

Criminal Statutes of Limitations

New Mexico

Last Updated: March 2020

Enticement of child

Question	Answer
What is the statute of limitations for this crime?	This crime is a misdemeanor. 1. Within two years after commission of the crime.
Statutory citation(s):	1. Citation for the crime: N.M. Stat. § 30-9-1. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Criminal sexual penetration

Question	Answer
What is the statute of limitations for this crime?	The statute of limitations depends on the classification of the crime. 1. If a first degree felony, no statute of limitations; or 2. If a second degree felony, within six years after commission of the offense; or 3. If a third or fourth degree felony, within five years after the commission of the offense.
Statutory citation(s):	1. Citation for the crime: N.M. Stat. § 30-9-11. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Criminal sexual contact

Question	Answer
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What is the statute of limitations for this crime?	The statute of limitations depends on the classification of the crime. <ol style="list-style-type: none"> 1. If a fourth degree felony, within five years after the commission of the offense; or 2. If a misdemeanor, within two years after commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: N.M. Stat. § 30-9-12. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Criminal sexual contact of a minor

Question	Answer
What is the statute of limitations for this crime?	The statute of limitations depends on the classification of the crime. <ol style="list-style-type: none"> 1. If a second degree felony, within six years after commission of the offense; or 2. If a third or fourth degree felony, within five years after the commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: N.M. Stat. § 30-9-13. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Incest

Question	Answer
What is the statute of limitations for this crime?	This crime is a third degree felony. <ol style="list-style-type: none"> 1. Within five years after commission of the offense.
Statutory citation(s):	<ol style="list-style-type: none"> 1. Citation for the crime: N.M. Stat. § 30-10-3. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Indecent Exposure

Question	Answer
What is the statute of limitations for this crime?	This crime is a misdemeanor. 1. Within two years after commission of the offense.
Statutory citation(s):	1. Citation for the crime: N.M. Stat. § 30-9-14. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Sexual exploitation of children

Question	Answer
What is the statute of limitations for this crime?	The statute of limitations depends on the classification of the crime. 1. If a second degree felony, within six years after commission of the offense; or 2. If a third or fourth degree felony, within five years after the commission of the offense.
Statutory citation(s):	1. Citation for the crime: N.M. Stat. § 30-6A-3. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.

Sexual exploitation of children by prostitution

Question	Answer
What is the statute of limitations for this crime?	The statute of limitations depends on the classification of the crime. 1. If a first degree felony, no statute of limitations; or 2. If a second degree felony, within six years after commission of the offense; or 3. If a third degree felony, within five years after the commission of the offense.

Statutory citation(s):	1. Citation for the crime: N.M. Stat. § 30-6A-4. 2. Citation for the statute of limitations: N.M. Stat. § 30-1-8.
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Are there any exceptions to the statute of limitations laws?

Question	Answer
Exceptions	<ul style="list-style-type: none"> • N.M. Stat. § 30-1-9.2 Criminal sexual penetration; tolling of statute of limitations: <ul style="list-style-type: none"> • 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 to run until a DNA profile is matched with a suspect; this applies to: <ul style="list-style-type: none"> • Criminal sexual penetration (§ 30-9-11).

Anything else I should know?

Question	Answer
Anything else I should know?	<ul style="list-style-type: none"> • N.M. Stat. § 30-1-9 Tolling of time limitation for prosecution for crimes: <ul style="list-style-type: none"> • (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. It is also tolled when the party charged with the crime is not usually and publicly a resident within the state. • (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 for any defect or reason; or (4) the prosecution is dismissed because of variance between the allegations of the indictment, information or complaint and the evidence; 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 upon which the original indictment, information or complaint was founded, and the subsequent indictment, information or complaint is brought within five years from the date of the alleged commission of the original offense. • N.M. Stat. § 30-1-9.1 Offenses against children; tolling of statute of limitations: <ul style="list-style-type: none"> • 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:

- Abandonment or abuse of a child (§ 30-6-1)
- Criminal sexual penetration (§ 30-9-11)
- Criminal sexual contact of a minor (§ 30-9-13)
- *State v. Morales*, 236 P.3d 24 (N.M. 2010):
 - The 1997 amendment, which abolished the statute of limitations for all capital felonies and first-degree violent felonies, applies to unexpired criminal conduct committed before the amendment's effective date of July 1, 1997.
- *State v. Whittington*, 183 P.3d 970 (N.M. Ct. App. 2008):
 - For purposes of 30-1-9.1, the statute of limitations does not begin to run unless facts constituting the specific offense to be prosecuted are reported to a law enforcement agency.