

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: 2/21/25

Check all that apply:

HB 530

HB530

HB530

Bill Number: \_\_\_\_\_

Original  Correction

Amendment  Substitute

Sponsor: Rep. Christine Chandler

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

Person Writing

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IMAGES

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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
<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: House Bill 530 (hereinafter “HB 530”) provides criminal and civil liability for the unauthorized distribution of deepfake sensitive images as well as criminal liability for threatening to distribute sensitive images or sensitive deepfake images.

Section 1 of HB 530 amends NMSA 1978, Section 30-37A-1(2015) to add criminal penalties for the distribution of sensitive deepfake images. A definition is provided for what a “sensitive deepfake” image would be in Section 1(C)(6).

Section 1 of HB 530 also adds what would be NMSA 1978, Section 30-3A-1(B) to provide criminal liability for threatening to distribute sensitive images if that threat is intended to (1) harass, humiliate or intimidate (2) cause that person to reasonably fear for that person’s own or family’s safety, or (3) cause the person to suffer substantial emotional distress. An offender would be guilty of committing this crime guilty of a petty misdemeanor for the first offense and a misdemeanor for a second and subsequent offenses.

Section 1(C)(4) also brings the definition directly over from NMSA 30-9-2 for the definition of a sexual act rather than just referencing an unrelated statute that criminalizes prostitution.

Section 2 of HB 530 adds a new chapter for NMSA Chapter 41 Torts creating a civil tort liability action for libel, slander or invasion of privacy based on the publication exhibition or communication of a sensitive deepfake image. Damages may include any monetary gain, punitive damages, court costs, reasonable attorney fees and other litigations costs reasonably incurred, and other legal or equitable relief the court deems just and proper.

Section 2 of HB 530 also adds civil tort liability for victims of offenders convicted under NMSA 1978, Section 30-6A-3(G) (specifically only subsection G, see analysis below under relationship) and NMSA 1978, Section 30-37A-1 for a claim of intentional infliction of emotional distress.

**FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

N/A

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

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

As it relates to the relationship to Section 2 of HB 530 and other laws NMSA 1978, Sections 41-7-1 through 41-7-6 provide tort liability for slander and libel. There is potential for overlapping claims for civil remedies given potential overlap in these two statutes.

Section 2(C) provides, “A victim of the crime provided for in Subsection G of Section 30-6A-3 NMSA 1978...” Subsection (G) of NMSA 1978, 30-6A-3 provides, “G. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a third degree felony.” It is unclear why only subsection (G) on NMSA 30-6A-3 is provided for a civil remedy here, while the crimes enumerated in subsections (A) through (F) are not included. NMSA 30-6A-3 provides a different subsection for each of the different types of sexual exploitation of children crimes including possession, manufacturing, and distribution of these types of images, and all equally could be provided for in this statute and the companionship in excluding subsections (A) through (F) may need to be clarified.

## **TECHNICAL ISSUES**

Consider amending Section 1(E) to begin, “Whoever commits...” to match Section 1(D).

Section 2(C) appears to contain a typographical error at line 16. Consider amending to “a person who succeeds in a claim for intentional infliction...”

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

N/A

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

Status Quo.

## **AMENDMENTS**

N/A