

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:

Original      x      Amendment    \_\_\_\_\_  
Correction    \_\_\_\_\_    Substitute    \_\_\_\_\_

Date Prepared: 1/31/2024

Bill No: HB 282

Sponsors: Meredith A. Dixon  
Marian Matthews

Short Title: Sex Offender Registration  
& Federal Law

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

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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)**

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<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**

House Bill (“HB”) 282 proposes to modify existing Chapter 29, Art. 11A NMSA 1978 (New Mexico’s Sex Offender Registration and Notification Act) to align it more closely with the federal “Adam Walsh Child Protection and Safety Act of 2006” (the Adam Walsh Act). As does the Adam Walsh Act, proposed HB 282 would recategorize sex offenders according to 3 “tiers,” with Tier 3 offenders being the most egregious, then Tier 2, then Tier 1, and subject to correspondingly stricter registration requirements—for example: Tier 3 offenders: lifetime registration; Tier 2 offenders: 25-year registration; Tier 1 offenders: 15-year registration.

HB 282 would create a new category of juvenile sex offenders, defined as those 14 years or older who have been adjudicated delinquent for having committed a sexually violent offense, and create registration procedures/requirements/obligations for them with CYFD.

HB 282 would make it registrable to (a) patronize, promote, and/or accept earning of a prostitute; (b) engage in human trafficking; and (c) engage in criminal sexual communication when the offender knew or should have known that the victim was under 16 year of age.

HB 282 also would, among other things, toughen physical registration requirements (must register in-person), increase registration-info retention periods; and broaden publicly available registration info.

**FISCAL IMPLICATIONS**

None to this office.

**SIGNIFICANT ISSUES**

HB 282 increases time periods for which DPS retains registration info for Tier 2 (25 years) and Tier 1 (15 years) offenders. The constitutionality of these increased registration periods if applied retroactively might be challenged on *ex post facto* grounds;

HB 282 also includes as “sex offenders” those who have (a) patronized, promoted, and/or accepted earnings of a victim/prostitute (b) engaged in human trafficking; (c) engaged in criminal sexual communication with victim(s) when the offender knew or should have known the victim was not yet 16 years of age; and/or (d) conspired to commit a sex offense. These

modifications appear to bring New Mexico more closely in line with the Adam Walsh Act but New Mexico still deviates by not making registerable, for example, kidnapping/false imprisonment, *regardless of intent to inflict a sexual offense*, and voyeurism of a minor. See State v. Hall, 2013-NMSC-001 (test for determining registerable out-of-state equivalent offenses)

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

N/A

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

None at this time.

#### **TECHNICAL ISSUES**

Section 29-11A-3(F) defines a “juvenile sex offender” as a person fourteen years of age or older who has been adjudicated delinquent for committing a sexually violent offense. This definition does not fully comport with the definitions of “delinquent offender” and “youthful offender” under NMSA 1978, Section 32A-2-3(C) and (J). Note that “youthful offender” under that section specifies that it includes children fourteen to eighteen years of age, rather than the open-ended language of “or older” as utilized in this bill.

#### **OTHER SUBSTANTIVE ISSUES**

None at this time.

#### **ALTERNATIVES**

N/A

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

Status quo.

#### **AMENDMENTS**

N/A