

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: February 6, 2025

Check all that apply:

Bill Number: HB 287

Original x Correction
Amendment Substitute

Sponsor: Rep. Andrea Reeb

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

Person Writing

Short Title: Telephone, Text, & Social
Media Crimes

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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
Total						

(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:

HB 287 would amend NMSA 1978, Section 30-20-12 (1967) which proscribes the “use of telephone to terrify, intimidate, threaten, harass, annoy, or offend.”

Section 1(A) of HB 287 would amend the mandatory “shall be” statutory language to “is” (The statutory language would be amended from “[i]t shall be unlawful…” to “[i]t is unlawful…”). This change from “shall be” to “is” occurs twice in Section 1(A).

Section 1(A) would add the phrase “text message or contact via social media” in addition to the original statutory language (which emphasized telephonic communication). Thus, it would be unlawful for any person to “text message or contact via social media” and use “any obscene, lewd, or profane language or suggest any lewd, criminal or lascivious act or threaten to inflict injury or physical harm to the person or property of any person.”

Section 1(A) would amend the phrase from “by telephone” to “by use of telephone.” Section 1(A) would add the phrase “text message or contact via social media” to the statute, thereby making it unlawful for an individual to extort money or things of value by text message or contact via social media.

Section 1(A) would add the phrase “text messages or contact via social media” twice to the provision of the statute that proscribes disturbing (by repeated anonymous digital contact) the peace, quiet, or right of privacy of any other person at the place where the telephone calls, text messages, or contact via social media was received. Section 1(A) would amend the phrase telephone “call or calls” to “calls.” Section 1(A) would add the phrase “send a text message or contact via social media” to the section of the statute proscribing the malicious sending of a text message or contact via social media with the intent to annoy or disturb another.

Section 1(B) would add the phrase “of this section” to the original statutory language.

Section 1(C) adds the phrases “text messages or contact via social media” and the phrase “text message or social media” to the subsection defining where an offense is deemed to have been committed under the statute. Section 1(C) also would amend the language from telephone “call or calls” to telephone “calls.”

Section 1(D) would replace the word “whosoever” with “whoever.” Section 1(D) would eliminate “which” and replace it with “that.”

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

Section 1(A)’s language of “at the place where the telephone calls, text messages or contact via social media was received[.]” The phrase “the place” is singular. However, in some instances a text message or contact via social media can be received in multiple places simultaneously. For example, if an individual is logged into social media on multiple devices (e.g., smartphone, laptop, and tablet), and said devices are not at the same address, then the message could be received in multiple places at the same time. (*See also* Section 1(C)).

Section 1(A) would provide slightly differing phrases to describe telephonic communication. In one portion of the statute, the language is “to telephone.” Another sentence in Section 1(A) uses the language “telephone calls.” The statute does not define whether “to telephone” refers to repeated contact (i.e., telephone calls), or one contact (or whether it is a broad enough phrase to encompass both singular and repetitive contact).

The language uses slightly differing phrases to describe communication(s) sent via text message. Section 1(A) uses both of the phrases to “send a text message” and “text message.”

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 287 and SB 149 proscribe similar conduct. SB 149 would create a new section to Chapter 30 of NMSA 1978 (The Criminal Code).

For example, HB 287 would amend Section 30-20-12 to make it “unlawful for any person to telephone, text message or contact via social media, and use any obscene lewd, or profane language or suggest any lewd, criminal, or lascivious act or threaten to inflict injury or physical harm to the person[.]” Similarly, SB 149 provides that “[c]yberbullying consists of a person communicating directly or indirectly, in writing or electronically, with a public or private school student with reckless disregard that the communication may have the effect of placing the student in reasonable fear of physical harm[.]” However, the requisite *mens rea* differs for Section 30-20-12 and SB 149. SB 149 provides that a person commits the crime of cyberbullying when acting with “reckless disregard” as to the effect the communication has on the recipient whereas Section 30-20-12(A) incorporates the language, “*intent* to terrify, intimidate, threaten, harass, annoy, or offend[.]” (emphasis added). (A different portion of Section 30-20-12 refers to the requisite intent as the “intent to annoy or disturb another.”)

TECHNICAL ISSUES

Section 1(A) is slightly inconsistent with the phrasing concerning the use of a telephone. HB 287 would use the phrasing “to telephone” and “by use of telephone” in the same subsection.

Section 1(A) uses both “text messages” and “text message.”

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS