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HOUSE BILL 70

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Dayan Hochman-Vigil and William "Bill" R. Rehm

AN ACT

RELATING TO DOMESTIC TERRORISM; DEFINING "DENIAL OF SERVICE
ATTACK"; DEFINING "SCHOOL", "COMMUNITY CENTER", "PLACE OF
WORSHIP" AND "PUBLIC ACCOMMODATION"; CREATING THE CRIMES OF
TERRORISM, CYBERTERRORISM, POSSESSING A TERRORISTIC WEAPON AND
MAKING A TERRORISTIC THREAT; PROVIDING PENALTIES; PROVIDING FOR
CONCURRENT JURISDICTION OF CRIMES UNDER THE ANTITERRORISM ACT;
REQUIRING INFORMATION SHARING AND REPORTING.

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

SECTION 1. Section 9-28-5 NMSA 1978 (being Laws 2007,
Chapter 291, Section 5) is amended to read:

"9-28-5. DEPARTMENT DUTIES.--The department shall:

A. coordinate the homeland security and emergency
management efforts of all state and local government agencies,
as well as enlist cooperation from private entities such as

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1 health care providers;

2 B. apply for and accept federal funds for homeland
3 security, administer the funds and develop criteria to allocate
4 grants to local governments, tribes, state agencies and other
5 qualified entities;

6 C. act as liaison between federal, state and local
7 agencies to effect the improved sharing of counterterrorism
8 intelligence, including maintaining the New Mexico all source
9 intelligence center, which is a cross-jurisdictional
10 partnership between local, state and federal agencies to
11 support the development of plans, policies and procedures that
12 protect the state from border, criminal and terrorist threats;

13 D. provide information to the general public and to
14 private businesses that is essential to ensuring their safety
15 and security and provide the governor with timely information
16 relating to emergencies, disasters and acts of terrorism or
17 terrorist threats;

18 E. establish security standards for state
19 facilities and for protection of their occupants and develop
20 plans for the continuity of state government operations in the
21 event of a threat or act of terrorism or other natural or man-
22 made disaster;

23 F. identify the state's critical infrastructures
24 and assist public and private entities with developing plans
25 and procedures designed to implement the protective actions

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1 necessary to continue operations;

2 G. coordinate state agency and local government
3 plans for prevention, preparedness and response with a focus on
4 an all-hazards approach;

5 H. coordinate law enforcement counterterrorism
6 prevention, preparedness and response training on a statewide
7 basis, including training for emergency responders, government
8 officials, health care providers and others as appropriate;

9 I. work with emergency response and emergency
10 management programs and provide assistance in developing and
11 conducting terrorism response exercises for emergency
12 responders, government officials, health care providers and
13 others;

14 J. coordinate law enforcement's and emergency
15 responders' response to an act of terrorism or terrorist
16 threat;

17 K. develop and maintain a statewide plan and
18 strategy to manage and allocate federal grant funds required to
19 provide the state's emergency response community with the
20 equipment necessary to respond to an act of terrorism involving
21 a weapon of mass destruction; and

22 L. perform such other duties relating to homeland
23 security as may be assigned by the governor."

24 **SECTION 2.** Section 30-20A-2 NMSA 1978 (being Laws 1990,
25 Chapter 66, Section 2) is amended to read:

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1 "30-20A-2. DEFINITIONS.--As used in the Antiterrorism

2 Act:

3 A. "civil disorder" means [~~any~~] a planned act of
4 violence by an assemblage of two or more persons with the
5 intent to cause damage or injury to another individual or [~~his~~]
6 the individual's property;

7 B. "community center" includes community centers,
8 daycare centers and other similar physical locations that exist
9 primarily to supervise children and at which children primarily
10 congregate;

11 [~~B.~~] C. "destructive device" means:

12 (1) [~~any~~] an explosive, incendiary or poison
13 gas:

14 (a) bomb;

15 (b) grenade;

16 (c) rocket having a propellant charge of
17 more than four ounces;

18 (d) missile having an explosive or
19 incendiary charge of more than one-quarter ounce;

20 (e) mine; or

21 (f) similar device;

22 (2) [~~any~~] a type of weapon that can expel or
23 may be readily converted to expel a projectile by the action of
24 an explosive or other propellant, the barrel or barrels of
25 which have a bore of more than six-tenths inch in diameter,

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1 except a shotgun, shotgun shell or muzzle loading firearm that
2 is generally recognized as particularly suitable for sporting
3 purposes; or

4 (3) [~~any~~] a part or combination of parts
5 either designed or intended for use in converting or assembling
6 any device described in Paragraphs (1) and (2) of this
7 subsection.

8 The term "destructive device" shall not include [~~any~~] a
9 device that is neither designed nor redesigned for use as a
10 weapon;

11 [~~G.~~] D. "firearm" means [~~any~~] a weapon that can
12 expel or is designed to or may readily be converted to expel a
13 projectile by the action of an explosion, the frame or receiver
14 of any such weapon, [~~any~~] a firearm muffler or firearm
15 silencer. "Firearm" includes [~~any~~] a handgun, rifle or
16 shotgun; [~~and~~

17 [~~D.~~] E. "law enforcement officer" means [~~any~~] an
18 employee of a police or public safety department administered
19 by the state or [~~any~~] a political subdivision of the state
20 where the employee is responsible for the prevention and
21 detection of crime and the enforcement of the penal, traffic or
22 highway laws of this state. "Law enforcement officer" includes
23 [~~any~~] a member of the New Mexico national guard; [~~any~~] a peace
24 officer of the United States, [~~any~~] a state, [~~any~~] a political
25 subdivision of a state or the District of Columbia; [~~any~~] a

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1 member of the New Mexico mounted patrol or the national guard,
2 as defined in 10 U.S.C. Sec. 101(9); ~~any~~ a member of the
3 organized militia of ~~any~~ a state or territory of the United
4 States, the commonwealth of Puerto Rico or the District of
5 Columbia not included within the definition of national guard;
6 and ~~any~~ a member of the armed forces of the United States.

7 "Law enforcement officer" also means ~~any~~ a person or entity
8 acting as a contractor for any other law enforcement officer,
9 police or public safety department described in this section;

10 F. "place of worship" means any physical location
11 of religious assembly;

12 G. "public accommodation" means any establishment
13 that provides or offers its services, facilities,
14 accommodations or goods to the public, but does not include a
15 bona fide private club or other place or establishment that is
16 by its nature and use distinctly private; and

17 H. "school" means any physical location in which
18 instruction is offered by one or more teachers and is
19 discernible as a building or group of buildings generally
20 recognized as either an elementary, middle, junior high, high
21 school, college or university or any combination of those,
22 whether public, private or charter."

23 **SECTION 3.** Section 30-20A-3 NMSA 1978 (being Laws 1990,
24 Chapter 66, Section 3) is amended to read:

25 "30-20A-3. UNLAWFUL ACTS--PENALTY.--

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1 A. Any person who teaches or demonstrates the use,
2 application or making of any firearm, destructive device or
3 technique capable of causing injury or death to any person with
4 the intent that the knowledge or skill taught, demonstrated or
5 gained be unlawfully used to commit terrorism as defined in
6 Subsection C of this section in furtherance of a civil disorder
7 is guilty of a [~~fourth~~] third degree felony [~~and shall be~~
8 ~~sentenced under the provisions of the Criminal Sentencing Act~~
9 ~~to imprisonment for a definite term of eighteen months or, in~~
10 ~~the discretion of the sentencing court, to a fine of not more~~
11 ~~than five thousand dollars (\$5,000) or both].~~

12 B. Any person who trains, practices or receives
13 instruction in the use of any firearm, destructive device or
14 technique capable of causing injury or death to any person with
15 the intent that the knowledge or skill taught, demonstrated or
16 gained be unlawfully used to commit terrorism as defined in
17 Subsection C of this section in furtherance of a civil disorder
18 is guilty of a [~~fourth~~] third degree felony [~~and shall be~~
19 ~~sentenced under the provisions of the Criminal Sentencing Act~~
20 ~~to imprisonment for a definite term of eighteen months or, in~~
21 ~~the discretion of the sentencing court, to a fine of not more~~
22 ~~than five thousand dollars (\$5,000) or both].~~

23 C. Terrorism consists of committing any act that
24 causes great bodily harm or death with the intent to:

25 (1) intimidate or coerce a civilian

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1 population, including committing mass violence in a place of
2 worship or public accommodation;

3 (2) influence the policy of a state
4 entity or political subdivision of the state; or

5 (3) affect the conduct of a state entity,
6 political subdivision of the state or public accommodation by
7 mass destruction, assassination, kidnapping or an act of
8 violence enumerated as a serious violent offense in Section
9 33-2-34 NMSA 1978.

10 Whoever commits terrorism is guilty of a second degree
11 felony.

12 D. Possessing a terroristic weapon consists of
13 manufacturing, fabricating or possessing, in any manner and
14 with the intent to commit terrorism pursuant to Subsection C of
15 this section, a weapon:

16 (1) designed to or intended to cause death or
17 serious physical injury by the release, dissemination or impact
18 of toxic or poisonous chemicals or their precursors;

19 (2) involving any biological agent, disease or
20 disease organism; or

21 (3) designed to release radiation or
22 radioactivity at a level dangerous to human life, other than a
23 person engaged in the manufacture of such weapons for lawful
24 purposes.

25 Whoever commits possessing a terroristic weapon is guilty

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1 of a third degree felony.

2 E. Making a terroristic threat involving a school,
3 community center, place of worship or public accommodation
4 consists of unequivocally, unconditionally and specifically
5 threatening to commit any act of terrorism pursuant to
6 Subsection C of this section, whether that threat is made
7 online or otherwise, against a person at a school, community
8 center, place of worship or public accommodation, or against a
9 school, community center, place of worship or public
10 accommodation with the intent to:

11 (1) cause a reaction to the threat by an
12 official or volunteer agency organized to deal with
13 emergencies;

14 (2) place a person in fear of great bodily
15 harm; or

16 (3) prevent or interrupt the occupation or use
17 of a school, community center, place of worship or public
18 accommodation.

19 Whoever commits making a terroristic threat involving a
20 school, community center, place of worship or public
21 accommodation is guilty of a third degree felony.

22 F. The attorney general and the district attorney
23 of the district in which a violation of this section occurs
24 have concurrent jurisdiction to enforce the provisions of this
25 section. This subsection does not prevent a district attorney

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1 from another district from exercising jurisdiction when the
2 district attorney of the district in which the violating act
3 occurred is unable to prosecute the case."

4 SECTION 4. A new section of the Antiterrorism Act is
5 enacted to read:

6 "[NEW MATERIAL] REPORTING AND INFORMATION SHARING.--

7 A. When a state entity receives information of
8 cyberterrorism as provided in the Computer Crimes Act,
9 terroristic threats, terrorist acts or any other information
10 prohibited by the Antiterrorism Act, the state entity shall,
11 within twenty-four hours, send written notice of the possible
12 violation of the Antiterrorism Act to the New Mexico all source
13 intelligence center.

14 B. The New Mexico all source intelligence center
15 shall coordinate with federal entities, state entities and
16 political subdivisions of the state to detect and prevent
17 cyberterrorism as provided in the Computer Crimes Act,
18 terrorism and terroristic acts, threats and activities.

19 C. The following information is not subject to
20 inspection pursuant to the Inspection of Public Records Act:

21 (1) information a state entity receives
22 regarding cyberterrorism, terroristic threats, terrorist acts
23 or any other information prohibited by the Antiterrorism Act;

24 (2) notice sent from the state entity to the
25 New Mexico all source intelligence center regarding

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1 cyberterrorism, terroristic threats, terrorist acts or any
2 other information prohibited by the Antiterrorism Act; and

3 (3) information that the New Mexico all source
4 intelligence center, other state entities and any political
5 subdivision of the state receives from federal entities
6 regarding the detection and prevention of cyberterrorism,
7 terrorism and terroristic threats, terrorist acts or any other
8 information prohibited by the Antiterrorism Act."

9 SECTION 5. Section 30-45-1 NMSA 1978 (being Laws 1989,
10 Chapter 215, Section 1) is amended to read:

11 "30-45-1. SHORT TITLE.--~~[This act]~~ Chapter 30, Article 45
12 NMSA 1978 may be cited as the "Computer Crimes Act"."

13 SECTION 6. Section 30-45-2 NMSA 1978 (being Laws 1989,
14 Chapter 215, Section 2) is amended to read:

15 "30-45-2. DEFINITIONS.--As used in the Computer Crimes
16 Act:

17 A. "access" means to program, execute programs on,
18 intercept, instruct, communicate with, store data in, retrieve
19 data from or otherwise make use of any computer resources,
20 including data or programs of a computer, computer system,
21 computer network or database;

22 B. "computer" includes an electronic, magnetic,
23 optical or other high-speed data processing device or system
24 performing logical, arithmetic or storage functions and
25 includes any property, data storage facility or communications

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1 facility directly related to or operating in conjunction with
2 such device or system. The term does not include an automated
3 typewriter or typesetter or a single display machine in and of
4 itself, designed and used solely within itself for word
5 processing, or a portable hand-held calculator or any other
6 device [~~which~~] that might contain components similar to those
7 in computers but in which the components have the sole function
8 of controlling the device for the single purpose for which the
9 device is intended;

10 C. "computer network" means the interconnection of
11 communication lines and circuits with a computer or a complex
12 consisting of two or more interconnected computers;

13 D. "computer program" means a series of
14 instructions or statements, in a form acceptable to a computer,
15 [~~which~~] that permits the functioning of a computer system in a
16 manner designed to provide appropriate products from a computer
17 system;

18 E. "computer property" includes [~~⌘~~] financial
19 instrument, data, databases, computer software, computer
20 programs, documents associated with computer systems and
21 computer programs, or copies, whether tangible or intangible,
22 and data while in transit;

23 F. "computer service" includes computer time; the
24 use of the computer system, computer network, computer programs
25 or data prepared for computer use; data contained within a

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1 computer network; and data processing and other functions
2 performed, in whole or in part, by the use of computers,
3 computer systems, computer networks or computer software;

4 G. "computer software" means a set of computer
5 programs, procedures and associated documentation concerned
6 with the operation and function of a computer system;

7 H. "computer system" means a set of related or
8 interconnected computer equipment, devices and software;

9 I. "data" means a representation of information,
10 knowledge, facts, concepts or instructions [~~which are~~] that is
11 prepared and [~~are~~] is intended for use in a computer, computer
12 system or computer network;

13 J. "database" means any data or other information
14 classified, processed, transmitted, received, retrieved,
15 originated, switched, stored, manifested, measured, detected,
16 recorded, reproduced, handled or utilized by a computer,
17 computer system, computer network or computer software;

18 K. "denial of service attack" means preventing
19 authorized access to computer resources or delaying time-
20 critical computer operations by unlawfully inundating or
21 otherwise overloading a computer network, or unlawfully
22 attempting to inundate or otherwise overload a computer
23 service; and

24 [~~K-~~] L. "financial instrument" includes any check,
25 draft, warrant, money order, note, certificate of deposit,

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1 letter of credit, bill of exchange, credit or debit card,
2 transaction, authorization mechanism, marketable security or
3 any other computerized representation thereof."

4 SECTION 7. A new section of the Computer Crimes Act is
5 enacted to read:

6 "[NEW MATERIAL] CYBERTERRORISM.--

7 A. Cyberterrorism consists of:

8 (1) committing any of the acts prohibited by
9 the Computer Crimes Act with the intent to intimidate or coerce
10 a civilian population, influence the policy of a state entity
11 or a political subdivision of the state or affect the conduct
12 of a state entity or a political subdivision of the state; or

13 (2) committing a denial of service attack with
14 the intent to intimidate or coerce a civilian population,
15 influence the policy of a state entity or a political
16 subdivision of the state or affect the conduct of a state
17 entity or a political subdivision of the state and the computer
18 network against which the denial of service attack is committed
19 is:

20 (a) administered or operated by a
21 federal entity, state entity or a political subdivision of the
22 state;

23 (b) a utility provider, including a
24 provider of electricity or water; or

25 (c) a financial institution as defined

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1 in Paragraph (23) of Subsection A of Section 58-16-3 NMSA 1978.

2 Whoever commits cyberterrorism is guilty of a third degree
3 felony.

4 B. A separate offense occurs on each calendar day
5 on which an act constituting cyberterrorism is committed."

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