

<b>LFC Requester:</b>	Scott Sanchez
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 21 JAN 2025 *Check all that apply:*  
**Bill Number:** HB 87 Original  Correction   
 Amendment  Substitute

**Sponsor:** Dayan Hochman-Vigil  
**Short Title:** Criminal Sexual Contact where Victim is Clothed  
**Agency Name and Code:** 790 – Department of Public Safety  
**Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	N/A	N/A

(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>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

HB 87 amends Section 30-9-12 of the New Mexico Statutes to broaden the definition of criminal sexual contact. The bill eliminates the requirement that non-consensual touching must involve unclothed intimate parts, thereby expanding legal protections for victims. Under the revised statute, criminal sexual contact includes the unlawful and intentional touching of, or application of force to, the intimate parts of an individual aged 18 or older without consent, regardless of whether the intimate parts are clothed or unclothed. It also encompasses intentionally causing another person aged 18 or older to touch one's intimate parts under the same conditions. This amendment clarifies and strengthens protections for victims, ensuring that non-consensual touching through clothing constitutes a prosecutable offense.

#### **FISCAL IMPLICATIONS**

The bill's enactment could result in increased costs for the judicial and correctional systems due to the potential rise in prosecutions and convictions. Additional funds may be needed for law enforcement training, public awareness campaigns, and victim advocacy services. Any operating budget impact will depend on case volume increases, requiring coordination among criminal justice agencies to assess resource allocation. Additionally, aligning with the Adam Walsh Act is essential to securing federal resources—New Mexico has already lost \$1.4 million in federal grant funding since 2011 due to non-compliance, underscoring the financial and public safety imperative of this legislation.

#### **SIGNIFICANT ISSUES**

This legislation reflects evolving societal standards by recognizing non-consensual touching, even through clothing, as a form of sexual misconduct. It clarifies existing legal definitions and enhances protections for victims.

However, HB 87, as currently drafted, does not align with New Mexico's goal of achieving compliance with the Adam Walsh Act. Enacted in 2006, the Adam Walsh Act establishes federal standards for sex offender registration and notification to improve public safety and streamline offender tracking across states. While HB 87 addresses important concerns, it does not significantly advance the state's efforts to meet these federal requirements.

However, in recent years many states have addressed changes in societal norms and perceptions there of what qualifies as unwanted sexual contact and that can occur whether one is dressed or not. The rationale in support of this change in New Mexico's law is to enhance the protection of personal autonomy and dignity. Unwanted touching—whether over clothing or not—can cause significant emotional and psychological harm. It invades personal space and violates an individual's sense of safety and control over their own body. By criminalizing such actions, the law aims to deter inappropriate behavior and uphold the importance of consent in all physical interactions.

This amendment would update New Mexico's definition of "criminal sexual contact" to allow

more assaulters to face penalties for unwanted sexual contact. New Mexico's law on unwanted sexual contact would be broadened to better align with current societal norms and how this crime is treated that is more consistent with the laws in other states. The changes in the law from this bill will have wider implications. For instance, convictions for such offenses might affect one's eligibility for certain professions or licenses, given the nature of the crime. It underscores the importance of understanding and adhering to laws regarding personal conduct.

## **PERFORMANCE IMPLICATIONS**

DPS supports these critical changes to New Mexico's criminal code to strengthen New Mexico's legal framework by aligning state laws with modern definitions of sexual misconduct, including non-consensual touching through clothing. These updates could improve public confidence in the criminal justice system and encourage higher reporting rates of such offenses. Implementing the legislation would require law enforcement agencies to update protocols and provide additional training for personnel.

However, as drafted, the bill does not align with New Mexico's goal of achieving compliance with the Adam Walsh Act. This federal law, enacted in 2006, sets nationwide standards for sex offender registration and notification to enhance public safety and facilitate interjurisdictional tracking. While the bill addresses important aspects of sexual misconduct, it does not significantly advance the state's efforts to meet these federal requirements.

## **ADMINISTRATIVE IMPLICATIONS**

Criminal justice and law enforcement agencies and the judiciary may need training to interpret and apply the revised definition effectively. Public awareness initiatives will be essential to educate both citizens and officials about the new legal standard. These changes may necessitate collaboration with advocacy groups to support victims under the expanded criteria.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 87 does not appear to conflict with existing state or federal laws. However, it complements broader legislative trends aimed at strengthening protections against sexual misconduct. It may intersect with statutes addressing harassment, assault, and civil rights protections.

## **TECHNICAL ISSUES**

There are no technical issues with House Bill 87. The legislative language is precise, eliminating any risk of misinterpretation or application challenges. The bill is drafted in a manner that facilitates seamless implementation within the existing legal framework.

## **OTHER SUBSTANTIVE ISSUES**

As drafted, HB 87 does not significantly contribute to New Mexico's efforts to align with the requirements of the Adam Walsh Act, a federal law established in 2006.

For HB 87 to align with these requirements, it would need to be revised to mandate that individuals convicted under State Statute Section 30-9-12 (D), NMSA 1978 for criminal sexual contact (a misdemeanor) must register as sex offenders for life. Additionally, the definition of

“sex offense” in Section 29-11A-3(I)(2), NMSA 1978 I-(2) would require modification to encompass misdemeanors, thereby necessitating lifetime registration for those convicted of the misdemeanor offense under Section 30-9-12, NMSA 1978. Furthermore, §Section 30-9-12, NMSA 1978 concerning criminal sexual contact in the fourth degree would need to be amended to require that individuals convicted of this offense be listed on a public sex offender registry.

Failure to align with the Adam Walsh Act has already resulted in financial consequences for the state. The Department of Public Safety (DPS) has experienced a loss of federal revenue due to non-compliance, further emphasizing the need for legislative action to secure critical funding and enhance public safety.

## **ALTERNATIVES**

No alternatives to House Bill 87 are necessary. The proposed change directly addresses a critical gap in existing law without creating ambiguity or overlap. Its narrowly tailored focus ensures that the legislation accomplishes its goals without requiring alternative approaches.

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

Failure to enact HB 87 with the recommended amendments would leave a gap in legal protections, maintaining the limitation that non-consensual touching must involve unclothed intimate parts. This could perpetuate underreporting and hinder efforts to address sexual misconduct comprehensively.

Without implementing stricter laws, New Mexico would remain a safe haven for sexual offenders, leaving a gap in legal protections and perpetuating underreporting while hindering efforts to address sexual misconduct comprehensively.

## **AMENDMENTS**

No amendments required at this time.