

## NEW MEXICO

SEXUAL OFFENSE STATUTES	STATUTE OF LIMITATIONS	DNA EXCEPTION
<p>N.M. STAT. § 30-9-11 Criminal sexual penetration Criminal sexual penetration in the first degree is a first degree felony; consists of all sexual penetration perpetrated:</p> <ul style="list-style-type: none"> <li>On a child under 13, or</li> <li>By the use of force or coercion that results in great bodily harm or great mental anguish to victim</li> </ul> <p>Criminal sexual penetration in the second degree is a second degree felony; consists of all sexual penetration perpetrated:</p> <ul style="list-style-type: none"> <li>On a child 13 to 18 years of age by use of force or coercion</li> <li>On an inmate confined in a correctional facility or jail when offender is in a position of authority over the inmate</li> <li>By the use of force or coercion that results in personal injury to victim</li> <li>By the use of force or coercion when offender is aided or abetted by one or more persons</li> <li>In the commission of any other felony</li> <li>When offender is armed with a deadly weapon</li> </ul> <p>Criminal sexual penetration in the third degree is a third degree felony; consists of all sexual</p>	<p>N.M. STAT. § 30-1-8 Time limitations for commencing prosecution</p> <p>(A) For a second degree felony, within six years after commission of the offense</p> <p>(B) For a third or fourth degree felony, within five years after commission of the offense</p> <p>(C) For a misdemeanor, within two years after commission of the offense</p> <p>(H) No time limit for a capital felony or for a first degree violent felony</p> <p>N.M. STAT. § 30-1-9 Tolling of time limitation for prosecution for crimes</p> <p>(A) Statute of limitations is tolled during any time that the defendant shall conceal himself, or shall flee from or go out of the state.</p> <p>(B) When (1) an indictment, information or complaint is lost, mislaid or destroyed; (2) the judgment is arrested; (3) the indictment, information or complaint is quashed; or (4) the prosecution is dismissed because of variance between the allegations of the indictment, information or complaint and the evidence;</p>	<p>N.M. STAT. § 30-1-9.2 Criminal sexual penetration; tolling of statute of limitations When DNA evidence is available and suspect has not been identified, the applicable time period for commencing a prosecution under § 30-1-8 will not commence until a DNA profile is matched with a suspect; applies to:</p> <ul style="list-style-type: none"> <li>Criminal sexual penetration (§ 30-9-11)</li> </ul>

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<p>penetration perpetrated through the use of force or coercion</p> <p>Criminal sexual penetration in the fourth degree is a fourth degree felony; consists of all criminal sexual penetration:</p> <ul style="list-style-type: none"> <li>• Not defined above, perpetrated on a child 13 to 16 years of age when offender is at least 18 and is at least four years older than victim</li> <li>• Perpetrated on a child 13 to 18 years of age when offender is a school employee or volunteer at least 18 years of age and at least four years older than victim, and victim is a student in a school</li> </ul> <p>N.M. STAT. § 30-9-12 Criminal sexual contact</p> <p>Criminal sexual contact in the fourth degree is a fourth degree felony; consists of all criminal sexual contact perpetrated:</p> <ul style="list-style-type: none"> <li>• By the use of force or coercion that results in personal injury to victim,</li> <li>• By the use of force or coercion when offender is aided or abetted by one or more persons, or</li> <li>• When offender is armed with a deadly weapon</li> </ul> <p>Criminal sexual contact is a misdemeanor when perpetrated with the use of force or coercion</p> <p>N.M. STAT. § 30-9-13 Criminal sexual contact of a minor</p> <p>Criminal sexual contact of a minor in the second</p>	<p>and a new indictment, information or complaint is thereafter presented, the time between the first indictment, information or complaint and the subsequent indictment, information or complaint shall not be included in computing the period limited for the prosecution of the crime last charged; provided that the crime last charged is based upon and grows out of the same transaction and the subsequent indictment, information or complaint is brought within five years from the date of the offense.</p> <p>N.M. STAT. § 30-1-9.1 Offenses against children; tolling of statute of limitations</p> <p>For the following offenses, when victim was under 18 at the time of commission of the offense, the time limit as described in § 30-1-8 will not begin to run until victim reaches the age of 18 or the violation is reported to a law enforcement agency, whichever occurs first:</p> <ul style="list-style-type: none"> <li>• Criminal sexual penetration (§ 30-9-11)</li> <li>• Criminal sexual contact of a minor (§ 30-9-13)</li> </ul> <p>State v. Morales, 196 P.3d 490 (N.M. Ct. App. 2008) 1997 amendment eliminating statute of limitations for first degree felonies only applies prospectively to crimes committed after such date.</p> <p>State v. Whittington, 183 P.3d 970 (N.M. Ct. App.</p>	
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<p>degree is a second degree felony; consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:</p> <ul style="list-style-type: none"> <li>• On a child under 13</li> <li>• On a child 13 to 18 when: <ul style="list-style-type: none"> <li>• Offender is in a position of authority over child and uses that authority to coerce child to submit,</li> <li>• Offender uses force or coercion that results in personal injury to the child</li> <li>• Offender uses force or coercion and is aided or abetted by one or more persons, or</li> <li>• Offender is armed with a deadly weapon</li> </ul> </li> </ul> <p>Criminal sexual contact of a minor in the third degree is a third degree felony; consists of all criminal sexual contact of a minor perpetrated:</p> <ul style="list-style-type: none"> <li>• On a child under 13</li> <li>• On a child 13 to 18 when: <ul style="list-style-type: none"> <li>• Offender is in a position of authority over child and uses this authority to coerce child to submit,</li> <li>• Offender uses force or coercion which result in personal injury to child,</li> <li>• Offender uses force or coercion and is aided or abetted by one or more persons, or</li> <li>• Offender is armed with a deadly weapon</li> </ul> </li> </ul> <p>Criminal sexual contact of a minor in the fourth degree is a fourth degree felony; consists of all</p>	<p>2008) For purposes of 30-1-9.1, the statute of limitations does not begin to run unless facts constituting the <i>specific offense to be prosecuted</i> are reported to a law enforcement agency.</p>	
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<p>criminal sexual contact:</p> <ul style="list-style-type: none"> <li>• Not defined above, perpetrated on a child 13 to 18 years of age with force or coercion</li> <li>• Of a minor perpetrated on a child 13 to 18 who is a student , by an offender who is a school employee or volunteer at least 18 years of age and at least four years older than victim</li> </ul> <p>N.M. STAT. § 30-10-3 Incest Third degree felony</p>		
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