

**LFC Requester:**

**Scott Sanchez**

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**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:*

**Date Prepared:** 1/18/24

**Original**   X   **Amendment** \_\_\_\_\_

**Bill No:**   HB 116  

**Correction** \_\_\_\_\_ **Substitute** \_\_\_\_\_

**Sponsor:** Elizabeth "Liz" Thomson  
and Marian Matthews

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Short Title:** Human Trafficking and  
Sexual Exploitation Crime

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

House Bill 116 seeks to amend human trafficking and sexual exploitation of children criminal offenses. Specifically this bill seeks to: 1. Remove the time limitation statute of limitations for commencing prosecution of human trafficking; 2. Increase the age for sexual exploitation of children by prostitution from currently applying only to children under the age of 16 to children under the age of 18; 3. Add offenses of human trafficking to Racketeering; 4a. Amend the elements of human trafficking; 4b. Providing a definition for “harm” as it relates to physical, psychological, financial, or reputational harm; 4c. Adding provisions to eliminate specified facts or conditions from being a defense to prosecution; 5. Adding victims of human trafficking and sexual exploitation to the enumerated list of victims in the Victims of Crime Act; and 6. Establishing that defendants convicted of human trafficking following a finding from a judge at sentencing that the nature of the offense and resulting harm are such that the court determines that the offense should be a serious violent offense would prohibit earned meritorious deductions for a human trafficking sentence, or more commonly discussed, adding Human Trafficking to the list of optional serious violent offenses.

**FISCAL IMPLICATIONS**

None.

**SIGNIFICANT ISSUES**

1. **Section 6: Amendments to Eligibility for Earned Meritorious Deductions**
  - a. **Adding Human Trafficking to the list of optional charges under 33-2-34(L)(4)(o)**
    - i. This amendment seeks to add human trafficking to the list of optional serious violent offenses. A judge must still make a factual finding that the nature of the offense and the resulting harm are sufficient to justify the crime be designated as a serious violent offense, it would not be an automatic serious violent offense.

**PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

None of note

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relationship: SB 122 - REBUTTABLE PRESUMPTION AGAINST RELEASE

## **TECHNICAL ISSUES**

### **1. Section 4: Amendments to §30-52-1**

- a. Additions to Elements of Human Trafficking, specifically subsection (A)(4)
- i. Sub section (4) for this statute amendment, proposed legislation line 8 says “*repayment* of a financial debt” it should say “*payment* of a financial debt” as it is to pay off the debt itself. This is a minor grammatical issue for clarity of the purpose of the labor being to pay off the debt.

## **OTHER SUBSTANTIVE ISSUES**

### **1. Section 2: Amendment to NMSA 30-6a-4 NMSA 1978**

- a. The increase of the child’s age from 16 to 18 for this section, while would allow for the inclusion of all minors including those 16-18 years old, would no longer match the age ranges in NMSA 1978 § 30-37-3.2 for Child Solicitation by Electronic Communication Device which is still limited for children under the age 16. Potential consideration for matching related statutes of increasing the age limit in § 30-37-3.2 as well as this matter as often the charges go hand in hand.

## **ALTERNATIVES**

N/A

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo will remain in place.

## **AMENDMENTS**