

LFC Requester:	Chavez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}

Date Prepared: 14 Feb 25 *Check all that apply:*
Bill Number: HB 401 Original Correction
 Amendment Substitute

Sponsor: Serrato **Agency Name and Code** 218 AOC
Short Title: Intelligence Synthetic Content Accountability Act **Number:** _____
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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

BILL SUMMARY

Synopsis: This bill's main purpose is to prevent the dissemination of A.I. generated multimedia content (images, video, & audio) that realistically depicts an actual person with the intent of harming that person's reputation or societal position without consent. To achieve this, the bill puts requirements on providers of generative A.I. systems that produce the covered synthetic content and on the disseminators of the same content. Disseminators include individuals who post the covered synthetic content as well as large online platforms that allow posting of such content. Violating the bill's requirements can lead to civil and criminal penalties for any or all parties.

For providers of generative A.I. systems, the bill requires that the generated content be readily identified as synthetic using content watermarks that cannot be faked or removed by a third-party. The provider must use "state-of-the-art techniques" to prove the security of these watermarks. Also, providers must be transparent about testing the strength of the security of their watermarks.

For disseminators, if they knowingly distribute synthetic content that is not identified as such with the intent to "harass, entrap, defame, extort or otherwise cause financial or reputational harm to the depicted person" then they are subject to civil and criminal penalties. For large online platforms that allow posting of covered synthetic content, they are required to vet such content on a regular basis as well as use "reasonable verification methods".

FISCAL IMPLICATIONS

None identified for the judiciary.

SIGNIFICANT ISSUES

The bill does not establish any jurisdiction requirements for victims/plaintiffs under the civil cause of action established in Sec. 3. It is not clear if the victim is required to be a resident of New Mexico, or what other connection might be required.

The identity verification requirements in Section 7 are vague. Section 7(A)(2) requires identify verification when a user posts content that "purports to depict reality," but does not establish what would be required to determine if the content does so. Additionally, "reasonable identity verification method" required by large online platforms is likewise unclear. Presently, large social media companies typically only require an email verification, which would be short of the verifications contemplated in Section 2(P).

Also, the bill language is not clear on what a large online platform needs to verify "every sixty minutes" in Section 7(B); this could refer to user identity or content posted.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Section 3(E)(1) provides for a recovery of ten thousand dollars in “liquidated damages” for prevailing in a civil suit. The term liquidated damages typically arises in contract law as a predetermined value of a breach of contract.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

For Section 3(E)(1), strike “liquidated” so that the recovery is described simply as “damages”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Deepfakes and other AI generated content intended to do harm will become more prevalent. Undue harm to peoples’ reputations will become more frequent as this technology becomes easier to obtain and use if no safeguards or penalties are in place.

AMENDMENTS