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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/28/25

SPONSOR Chandler

BILL
NUMBER House Bill 530

SHORT TITLE Sensitive Deepfake Images

ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Office of the Attorney General (NMAG)

Administrative Office of the Courts (AOC)

Department of Public Safety (DPS)

Law Offices of the Public Defender (LOPD)

New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of House Bill 530

House Bill 530 (HB530) amends Section 30-37A-1 NMSA 1978 of the Criminal Code to expand the existing offense of distributing unauthorized sensitive images to include “sensitive deepfake images.” The bill defines a sensitive deepfake image as a digitally created, altered, or manipulated image that depicts a person with uncovered genitals, uncovered breasts if the person is a woman, or engaged in an intimate act. In addition to expanding the scope of the existing offense, the bill creates a new crime of "threatening to distribute sensitive images," making it a petty misdemeanor for a first offense and a misdemeanor for subsequent offenses if a person maliciously threatens to distribute, publish, or make available a sensitive image or deepfake with the intent to harass, humiliate, or intimidate another person, cause them to reasonably fear for their safety or that of their family, or inflict substantial emotional distress.

The bill also establishes a new civil cause of action under Section 41, NMSA 1978, allowing victims to sue for libel, slander, or invasion of privacy if a sensitive deepfake image of them is published, exhibited, or communicated. The bill clarifies that consent to the creation of such an image does not equate to consent for its distribution. Additionally, victims of crimes involving sexual exploitation of children (Section 30-6A-3(G) NMSA 1978) or unauthorized distribution

of sensitive images (Section 30-37A-1 NMSA 1978) will have a prima facie case for intentional infliction of emotional distress upon filing a petition in district court. If successful, plaintiffs may recover actual damages, punitive damages, court costs, reasonable attorney fees, and any other legal or equitable relief the court deems appropriate.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison or jail and the length of time they serve because of this bill could have moderate fiscal impacts. The creation of a new crime, as proposed in HB530, is likely to increase the number of individuals incarcerated in New Mexico's county jails. The New Mexico Sentencing Commission (NMSC) notes that it is difficult to determine how many individuals will be charged, convicted, or sentenced under the new law. The cost of incarceration at county detention facilities varies by location, but based on prior LFC analyses, the estimated marginal cost per county jail inmate is \$19.2 thousand per year. Because the bill primarily affects misdemeanors and petty misdemeanors, costs will likely fall on county jails rather than state prisons. However, the extent of fiscal impact will depend on enforcement levels and how frequently convictions occur.

Beyond incarceration, HB530 could increase fiscal burdens on the courts, public defenders, and law enforcement agencies. The Administrative Office of the Courts (AOC) notes that new criminal penalties may lead to an increase in judicial workload, requiring additional court resources to process cases. The Law Offices of the Public Defender (LOPD) anticipates that the bill will result in additional misdemeanor cases, which, when considered alongside the cumulative effect of other proposed crime legislation, could increase the demand for indigent defense funding. While LOPD expects to absorb some of these costs within its existing budget, a significant rise in cases could require additional appropriations to maintain constitutional mandates for legal representation. The Department of Public Safety does not anticipate an immediate fiscal impact but acknowledges that implementation of the law could eventually require adjustments to law enforcement operations and training.

Overall, while the initial fiscal impact of HB530 may be limited, cumulative costs associated with new prosecutions, incarceration, and legal representation could increase over time. The financial burden is expected to fall primarily on counties responsible for housing misdemeanor offenders, with additional indirect costs to the judiciary and law enforcement agencies.

SIGNIFICANT ISSUES

The bill addresses the growing concern over artificial intelligence-generated deepfake content, particularly the unauthorized distribution of sexually explicit deepfake images. The FBI and the Federal Trade Commission have documented a sharp increase in cases involving deepfake exploitation, particularly targeting minors and vulnerable individuals. HB530 modernizes New Mexico law to reflect these emerging threats by explicitly prohibiting the distribution of deepfake-generated content.

One potential issue is the overlap between the new crime of "threatening to distribute sensitive images" and existing laws such as extortion (Section 30-16-9 NMSA 1978). Extortion statutes already criminalize threats to expose or impute disgrace upon a person to coerce them into taking or refraining from an action. Courts may need to interpret how HB530 interacts with existing laws. Additionally, some legal analysts have raised concerns that prima facie civil liability for emotional distress under the bill does not require a criminal conviction, meaning allegations alone could serve as the basis for a lawsuit. LOPD suggests requiring a conviction before allowing civil liability claims.

TECHNICAL ISSUES

The New Mexico Attorney General (NMAG) recommends amending Section 1(E) to begin with "Whoever commits..." to align with the language in Section 1(D). Additionally, NMAG identifies a typographical error in Section 2(C) on line 16, which could be corrected to clarify that "a person who succeeds in a claim for intentional infliction..." is the intended phrasing.

SS/hj/SL2