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FISCAL IMPACT REPORT

BILL NUMBER: CS/Senate Bill 41/SJCS/aSF1#1/aHJC

SHORT TITLE: Statute of Limitations for Certain Sex Crimes

SPONSOR: Senate Judiciary Committee

LAST ORIGINAL
UPDATE: 02/18/2026 **DATE:** 1/31/2026 **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
Total	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 of Original Bill

- Administrative Office of the Courts
- Administrative Office of the District Attorneys
- Law Offices of the Public Defender
- Sentencing Commission
- Corrections Department
- Department of Public Safety

Because of the short timeframe between the introduction of this committee substitute and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of HJC Amendments to SJC Substitute for Senate Bill 41

The House Judiciary Committee amendments to the Senate Judiciary Committee Substitute for Senate Bill 41 strike Senate Floor Amendment No. 1 in its entirety and expands the list of offenses for which no statute of limitations applies to include second degree criminal sexual penetration under Section 30-9-11 NMSA 1978. The amendments also revise Section 30-1-9.1 NMSA 1978 by restoring language related to offenses against children and clarifying that tolling provisions apply to abandonment or abuse of a child under Section 30-6-1 NMSA 1978 and to third or fourth degree criminal sexual contact of a minor under Section 30-9-13 NMSA 1978.

Synopsis of Senate Floor Amendments to SJC Substitute for Senate Bill 41

The Senate Floor Amendments revise Section 30-1-8 NMSA 1978 to limit the elimination of the statute of limitations to the following offenses: a capital felony pursuant to Section 31-18-14 NMSA 1978; a first-degree violent felony; second-degree murder pursuant to Subsection B of Section 30-2-1 NMSA 1978; and second-degree criminal sexual contact of a minor pursuant to Section 30-9-13 NMSA 1978. The amendments remove other sexual offenses and related attempt, conspiracy, and solicitation provisions that were included in the prior version of the bill.

The amendments also modify Section 30-1-9.1 NMSA 1978 to conform tolling provisions to the narrowed list of offenses and remove references that are no longer applicable .

Synopsis of SJC Substitute for Senate Bill 41

The Senate Judiciary Committee (SJC) substitute for Senate Bill 41 (SB41) eliminates the statute of limitations for second-degree criminal sexual contact of a minor and allows prosecution for that offense to be commenced at any time.

Specifically, the bill amends Section 30-1-8 NMSA 1978 to place second-degree criminal sexual contact of a minor, as defined in Section 30-9-13 NMSA 1978, in the category of crimes for which “no limitation period shall exist.” As a result, the state may prosecute that offense regardless of how much time has passed since the crime was committed.

The bill also makes conforming amendments to Section 30-1-9.1 NMSA 1978, which governs tolling of the statute of limitations for abandonment or abuse of a child and certain sexual offenses, to remove references to Section 30-9-13 NMSA 1978 because that offense will no longer be subject to a limitations period. In addition, it updates cross-references in Section 30-1-9.2 NMSA 1978, the DNA tolling statute for criminal sexual penetration cases, to align with the amended statute of limitations framework.

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 incarcerated or the length of time they remain incarcerated can carry moderate to significant fiscal impacts. While SB41 does not create new criminal offenses or modify sentencing ranges, it removes the statute of limitations for second-degree criminal sexual contact of a minor pursuant to Section 30-9-13 NMSA 1978, making that offense indefinitely prosecutable. As a result, this change could lead to additional prosecutions, including cases that previously would have been barred by time limits, and potentially increase the number of individuals sentenced to prison.

The Corrections Department (NMCD) notes that any growth in prison admissions could gradually increase incarceration levels over time, though the immediate fiscal impact may be limited. Under current conditions, the average cost to incarcerate a single inmate in FY25 was \$61.5 thousand annually. However, due to the fixed nature of many correctional system costs, the Legislative Finance Committee estimates a marginal cost of \$27.2 thousand per additional inmate per year across all facilities. To the extent that SB41 results in more individuals entering prison and fewer leaving in a given period, specifically for second-degree criminal sexual contact of a minor, overall prison populations could rise gradually, contributing to long-term cost growth for the state.

In addition to potential increases in incarceration, the Department of Public Safety anticipates additional operational costs for locating, reviewing, and processing historical case files related to second-degree criminal sexual contact of a minor. Delayed prosecutions may require extensive records management, updated systems to verify offense dates versus conviction dates, and expanded compliance oversight in the Sex Offender Registry. These activities could increase staff workload and require modernizing the system to manage older or incomplete data effectively.

Costs beyond incarceration—such as impacts on the judiciary, law enforcement, and public defense—are not quantified in this analysis but could also be moderate. Agencies report that reopening older cases involving second-degree criminal sexual contact of a minor may require more complex litigation, longer trials, and greater legal scrutiny due to evidentiary degradation over time. Indigent defendants would be entitled to public defender services, which could increase caseloads on the Law Offices of the Public Defender.

SIGNIFICANT ISSUES

SB41 alters the statutory framework for criminal prosecutions by removing time-based limitations for second-degree criminal sexual contact of a minor pursuant to Section 30-9-13 NMSA 1978. While statutes of limitations are typically intended to balance the interests of justice, including the preservation of evidence and defendants' ability to mount a defense, SB41 eliminates those time constraints for these offenses, regardless of when they occurred. As a result, the bill may lead to increased reliance on historical evidence, including testimony, physical records, and forensic material that may be decades old. Agencies note that this could raise legal and procedural complexities in case preparation and adjudication, particularly when original records are incomplete or degraded.

SB41 retains the DNA tolling provisions applicable to criminal sexual penetration and makes conforming cross-reference updates to align with the amended statute of limitations structure. SB41 also revises Section 30-1-9.1 NMSA 1978 to remove references to Section 30-9-13 NMSA 1978, consistent with the elimination of any limitation period for that offense, while continuing to provide tolling for other specified child abuse and sexual offenses until the victim reaches age 18 or until the violation is reported to law enforcement, whichever is earlier.

Stakeholder feedback suggests that implementation may require additional interagency coordination to clarify which cases are newly actionable and to determine procedures for handling long-dormant files. SB41 applies prospectively and does not expressly revive cases for which the statute of limitations had already expired before enactment. This may necessitate legal review to determine retroactivity parameters and ensure consistency with constitutional protections.

Lastly, the extended prosecutorial window may affect patterns of case filings and litigation strategy in future years, potentially shifting how and when evidence is collected, preserved, and contested in court. While these procedural implications do not carry a direct fiscal impact, they represent a shift in the legal environment for both prosecution and defense in that category of sexual offense involving child victims.