

LFC Requestor: SANCHEZ, Scott

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House Category: Bill
Number: 87 Type: Introduced

Date (of THIS analysis): 01/21/2025
Sponsor(s): Dayan Hochman-Vigil
Short Title: NON-CONSENSUAL TOUCHING CLARIFICATION

Reviewing Agency: Agency 665 - Department of Health
Analysis Contact Person: Arya Lamb
Phone Number: 505-470-4141
e-Mail: arya.lamb@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

| Appropriation Contained | | Recurring or Nonrecurring | Fund Affected |
|-------------------------|-------|---------------------------|---------------|
| FY 25 | FY 26 | | |
| \$0 | \$0 | N/A | N/A |
| | | | |

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------|-------|---------------------------|---------------|
| FY 25 | FY 26 | FY 27 | | |
| \$0 | \$0 | \$0 | N/A | N/A |
| | | | | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY 25 | FY 26 | FY 27 | 3 Year Total Cost | Recurring or Non-recurring | Fund Affected |
|-------|-------|-------|-------|-------------------|----------------------------|---------------|
| Total | \$ | \$ | \$ | \$ | | |
| | | | | | | |

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: N/A

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 87 (HB87) proposes changes in definition of criminal sexual contact by eliminating the requirement that non-consensual touching involve an unclothed intimate part.

HB87 amends Section 30-9-12 NMSA 1978 (being Laws 1975, Chapter 109, Section 3, as amended) by:

- Removing the requirement that the intimate parts must be unclothed.
- Updating language for inclusivity: The phrase “his eighteenth birthday” is replaced with “eighteen years of age.”

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

Sexual Violence in New Mexico

HB87 proposes to clarify that non-consensual touching can involve clothed intimate parts. While DOH does not collect data on this particular sexual contact, the department utilizes data from several sources to understand sexual violence in New Mexico. HB87 proposes to broaden what can be considered non-consensual touching, which could address the issue of non-consensual sexual advances that have previously fallen outside the scope of the law.

New Mexico Behavioral Risk Factor Surveillance System (BRFSS)

BRFSS is a CDC operated system of surveys that collect state data regarding health-related risk behaviors, chronic health conditions, and use of preventive services. By collecting behavioral health risk data at the state and local level, BRFSS has become a powerful tool for targeting and building health promotion activities.

- In 2022 New Mexico Behavioral Risk Factor Surveillance System (BRFSS) data indicated that 17.0% of females and 4.1% of males reported having been forced to have sex in their lifetime, with approximately 34.4% of all respondents stating the perpetrator of their sexual violence was an intimate partner ([NM BRFSS, 2022] [Behavioral Risk Factors Surveillance](#)).
- An estimated 31,801 New Mexico residents were victims of rape from 2020 through 2022 ([NM BRFSS, 2020, 2021, 2022] [Behavioral Risk Factors Surveillance](#)).
- Between 2020 and 2022, transgender or gender non-conforming individuals were 6 times more likely to report forced sex compared to cisgender males, while cisgender females were 4 times more likely. Lesbian, gay, or bisexual individuals face a 3.5 times higher likelihood compared to straight individuals ([NM BRFSS, 2020, 2021, 2022] [Behavioral Risk Factors Surveillance](#)).
- Physical disability, low income, and younger age (18–44 years) also increase the risk, ([NM BRFSS, 2020, 2021, 2022] [Behavioral Risk Factors Surveillance](#)).

National Intimate Partner & Sexual Violence Survey (NISVS)

The National Intimate Partner and Sexual Violence Survey (NISVS) is an ongoing survey that collects the most current and comprehensive national- and state-level data on intimate partner violence, sexual violence, and stalking victimization in the United States. CDC developed NISVS to collect data on these important public health problems and enhance violence prevention efforts.

- In 2020, New Mexico ranked 7th nationally in sexual violence rates, with 11,500 reported sexual assault victims, 41% of whom were under 18.
- Sexual assault service programs received 20,000 hotline calls, marking a 20–25% increase from the previous year.
(<https://www.nmlegis.gov/handouts/LHHS%20092821%20Item%202%20NMCSAP.pdf>).
- In 2018, 24% of women in New Mexico experienced rape, compared to 19.5% nationally. Additionally, 21% of males and 49% of females in New Mexico reported experiencing sexual violence other than rape ([NM-IBIS - Health Indicator Report - Criminal Sexual Penetration Incidents per 100,000 Population by County, New Mexico, 2018](#)).

The New Mexico Crime Victimization Survey (2023-2024)

The New Mexico Crime Victimization Survey seeks to identify the extent of criminal victimization, crime reporting, and assistance seeking for four types of crime (stalking, rape, sexual assault, and domestic violence), and to identify differences in rates between demographic groups. This survey was patterned after the National Crime Victimization Survey (NCVS).

- More than half of all New Mexicans surveyed have been sexually assaulted or raped at some point in their life, and 40% have been the victim of some kind of sexual violence in the past year.
- Rape was reported by 5% of survey respondents, with 28% requiring medical care and 60% facing work or school issues.
- Sexual assault affected 11% of participants, with 19% needing medical care and 49% reporting work or school problems.

- Over their lifetimes, 54% of respondents experienced rape or sexual assault, with 40% of these incidents occurring before age 12. (<https://nmcsap.org/wp-content/uploads/NMCrimeVictimizationReport102224.pdf>)

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
 If yes, describe how.
- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No

- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

Sexual Violence in New Mexico

a. Disparities by Gender

- Sexual violence shows significant differences among various demographic groups, with rates being higher in New Mexico compared to the national average. In 2018, 24.0% of women in New Mexico reported experiencing rape at some point in their lives, compared to 19.5% of women across the United States.
- 49% of women and 21% of men in New Mexico reported experiencing other forms of sexual violence apart from rape ([NM-IBIS - Health Indicator Report - Criminal Sexual Penetration Incidents per 100,000 Population by County, New Mexico, 2018](#)).

b. Disparities by Sexual Orientation

- New Mexico BRFSS data from 2020-2022 revealed that lifetime forced sex among adults was higher for lesbian, gay, or bisexual (LGB) individuals, transgender or gender non-conforming individuals, non-Hispanic individuals, those with a disability, and individuals with an annual household income under \$25,000 ([NM BRFSS, 2020, 2021, 2022] [Behavioral Risk Factors Surveillance](#)).

c. Disparities by Age

- Younger respondents (18-54 years) were more frequently victimized (54%) compared to older age groups ([NMCrimeVictimizationReport102224.pdf](#)).

d. Disparities by Poverty

- According to the New Mexico Crime Victimization Survey, individuals with a history of incarceration or homelessness experienced the highest rates of victimization, at 69% and 67%, respectively, compared to 35% and 33% for those without such experiences ([NMCrimeVictimizationReport102224.pdf](#)).

e. Disparities by Poverty

- Black/African American respondents reported higher victimization rates (65%) than non-Black/African American respondents (40%). Similarly, transgender and nonbinary individuals faced greater victimization (58%) than cisgender respondents (41%) ([NMCrimeVictimizationReport102224.pdf](#)).
- Hispanic respondents (54%) reported higher victimization rates than non-Hispanic respondents (29%). People of color were more likely to be victimized (51%) than White, non-Hispanic respondents (24%) ([NMCrimeVictimizationReport102224.pdf](#)).

9. HEALTH IMPACT(S)

Impacts of Sexual Violence

- Sexual violence can have lasting physical and mental health effects, leading to fear, isolation, low self-esteem, substance abuse, and, in some cases, perpetuation of violence ([NM-IBIS - Health Indicator Report - Criminal Sexual Penetration Incidents per 100,000 Population by County, New Mexico, 2018](#)).
- Rape is projected to have a lifetime cost of \$122,461 per victim based on the 2014 value of the dollar. A child victim will lose \$241,600 in income over their lifetime (<https://doi.org/10.1016/j.amepre.2016.11.014>).
- Sexual violence has well documented long-term impacts on its victims, including suicide risk, mental health, and substance abuse (<https://doi.org/10.1016/j.paid.2014.09.001>; <https://pubmed.ncbi.nlm.nih.gov/28689071/>).
- Basile et al. 2020 study found statistically significant associations between sexual assault survivors and poor physical or mental health, difficulty sleeping, frequent headaches, chronic pain, asthma, irritable bowel syndrome, activity limitations, and use of special equipment (e.g., wheelchair) (<https://pubmed.ncbi.nlm.nih.gov/31971055/>).
- Santaularia et al. 2014 study found positive correlation between sexual assault and types of substance misuse (e.g. alcohol abuse, cigarette use, and drug abuse), (<https://pubmed.ncbi.nlm.nih.gov/25516229/>).

10. ALTERNATIVES

None.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If House Bill 87 (HB0087) does not pass, the definition of criminal sexual contact would not be changed.

12. AMENDMENTS

None.