

HOUSE BILL 153

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO JOURNALISM; ENACTING THE PROTECT REPORTERS FROM EXPLOITATIVE STATE SPYING ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Protect Reporters from Exploitative State Spying Act".

.229224.2AIC February 12, 2025 (8:26pm)

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SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

Protect Reporters from Exploitative State Spying Act:

A. "covered journalist" means a person who regularly gathers, prepares, collects, photographs, records, writes, edits, reports, investigates or publishes news or information that concerns local, national or international events or other matters of public interest for dissemination to the public;

B. "covered service provider" means a person that, by an electronic means, stores, processes or transmits information in order to provide a service to customers of the person, including:

(1) a telecommunications carrier and a provider of an information service;

(2) a provider of an interactive computer service and an information content provider;

(3) a provider of a remote computing service; and

(4) a provider of an electronic communication service to the public;

C. "document" means writings, recordings and photographs, as those terms are defined by Rule 11-1001 NMRA;

D. "journalism" means gathering, preparing, collecting, photographing, recording, writing, editing, reporting, investigating or publishing news or information that

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concerns local, national or international events or other matters of public interest for dissemination to the public;

E. "personal account of a covered journalist" means an account with a covered service provider used by a covered journalist that is not provided, administered or operated by the employer of the covered journalist;

F. "personal technology device of a covered journalist" means a handheld communications device, laptop computer, desktop computer or other internet-connected device used by a covered journalist that is not provided or administered by the employer of the covered journalist;

G. "protected information" means any information identifying a source who provided information as part of engaging in journalism and any records, contents of a communication, documents or information that a covered journalist obtained or created as part of engaging in journalism; and

H. "state entity" means an entity or employee of the HCPAC→legislative or←HCPAC executive branch HCPAC→of the state government←HCPAC or an administrative agency of the state government with the power to issue a subpoena or issue other compulsory process.

SECTION 3. [NEW MATERIAL] LIMITS ON COMPELLED DISCLOSURE FROM COVERED JOURNALISTS.--In any matter arising under state law, a state entity shall not compel a covered journalist to

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disclose protected information unless a court in the judicial district in which the subpoena or other compulsory process HCPAC→~~is,~~←HCPAC HCPAC→has been←HCPAC HCPAC→~~or will be,~~←HCPAC issued determines by a preponderance of the evidence, after providing notice and an opportunity to be heard to the covered journalist, that:

A. disclosure of the protected information is necessary to prevent, or to identify any perpetrator of, an act of terrorism; or

B. disclosure of the protected information is necessary to prevent a threat of imminent violence, significant bodily harm or death, including specified offenses against a minor.

SECTION 4. [NEW MATERIAL] LIMITS ON COMPELLED DISCLOSURE FROM COVERED SERVICE PROVIDERS.--

A. In any matter arising under state law, a state entity shall not compel a covered service provider to provide testimony or any document consisting of any record, information or other communications stored by a covered provider on behalf of a covered journalist, including testimony or any document relating to a personal account of a covered journalist or a personal technology device of a covered journalist, unless a court in the judicial district in which the subpoena or other compulsory process HCPAC→~~is, or will be,~~←HCPAC HCPAC→has been←HCPAC issued determines by a preponderance of the evidence

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that there is a reasonable threat of imminent violence
HCPAC→unless←HCPAC HCPAC→if←HCPAC the testimony or document
is HCPAC→not←HCPAC provided and issues an order authorizing
the state entity to compel the disclosure of the testimony or
document.

B. A state entity seeking to compel the provision
of testimony or any document described in Subsection A of this
section shall inform the court that the testimony or document
relates to a covered journalist.

C. A court may authorize a state entity to compel
the provision of testimony or a document pursuant to this
section only after the state entity seeking the testimony or
document provides the covered journalist on behalf of whom the
testimony or document is stored pursuant to Subsection A of
this section with:

(1) notice of the subpoena or other compulsory
request for such testimony or document from the covered service
provider not later than the time at which the subpoena or
request is issued to the covered service provider; and

(2) an opportunity to be heard before the
court before the time at which the provision of the testimony
or document is compelled.

D. Notice and an opportunity to be heard pursuant
to Subsection C of this section may be delayed for not more
than forty-five days if the court involved determines there is

clear and convincing evidence that the notice would pose a clear and substantial threat to the integrity of a criminal investigation or would present an imminent risk of death or serious bodily harm, including specified offenses against a minor.

E. The forty-five-day period described in Subsection D of this section may be extended by the court for additional periods of not more than forty-five days if the court involved makes a new and independent determination that there is clear and convincing evidence that providing notice to the covered journalist would pose a clear and substantial threat to the integrity of a criminal investigation or would present an imminent risk of death or serious bodily harm under current circumstances.

SECTION 5. [NEW MATERIAL] LIMITATION ON CONTENT OF INFORMATION.-- HCPAC→~~The content of~~←HCPAC HCPAC→**A subpoena for**←HCPAC any testimony, document or protected information HCPAC→~~that is~~←HCPAC HCPAC→**sought to be**←HCPAC compelled pursuant to Sections 3 and 4 of the Protect Reporters from Exploitative State Spying Act HCPAC→**, and the extent of any information ordered to be disclosed in proceedings to enforce such a subpoena**←HCPAC :

A. shall not be overbroad, unreasonable or oppressive and shall, as appropriate, be limited to the purpose of verifying published information or describing any

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surrounding circumstances relevant to the accuracy of the published information; and

B. shall be narrowly tailored in subject matter and period of time covered so as to avoid compelling the production of peripheral, nonessential or speculative information.

SECTION 6. [NEW MATERIAL] RULE OF CONSTRUCTION.--

Nothing in the Protect Reporters from Exploitative State Spying Act shall be construed to prevent the state from pursuing an investigation of a covered journalist or organization that is:

- A. suspected of committing a crime;
- B. a witness to a crime unrelated to engaging in journalism;
- C. suspected of being an agent of a foreign power, as defined in Section 101 of the federal Foreign Intelligence Surveillance Act of 1978;
- D. an individual or organization designated under Executive Order 13224 (50 U.S.C. 1701);
- E. a specially designated terrorist, as that term is defined in Section 595.311 of Title 31 of the Code of Federal Regulations, or any successor thereto; or
- F. a terrorist organization, as that term is defined in Section 212(a)(3)(B)(vi)(II) of the federal Immigration and Nationality Act.

SECTION 7. REPEAL.--Section 38-6-7 NMSA 1978 (being Laws 1973, Chapter 31, Section 1) is repealed.

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SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

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