

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

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**SECTION I: GENERAL INFORMATION**

*Check all that apply:*

Original  Amendment  
Correction                      Substitute

Date Prepared: 2024-01-24  
Bill No: HB206

Sponsor(s) Andrea Reeb  
: Ambrose Castellano  
Rod Montoya

Agency Name CYFD 69000  
and Code  
Number:  
Person Writing  
Analysis:  
Phone:  
Email:

Short Title: PENALTIES FOR CERTAIN  
SEX OFFENSES

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

**ESTIMATED ADDITIONAL OPERATION BUDGET (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>						

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation

Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

30-6A-2. DEFINITIONS.--As used in the Sexual Exploitation of Children Act:

B. Differentiates the word "or" between videotape and videodisc.

D. Deleting the words "copying by any means" for the definition of manufacture.

30-6A-3. SEXUAL EXPLOITATION OF CHILDREN.-

A. Adding: "unless the person intentionally possesses more than twenty-five images, films, photographs, other visual or print medium or any combination thereof, in which event the person is guilty of a third degree felony for a sexual offense against a child and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

C. Adding: "or copy by any means" and "When a separate finding of fact made by a court or jury shows beyond a reasonable doubt that a child depicted in the visual or print medium is a child under the age of thirteen, the basic sentence shall be increased by two years, and the sentence imposed by this subsection shall be the first two years served and shall not be suspended or deferred; provided that when the offender is a youthful offender, the sentence imposed by this subsection may be increased by two years."

D. Adding: "When a separate finding of fact made by a court or jury shows beyond a reasonable doubt that a child depicted in the visual or print medium is a child under the age of thirteen, the basic sentence shall be increased by two years, and the sentence imposed by this subsection shall be the first two years served and shall not be suspended or deferred; provided that when the offender is a youthful offender, the sentence imposed by this subsection may be increased by two years."

30-37-3.3. CRIMINAL SEXUAL COMMUNICATION WITH A CHILD-- PENALTY.

C. Adding: "In a prosecution for criminal sexual communication with a child, it is not a defense that the intended victim of the defendant was a peace officer posing as a child under sixteen years of age.

Deleting: "[C.] and adding "D."

31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES-- BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.

A. Changing "six" to "eleven"

31-20-5.2. SEX OFFENDERS--PERIOD OF PROBATION--TERMS AND CONDITIONS OF PROBATION

C. Changing "his" to "the sex offender's"

E. Changing "his" to "the sex offender's"

F. (2) Adding: "aggravated criminal sexual penetration", "or fourth degree"

F. (3) Adding: "or fourth degree"

F. (4) Deleting: "or"

F. (6) Adding: "criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;"

F. (7) Adding: "false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense;"

F. (8) Adding: "aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;"

F. (9) Adding: "enticement of a child, as provided in Section 30-9-1 NMSA 1978;"

F. (10) Adding: "incest, as provided in Section 30-10-3 NMSA 1978, when the victim is younger than eighteen years of age;"

F. (11) Adding: "child solicitation by electronic communication device, as provided in Section 30-

37-3.2 NMSA 1978, for convictions occurring on or after July 1, 2013;"

F. (12) Adding: "solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

F. (13) Adding: "attempt to commit any of the sex offenses set forth in Paragraphs (1) through (11) of this subsection when the attempt is a felony, as provided in Section 30-28-1 NMSA 1978."

31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND CONDITIONS OF PAROLE.

I. (5) Deleting: "or"

I. (7) Adding: "criminal sexual contact in the fourth degree, as provided in Section 30-9-12

NMSA 1978;"

I. (8) Adding: "false imprisonment, as provided in Section 30-4-3 NMSA 1978, when committed with the intent to inflict a sexual offense;"

I. (9) Adding: "aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;"

I. (10) Adding: "enticement of a child, as provided in Section 30-9-1 NMSA 1978;"

I. (11) Adding: "incest, as provided in Section 30-10-3 NMSA 1978, when the victim is younger than eighteen years of age;"

I. (12) Adding: "solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or"

I. (13) Adding: "attempt to commit any of the sex offenses set forth in Paragraphs (1) through (11) of this subsection when the attempt is a felony, as provided in Section 30-28-1 NMSA 1978."

#### **FISCAL IMPLICATIONS**

None

#### **SIGNIFICANT ISSUES**

None.

#### **PERFORMANCE IMPLICATIONS**

The enhanced sentencing provisions, fines, probation, and parole terms proposed in this legislation would have little to no impact on CYFD juvenile justice service clients. This bill specifically addresses youthful offenders who are sentenced as adults.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

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

None.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

None.

#### **ALTERNATIVES**

None.

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

None.

**AMENDMENTS**

None.