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FISCAL IMPACT REPORT

BILL NUMBER: CS/House Bill 292/HJCS

SHORT TITLE: NM Prison Rape Elimination Act

SPONSOR: House Judiciary Committee

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/15/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY26 | FY27 | FY28 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------|
| State and Local Detention Facilities | See "Fiscal Implications" | See "Fiscal Implications" | See "Fiscal Implications" | See "Fiscal Implications" | 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 Courts
Law Offices of the Public Defender
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 District Attorneys
Municipal League
New Mexico Counties

SUMMARY

Synopsis of HJC Substitute for House Bill 292

The House Judiciary Committee substitute for House Bill 292 (HB292/HJCS) adds a new section to the Corrections Department Act, Chapter 9, Article 3 NMSA 1978, requiring the Corrections Department (NMCD) to adopt and implement a zero-tolerance policy for sexual abuse and violence in all incarceration facilities.

The bill mandates that the department promulgate rules by October 21, 2026, to prevent the occurrence of sexual abuse or violence in those facilities. The required rules must address best practices, reporting requirements for incidents of sexual abuse or violence, data collection on

such incidents, and the provision of services for victims. The rules must also include best practices to prevent incidents against lesbian, gay, bisexual, transgender, and queer inmates, provide counseling and health care resources for inmates or guards who have experienced sexual violence or abuse, and establish staff training both to minimize sexual violence and to receive reports of sexual violence.

The bill directs NMCD to formally adopt a zero-tolerance policy and to develop and implement administrative rules governing prevention, reporting, data collection, victim services, and staff training related to sexual abuse and violence in incarceration facilities.

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

FISCAL IMPLICATIONS

Agency analyses indicate potential recurring costs associated with rule promulgation, policy development, training, and implementation of administrative requirements for state facilities operated by NMCD. The Administrative Office of the Courts reports minimal direct administrative costs associated with updating and distributing statutory changes, but notes that any additional fiscal impact on the judiciary would be proportional to enforcement activity and to the review of final agency actions, including disciplinary sanctions and terminations. New statutory requirements and related hearings may increase case filings and appeals, potentially affecting district court caseloads and resource needs.

NMCD indicates no immediate new programmatic costs in FY26 but anticipates recurring fiscal implications beginning in FY27. Although the department currently operates under federal Prison Rape Elimination Act (PREA) standards, the requirement to promulgate state rules by October 21, 2026, and to formalize a zero-tolerance policy in statute may require additional administrative effort, staff training, and potential updates to existing policies and procedures. Codifying these requirements into state statute may increase litigation exposure and associated legal defense costs. Compliance determinations could be subject to judicial review, and deviations from statutory timelines or rule requirements could result in additional civil litigation, injunctive relief, or related expenses.

The Department of Public Safety reports no direct fiscal impact on its operating budget but anticipates increased administrative workload in its role as the state's administering agency for PREA-related grant funding, including coordination, technical assistance, and oversight of subrecipients. HB292/HJCS directs the NMCD to promulgate rules for facilities, and any fiscal impact on local facilities would depend on the scope of the rules adopted and the extent to which local facilities are subject to them. Because the bill does not contain a direct appropriation, any additional compliance costs would be absorbed within existing resources unless otherwise funded.

While state-level operational impacts may be limited in the near term for agencies already operating under federal PREA standards, the bill could create recurring administrative and training costs associated with rulemaking and implementation. It may also increase litigation-related expenditures. The total fiscal impact is indeterminate and may vary based on the content of rules adopted and the extent of existing compliance.

SIGNIFICANT ISSUES

Much of HB292/HJCS parallels existing federal standards set forth in 28 C.F.R. Part 115. Rather than establishing a comprehensive statutory framework, the bill requires NMCD to adopt a zero-tolerance policy and promulgate rules, which may still raise dual-compliance concerns if state rules differ from federal PREA standards. Where definitions, timelines, or procedural requirements diverge, agencies subject to both frameworks could face interpretive questions about which standard applies when they are inconsistent. This may require additional guidance or rulemaking to harmonize state and federal expectations.

HB292/HJCS directs the NMCD to promulgate rules by October 21, 2026, but does not specify enforcement mechanisms, penalty provisions, or an explicit private right of action. Absent an identified oversight or enforcement mechanism, questions may arise about how compliance will be monitored, how disputes will be resolved, and what remedies are available for noncompliance. Because implementation details are left to administrative rulemaking, the scope and impact of the requirements will depend on the content of the rules adopted.

HB292/HJCS does not amend or cross-reference specific provisions of the Restricted Housing Act or criminal statutes in Chapter 30, Article 9 NMSA 1978, nor does it address collective bargaining agreements. However, rules adopted under the new section may overlap with existing statutory and contractual frameworks governing correctional operations, employee discipline, and inmate rights. Any inconsistencies between newly adopted rules and existing law may require clarification through additional rulemaking or judicial interpretation.

Finally, HB292/HJCS requires rules to address reporting requirements, victim services, data collection, and staff training, but does not prescribe detailed operational standards in statute. As a result, implementation may vary depending on how the department structures reporting avenues, training programs, and compliance monitoring within its administrative authority.

SS/cf/sgs