

LFC Requester:**Scott Sanchez**

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 19 JAN 24

Bill No: HB 109

Sponsor: Stefani Lord, Harlan Vincent,
John Block
Short Title: CRIMES PUNISHABLE BY
DEATH

Agency Name and Code 790- Department of Public Safety
Number: _____
Person Writing Dale R. Wagoner
Phone: 505-629-2803 **Email** dale.wagoner@dps.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI	N/A	N/A
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	N/A	N/A
NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(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

This bill increases the penalties for aggravated criminal sexual penetration and criminal sexual penetration of a child to be punishable by death. It creates a first-degree felony for human sexual trafficking against a person under 18 years and makes it punishable by death. It also establishes a fine of \$100,000 for first-degree felony criminal sexual penetration of a child. The death penalty is imposed for this felony classification. Explanation below:

AGGRAVATED CRIMINAL SEXUAL PENETRATION

Current law states that Aggravated Criminal Sexual Penetration consists of all criminal sexual penetration perpetrated on a child under 13 years of age with an intent to kill or with a depraved mind regardless of human life. The bill would extend this to victims under 18 years of age. The penalty for this felony classification has been changed from “life imprisonment” to “death.” The bill also adds a penalty of \$100,000 for aggravated criminal sexual penetration.

CRIMINAL SEXUAL PENETRATION OF A CHILD:

Creates three felony categories for differing elements of criminal sexual penetration of a child:

FIRST DEGREE | DEATH PENALTY. “Criminal sexual penetration of a child in the first degree” consists of all criminal sexual penetration perpetrated on a child under 18 years of age. Makes it a first-degree felony. The penalty for this felony classification is “death.”

FOURTH DEGREE. Additionally provides that anyone found guilty of criminal sexual penetration of a child, when the child is 13 to 16 years of age and the perpetrator is at least 18 or at least four years older than the child, and not the spouse of that child, is guilty of a fourth-degree felony.

FIRST DEGREE | DEATH PENALTY. Whoever commits criminal sexual penetration of a child when the perpetrator is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and is at least 18 years of age and is at least four years older than the child and not the spouse of that child, is guilty of a first-degree felony for criminal sexual penetration of a child. The penalty for this felony classification is “death.”

COMMERCIAL SEXUAL ACTIVITY, HUMAN TRAFFICKING, UNDER AGE 18

FIRST DEGREE. Whoever commits human trafficking, if the conduct is commercial sexual activity and the victim is under the age of 18, is guilty of a first-degree felony for human sexual trafficking and subject to the death penalty.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

No performance implications to DPS.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Regarding Human Trafficking aspect, possibly conflicts with 2024 HB 116

TECHNICAL ISSUES

No technical issues to DPS

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

None at this time.