

LFC Requester:	Chenier, Eric
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**AGENCY BILL ANALYSIS
2014 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the Bill no. in the email subject line, e.g., HB2, and only attach one Bill analysis and related documentation per email message}

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 January 31, 2014
Bill No: HB266-305 Feb 3

Sponsor: Sharon Clahchischilliage **Reviewing** Attorney General's Office
Short Crim Sexual Penetration, Crim **Person Writing** Shannon Murdock
Title: Sexual Contact, Agg Indecent **Phone:** 222-9073 **Email** smurdock@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion Letter. This is a staff analysis in response to the agency's, committee's or legislator's request.

BILL SUMMARY

Summary Synopsis:

This Bill seeks to modify NMSA Section 30-9-11 Criminal Sexual Penetration, NMSA Section 30-9-13 Criminal Sexual Contact of a Minor, and NMSA Section 30-9-14.3 Aggravated Indecent Exposure. The Bill changes the word "under" to "younger than" to better clarify who the law applies to.

The Bill would modify NMSA Section 30-9-11, Criminal Sexual Penetration of a child thirteen to eighteen years of age when the perpetrator is in a position of authority over the child and uses the authority to coerce the child to submit which was previously excluded from the statute during the 2007 amendment but would mirror the language of Criminal Sexual Contact in the second degree perpetrator in position of authority.

The Bill amends NMSA Section 30-9-13, Criminal Sexual Contact of a minor in the second degree to include force or coercion NMSA Section 30-9-13(B)(2)(b) but excluding the previous caveat that it be force or coercion resulting in personal injury. The language is mirrored under NMSA Section 30-9-13(C)(2)(b) under Criminal Sexual Contact of a minor in the third degree. With these changes, the catch-all Criminal Sexual Contact of a minor in the fourth degree is amended to cover all criminal sexual contact of a minor for children thirteen to **sixteen** years of age (rather than thirteen to eighteen), when the perpetrator is eighteen years of age or older and at least four years older than the child and not the spouse of the child. It excludes the language regarding an unlicensed school employee, a contract school employee, school health care provider or school volunteer to a catch all of the perpetrator being eighteen years or older or at least four years older than the child and not the spouse of the child.

This Bill would amend the Aggravated indecent exposure statute, NMSA Section 30-9-14.3, make exposure of a person's primary genital area to a child younger than eighteen years of age, when done in a lewd and lascivious manner, when the perpetrator is eighteen years of age or older and is at least four years older than the child and not the spouse of the child a stand-alone offense, rather than listing it as one of many acts that would qualify subject to the existence of intent to threaten or intimidate another. It also makes aggravated indecent exposure to a child younger than eighteen years of age a third degree felony rather than a fourth degree felony. It further changes the word his own expense to "the person's" own expense with regard to ordering and completing professional counseling.

Effective date July 1, 2014.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

Unknown

SIGNIFICANT LEGAL ISSUES

None

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

See above

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS
INTRODUCED THIS SESSION**

N/A

TECHNICAL ISSUES OR DRAFTING ERROR

None

OTHER SUBSTANTIVE LEGAL ISSUES

None

ALTERNATIVES TO ENACTING THIS BILL

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL