes that the bill may require three types of updates. Cross-references to other sections should be verified and updated where sections have been amended. The language should be standardized throughout to maintain consistency. Implementation guidance should be developed to clarify technical compliance requirements and ensure the new law is applied uniformly across all jurisdictions.

ALTERNATIVES

DPS recommends the following amendments:

Changes in Section 2, Subparagraph J (amending Section 29-11A-3. Definitions; “sex offense”)

Subsection (6)—definition of “kidnapping:” Adding “and when the victim is younger than eighteen years of age;” at the end of the sentence.

Subsection (7)—definition of “false imprisonment:” Adding “and when the victim is younger than eighteen years of age and when the offender is someone other than the victim’s parent, guardian, or parental custodian;” at the end of the sentence.

Subsection (10)—definition of “incest:” Removing “when the victim is younger than eighteen

years of age”

Subsection (11)—definition of “child solicitation by electronic communication device:” Removing “for convictions occurring on or after July 1, 2013”

Subsection (12)—definition “solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree:” Removing subsection in its entirety.

Renumbering the subsections and references to subsections accordingly after the above changes are made.

Changes in Section 2, Subparagraph M (amending Section 29-11A-3. Definitions; “tier 1 sex offense”)

Subsection (2) “sexual exploitation of children, as provided in subsection A of Section 30-6A-3 NMSA 1978;” Removing subsection in its entirety.

Subsection (3) “criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;” Removing subsection in its entirety.

Adding a new Subsection— “sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;”

Adding a new Subsection— “criminal sexual penetration in the fourth degree as provided in section 30-9-11 NMSA 1978;”

Adding a new Subsection—“false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense and when the victim is younger than eighteen years of age and when the offender is someone other than the victim’s parent, guardian, or parental custodian;”

Adding a new Subsection— “any registerable sex offense that does not meet criteria for a tier 2 or tier 3 sex offense.” Renumbering the subsections and references to subsections accordingly after the above changes are made.

Changes in Section 2, Subparagraph N (amending Section 29-11A-3. Definitions; “tier 2 sex offense”)

Subsection (1) “sexual exploitation of children, as provided in Section 30-6A-3 NMSA 1978;” Removing subsection in its entirety.

Subsection (2) “sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;” Removing subsection in its entirety.

Subsection (3) “false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense;” Removing subsection in its entirety.

Subsection (7) “criminal sexual penetration in the fourth degree, as provided in Section 30-9-11 NMSA 1978, when the victim is sixteen years of age or older;” Removing subsection in its

entirety.

Subsection (11) “human trafficking, as provided in Section 30-52-1 NMSA 1978, for sexual purpose, when the victim is younger than sixteen years of age;” Removing subsection in its entirety.

Renumbering the subsections and references to subsections accordingly after the above changes are made.

Changes in Section 2, Subparagraph O (amending Section 29-11A-3. Definitions; “tier 3 sex offense”)

Subsection (3) “criminal sexual penetration in the fourth degree, as provided in Section 30-9-11 NMSA 1978, when the victim is younger than sixteen years of age;” Removing subsection in its entirety.

Subsection (4) “criminal sexual contact of a minor;” Removing “when the victim is younger than thirteen years of age;”

Adding a new Subsection—“criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;”

Adding a new Subsection—“sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;”

Adding a new Subsection—“human trafficking, as provided in section 30-52-1 NMSA 1978, for a sexual purpose, when the victim is younger than sixteen years of age;” • Page 12 line 28 changed paragraph “4 to 6” of this subsection.

Renumbering the subsections and references to subsections accordingly after the above changes are made.

Changes in Section 3, Subparagraph B (amending Section 29-11A-4. Registration of Sex Offenders-- Information Required--Verification--Penalty for Noncompliance)

Removing “children, youth and families” and replacing with “with the county sheriff for the county where the juvenile sex offender resides” in its place.

Changes in Section 3, Subparagraph O (amending Section 29-11A-4. Registration of Sex Offenders-- Information Required--Verification--Penalty for Noncompliance)

Removing the last sentence: “A sex offender shall be relieved of the in person verification requirements of this subsection if the sex offender is confined to a hospice facility or skilled nursing home.” in its entirety.

Section 5, Subparagraph G (amending Section 29-11A-5. Local Registry—Central Registry— Administration by Department [of Public Safety]--Participation in the National Sex Offender Registry-- Rules)

Removing subparagraph in its entirety: “The children, youth and families department shall retain registration information regarding a juvenile sex offender until the juvenile sex offender attains twenty-one years of age, at which time the children, youth and families department shall notify the department of public safety that the registration period of the juvenile sex offender has expired. Within ten days of receiving the notice, the department of public safety shall remove all information regarding the juvenile sex offender from the department’s database of sex offenders and remove or cause to be removed all information entered by any governmental entity in New Mexico from all law enforcement databases.”

Section 6, Subparagraph A (amending Section 29-11A-5.1. Public Access to Information Regarding Certain Registered Sex Offenders—Active Community Notification—[Internet Website]--Website)

Adding the following language “tier 1 sex offense” and “either in state or out of state” and deleting “or required to register as a lifetime sex offender or as a result of an out of state conviction.”

The subparagraph should read as follows: “If a sex offender is convicted of a tier 1 sex offense, tier 2 sex offense, or tier 3 sex offense, either in state or out of state, the county sheriff shall forward registration information obtained from the sex offender to the district attorney for the judicial district in which the sex offender resides and, if the sex offender is a resident of a municipality, the chief law enforcement officer for the municipality in which the sex offender resides.

In addition CYFD recommends the following amendment:

Propose amending the obligation to register as follows: “a juvenile sex offender's obligation to register shall extend until the offender attains twenty-one years of age or until the juvenile sex offender is released from supervision by the children, youth and families department, whichever is later” to bring this section into line with “the children, youth and families department shall retain registration information regarding a juvenile sex offender until the juvenile sex offender attains twenty-one years of age”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Per DPS, failure to enact this bill would leave substantial deficiencies unaddressed, prolong exposure to potential reductions in federal justice assistance funding, and continue to undermine the effectiveness, consistency, and credibility of the state’s sex offender registration and notification system. Enactment of this bill establishes a strong foundation for the additional statutory, administrative, and technical work still required to fully satisfy federal standards and protect public safety statewide.

JV/ct/cf