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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 266

**SHORT TITLE:** Penalty for Sexual Exploitation of Children

**SPONSOR:** Sena Cortez/Reeb

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 02/13/2026 **ANALYST:** Sanchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Administrative Office of the District Attorneys

Law Offices of the Public Defender

New Mexico Sentencing Commission

Children, Youth and Families Department

Corrections Department

Department of Public Safety

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

Office of the Attorney General

Administrative Office of the Courts

## SUMMARY

### Synopsis of House Bill 266

House Bill 266 (HB266) seeks to amend Section 30-6A-3 NMSA 1978 (Sexual Exploitation of Children) and Section 40-4-7.3 NMSA 1978 (Accrual of interest; delinquent child and spousal support) to increase felony classifications and sentence enhancements for specified sexual exploitation of children offenses and increase the statutory interest rate on delinquent child support.

First, it amends Section 30-6A-3 NMSA 1978 (Sexual Exploitation of Children) to raise possession of child sexual exploitation material from a fourth-degree felony to a third-degree felony and increase the sentence enhancement when the depicted child is under thirteen years of age from one year to five years. It also requires that the first three years of the sentence in cases

involving those under 13 years old be served, not suspended or deferred. In addition, the bill raises the penalty for the distribution of child sexual exploitation material from a third-degree felony to a second-degree felony.

Second, the bill amends Section 40-4-7.3 NMSA 1978 to increase the interest rate on delinquent child support from four percent to six and one-half percent. The bill retains existing provisions regarding the accrual of interest, the application of payments, and the Health Care Authority's ability to forgive certain accrued interest assigned to the state.

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**

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and the length of time served that might result from this bill could have moderate fiscal impacts. The increase in felony degree for possession and distribution of sexual exploitation of children material, along with the expanded five-year enhancement for offenses involving a child under 13 years old and the longer non-suspendable portion of that sentence, is expected to increase the amount of time some individuals serve in prison. When sentence lengths increase, fewer individuals are released relative to admissions, resulting in higher prison populations over time and increased long-term costs to the state's general fund.

The Corrections Department reports the average cost to incarcerate a single inmate in FY25 was \$61.5 thousand, while LFC estimates a marginal cost of \$27.2 thousand per year for each additional inmate across all facilities. Although the New Mexico Sentencing Commission indicates the overall impact on the prison population would likely be limited, given the relatively small number of cases charged annually under these statutes, even incremental increases in average length of stay would result in additional recurring incarceration costs over time.

Beyond incarceration, increasing felony classifications may also modestly affect criminal justice system workloads. The Law Offices of the Public Defender (LOPD) note that greater exposure to sentencing in complex cases may result in more cases proceeding to trial, increasing demands on defense counsel and the courts. These additional system costs are not included in the incarceration estimates but could increase operating pressures for the judiciary and related agencies.

The provision increasing the interest rate on delinquent child support does not include an appropriation, and no agency identified a direct fiscal impact associated with that change. Any fiscal effect would depend on future collection patterns and is expected to be separate from the incarceration-related costs described above.

## **SIGNIFICANT ISSUES**

By elevating possession of child sexual exploitation material to a third-degree felony and distribution to a second-degree felony, and by expanding the enhancement for offenses involving a child under 13 years old, the bill narrows or, in some cases, eliminates distinctions in felony degree between possession, distribution, and manufacturing offenses. As noted by the

Department of Public Safety, this restructuring may change the proportional relationship among offenses that historically carried different felony classifications. Changes to the sentencing hierarchy could be subject to interpretation by courts when applied in specific cases.

The bill also retains the existing youthful offender proviso in Subsection A while increasing the underlying enhancement and mandatory minimum language. DPS notes this may create ambiguity about how the one-year youthful offender increase interacts with the revised five-year enhancement and the three-year non-suspendable portion. Clarification may be required to ensure consistent sentencing outcomes.

HB266 also increases the severity of sentencing but does not modify other aspects of enforcement, investigation, or prosecution. Research generally indicates the certainty of being caught and sanctioned is a more consistent predictor of deterrence than sentence length alone.

SS/ct/dw/ct