

HOUSE BILL 530

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

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AN ACT

RELATING TO INVASION OF PRIVACY; AMENDING SECTION 30-37A-1 NMSA  
1978 (BEING LAWS 2015, CHAPTER 42, SECTION 1) TO PROVIDE THAT  
THE CRIME OF UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES  
INCLUDES THE DISTRIBUTION OF SENSITIVE DEEPFAKE IMAGES;  
DEFINING "SENSITIVE DEEPFAKE IMAGE"; CREATING THE CRIME OF  
THREATENING TO DISTRIBUTE SENSITIVE IMAGES AND PROVIDING  
PENALTIES; ENACTING A NEW SECTION OF CHAPTER 41 NMSA 1978 TO  
PROVIDE THAT A PERSON MAY MAINTAIN A CIVIL ACTION FOR LIBEL,  
SLANDER OR INVASION OF PRIVACY BASED ON THE PUBLICATION OF  
SENSITIVE DEEPFAKE IMAGES AND LIMITING CERTAIN DEFENSES AND  
ALLOWING RECOVERY FOR CERTAIN TYPES OF DAMAGES; PROVIDING FOR  
CLAIMS ARISING FROM CRIMES RELATED TO INVASION OF PRIVACY OR  
THE DIGITAL EXPLOITATION OF CHILDREN AND ALLOWING RECOVERY FOR  
CERTAIN TYPES OF DAMAGES.

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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

2 SECTION 1. Section 30-37A-1 NMSA 1978 (being Laws 2015,  
3 Chapter 42, Section 1) is amended to read:

4 "30-37A-1. UNAUTHORIZED DISTRIBUTION OF SENSITIVE  
5 IMAGES--PENALTIES.--

6 A. Unauthorized distribution of sensitive images  
7 consists of distributing, publishing or otherwise making  
8 available, by an electronic communications device or other  
9 means, sensitive images or sensitive deepfake images of a  
10 person, with or without information identifying that person,  
11 without that person's consent:

- 12 (1) with the intent to:
  - 13 (a) harass, humiliate or intimidate that
  - 14 person;
  - 15 (b) incite another to harass, humiliate
  - 16 or intimidate that person;
  - 17 (c) cause that person to reasonably fear
  - 18 for that person's own or family members' safety;
  - 19 (d) cause that person to suffer unwanted
  - 20 physical contact or injury; or
  - 21 (e) cause that person to suffer
  - 22 substantial emotional distress; and

23 (2) where the conduct is such that it would  
24 cause a reasonable person to suffer substantial emotional  
25 distress.

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1                   B. Threatening to distribute sensitive images  
2                   consists of maliciously making a threat to a person to  
3                   distribute, publish or otherwise make available sensitive  
4                   images or sensitive deepfake images of the person with intent  
5                   to:

6                               (1) harass, humiliate or intimidate that  
7                   person;

8                               (2) cause that person to reasonably fear for  
9                   that person's own or family member's safety; or

10                              (3) cause that person to suffer substantial  
11                   emotional distress.

12                              [~~B.~~] C. For the purpose of this section:

13                               (1) "electronic communications device" means a  
14                   computer, an internet web site or page, a video recorder, a  
15                   digital camera, a fax machine, a telephone, a cellular  
16                   telephone, a pager or any other device that can produce an  
17                   electronically generated image, message or signal;

18                               (2) "information service" means a service  
19                   offering the capability of generating, acquiring, storing,  
20                   transforming, processing, publishing, retrieving, utilizing or  
21                   making available information;

22                               (3) "interactive computer service" means any  
23                   information service, system or access software provider that  
24                   provides or enables computer access by multiple users;

25                               (4) "intimate act" [~~has the same meaning as~~

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1 ~~"sexual act", as that term is defined in Section 30-9-2 NMSA~~  
2 ~~1978]~~ means sexual intercourse, cunnilingus, fellatio,  
3 masturbation of another, anal intercourse, the causing of  
4 penetration to any extent and with any object of the genital or  
5 anal opening of another whether or not there is any emission or  
6 the emission or display of bodily sexual fluid;

7 (5) "sensitive images" means images,  
8 photographs, videos or other likenesses depicting or simulating  
9 an intimate act or depicting any portion of a person's  
10 genitals, or of a woman's breast below the top of the areola,  
11 that is either uncovered or visible through less-than-fully  
12 opaque clothing, which images may reasonably be considered to  
13 be private, intimate or inappropriate for distribution or  
14 publication without that person's consent; ~~[and]~~

15 (6) "sensitive deepfake image" means an image,  
16 recording or other digital depiction or digital data capable of  
17 conversion to an image, recording or other digital depiction of  
18 a person that was created, altered or digitally manipulated to  
19 depict a person:

20 (a) with uncovered genitals or, if the  
21 person is a woman, a breast below the top of the areola that is  
22 uncovered or visible through less-than-fully opaque clothing;  
23 or

24 (b) engaging in an intimate act; and

25 ~~[(6)]~~ (7) "telecommunications provider" has

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1 the same meaning as set forth in Section 63-7-23 NMSA 1978.

2 [G-] D. Whoever commits unauthorized distribution  
3 of sensitive images is guilty of a misdemeanor. Upon a second  
4 or subsequent conviction, the offender is guilty of a fourth  
5 degree felony.

6 E. A person who commits threatening to distribute  
7 sensitive images is guilty of a petty misdemeanor. Upon a  
8 second or subsequent conviction, the offender is guilty of a  
9 misdemeanor.

10 [D-] F. Nothing in this section shall be construed  
11 to impose liability on:

12 (1) an interactive computer service, an  
13 information service or a telecommunications provider for  
14 content provided by another person; or

15 (2) a person who reproduces, distributes,  
16 exhibits, publishes, transmits or otherwise disseminates  
17 content in furtherance of a legitimate public purpose,  
18 including the compilation or dissemination of news by  
19 newspapers and licensed broadcasters."

20 SECTION 2. A new section of Chapter 41 NMSA 1978 is  
21 enacted to read:

22 "[NEW MATERIAL] CLAIMS ARISING FROM THE PUBLICATION OF  
23 SENSITIVE DEEFAKE IMAGES OR THE COMMISSION OF CERTAIN  
24 CRIMES.--

25 A. As used in this section, "sensitive deepfake  
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1 image" means an image, recording or other digital depiction or  
2 digital data capable of conversion to an image, recording or  
3 other digital depiction of a person that was created, altered  
4 or digitally manipulated to depict a person:

5 (1) with uncovered genitals or, if the person  
6 is a woman, a breast below the top of the areola that is  
7 uncovered or visible through less-than-fully opaque clothing;  
8 or

9 (2) engaging in sexual intercourse,  
10 cunnilingus, fellatio, masturbation of another, anal  
11 intercourse, the causing of penetration to any extent and with  
12 any object of the genital or anal opening of another whether or  
13 not there is any emission or the emission or display of bodily  
14 sexual fluid.

15 B. A person may maintain a cause of action for  
16 libel, slander or invasion of privacy based on the publication,  
17 exhibition or communication of a sensitive deepfake image;  
18 provided that:

19 (1) a person's consent to the creation of a  
20 sensitive deepfake image alone shall not establish that the  
21 person consented to the publication, exhibition or  
22 communication of the image; and

23 (2) in addition to actual damages, a person  
24 who succeeds in a claim for libel, slander or invasion of  
25 privacy based on the publication, exhibition or communication

1 of a sensitive deepfake image may recover:

2 (a) if applicable, an amount equal to  
3 the monetary gain made by the defendant from the publication,  
4 exhibition or communication of the sensitive deepfake image;

5 (b) punitive damages;

6 (c) court costs, reasonable attorney  
7 fees and other litigation costs reasonably incurred; and

8 (d) any other legal or equitable relief  
9 the court deems just and proper.

10 C. A victim of the crime provided for in Subsection  
11 G of Section 30-6A-3 NMSA 1978 or a victim of a crime provided  
12 for in Section 30-37A-1 NMSA 1978 shall establish a prima facie  
13 case for a claim of intentional infliction of emotional  
14 distress upon filing a petition in the district court for such  
15 a claim. In addition to actual damages, a person who succeeds  
16 in claim for intentional infliction of emotional distress as  
17 provided for in this subsection may recover:

18 (1) if applicable, an amount equal to the  
19 monetary gain made by the defendant from the fruits of the  
20 crime committed;

21 (2) punitive damages;

22 (3) court costs, reasonable attorney fees and  
23 other litigation costs reasonably incurred; and

24 (4) any other legal or equitable relief the  
25 court deems just and proper."