

LFC Requester:

Scott Sanchez

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 1/21/25

Check all that apply:

Bill Number: HB87

Original  Correction   
Amendment  Substitute

Sponsor: Rep. Dayan Hochman-Vigil

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Non-Consensual Touching Clarification

Analysis: Van Snow

Phone: 505-537-7676

Email: legisfir@nmag.gov

### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

#### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

The Criminal Sexual Contact (CSC) statute, NMSA 1978, § 30-9-12 (1993), criminalizes unlawful and intentional physical contact with a victim’s intimate body parts. Under current law, a defendant commits CSC only if he or she touches the unclothed intimate areas of a victim.

HB87 would broaden the definition of CSC by criminalizing any unlawful or intentional physical contact with a victim’s body parts, regardless of whether the intimate areas are clothed or unclothed. It would also remove male pronouns found in the statute. Finally, the bill would slightly reorganize the statute by breaking the final sentence of current subsection (C) into its own paragraph. It does not appear that the removal of male pronouns or separating out the final sentence of subsection (C) would have substantive effect.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

None.

**PERFORMANCE IMPLICATIONS**

None.

**ADMINISTRATIVE IMPLICATIONS**

None.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

The failure of the Criminal Sexual Contact of a Minor statute, NMSA 1978, § 30-9-13 (2003), to specify whether a body part must be clothed or unclothed has led to interpretive difficulties. *See State v. Notah*, 2022-NMCA-005, ¶¶ 12-22 (discussing the clothed / unclothed distinction when identifying lesser-included offenses); *State v. Trujillo*, 2012-NMCA-092, ¶ 22 (holding that causing a minor to touch an adult's genitals was a third-degree offense because "unclothed" in Section 30-9-13(B) refers only to the minor victim's body parts).

To avoid similar difficulties, the bill could modify subsection (A) to read:

"Criminal sexual contact is the unlawful and intentional touching of or application of force, without consent, to the **clothed or** unclothed intimate parts of another who has reached his eighteenth birthday, or intentionally causing another who has reached his eighteenth birthday to touch one's **clothed or unclothed** intimate parts."

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

As noted above.