

**LFC Requester:** \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

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

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**        **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_    **Substitute**    \_\_\_\_\_

**Date** 2-6-2025  
**Bill No:** HB 287-280

**Sponsor:** Andrea Reeb  
**Short Title:** Telephone Text and Social Media Crimes

**Agency Name and Code**    LOPD 280  
**Number:** \_\_\_\_\_  
**Person Writing**    Tania Shahani  
**Phone:** 505 369 3610    **Email** Tania.shahani@lopd.nm.us

**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 Expenditure Decreases)

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

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

**BILL SUMMARY**

Synopsis:

Under the present version of 30-20-12, it is a 4th degree felony offense if someone uses a telephone to intimidate, terrify, threaten, harass, annoy or offend someone. This bill would criminalize identical conduct when the means used by the offender is text messaging or use of social media rather than telephone.

**FISCAL IMPLICATIONS**

LOPD can probably absorb the costs here, but because social media and text messaging involves technology and a variety of different platforms exist, there may be a need for qualified forensic digital expertise, which, if cannot be handled in house may require payment to an expert.

**SIGNIFICANT ISSUES**

1. Overlap with other crimes can lead to overcharging. Having separate harassment statutes can be duplicative of the assault, stalking, extortion, and harassment charges. New Mexico also has the ability to charge attempted felonies, which can be joined with these offenses. When multiple charges rely on the same underlying conduct, this can cause charging confusion and may violate double jeopardy. *See State v Duran*, 1998-NMCA-153, 126 N.M. 60 (double jeopardy violation involving stalking and harassment). Some of these companion crimes have less severe penalties. For example, 30-3A-2 (harassment) is a misdemeanor offense. It is unclear why similar harassing conduct using a telephone or text or social media needs to be felonized.
2. Technology-specific laws can become outdated quickly. Harassment is harassment, regardless of the medium. The core harm in these offenses is the unwanted, repeated, and threatening nature of communication, not the specific method used. The impact on the victim is the same. Laws should focus on the conduct itself rather than arbitrarily distinguishing between different communication platforms. And as mentioned above, some forms of harassment may be prosecuted differently (or not at all) depending on how messages were sent, which makes little sense in a modern society that is rapidly evolving and where people rely almost exclusively on technology for all types of communication.

3. First Amendment concerns. Amending this statute specifically to include text messages and social media could criminalize a broader range of speech frequently seen in anonymous interactions on social media, including annoying, offensive, or persistent online communications that don't rise to the level of true criminal harassment. Offensive speech is protected by the First Amendment unless there's a true threat. Social media is also not necessarily one-to-one communication. So the line between private harassment and public speech can get blurred. For example, on social media, people often get into heated debates or disagree about politics in public postings. This also makes it possible for law enforcement to target certain viewpoints or speakers unfairly.
4. HB 287 may call for an increase in digital forensic expertise. Social media and texting platforms may use encryption (like WhatsApp), requiring specialized training/experts. Screenshots are not always reliable and present authenticity concerns. Digital evidence is easily deleted, altered, etc. Developing and defending these cases may require heavy reliance on digital forensics.
5. Relatedly, it may also be difficult subpoenaing social media companies and phone companies. There are lots of different platforms with lots of different policies about disclosing user data. Court orders may help, but not if it conflicts with company policies.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

Instead of expanding telephone harassment laws, prosecutors can apply existing laws (assault, harassment and stalking for example) to digital conduct when necessary. This would ensure that serious cases of harassment are prosecuted while avoiding redundancy, overcharging, First Amendment issues, and selective enforcement.

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

Status quo.

## **AMENDMENTS**