

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 530 amends Section 30-37A-34 NMSA 1978, regarding unauthorized distribution of sensitive images, by adding “sensitive deepfake images”, alongside “sensitive images”, into the section of the statute describing what kinds of images are prohibited from being sent.

HB 530 also creates a new crime, “threatening to distribute sensitive images”, which consists of maliciously making a threat to a person to distribute, publish or otherwise make available sensitive images or sensitive deepfake images of the person with intent to: (1) harass, humiliate or intimidate that person; (2) cause that person to reasonably fear for that person's own or family member's safety; or (3) cause that person to suffer substantial emotional distress. The penalty is a petty misdemeanor for the first offense; for a second or subsequent conviction, the penalty is a misdemeanor.

HB 530 also changes the definition of “intimate act”, decoupling it from the definition of “sexual act” in Section 30-9-2 and expanding that definition slightly. “Sensitive deepfake image” is also defined.

HB 530 furthermore creates a new section of law in Chapter 41 NMSA 1978, so that someone may maintain a cause of action for libel, slander or invasion of privacy based on the publication, exhibition or communication of a sensitive deepfake image. Additionally, a victim of the crime provided for in Subsection G of Section 30-6A-3 NMSA 1978 (intentionally distributing any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act) or a victim of a crime provided for in Section 30-37A-1 NMSA 1978 shall establish a prima facie case for a claim of intentional infliction of emotional distress upon filing a petition in the district court for such a claim. HB 530 provides for actual damages and additional recovery.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

NCSL has reported, “As social media sites and email became commonplace, lawmakers in at least 17 states enacted laws that specifically refer to online impersonation done with an intent to intimidate, bully, threaten or harass a person through social media sites, email or other electronic or online communications. These states are California, Connecticut, Florida, Hawaii, Illinois, Louisiana, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Oklahoma,

Rhode Island, Texas, Utah, Washington and Wyoming.” (“Deceptive Audio or Visual Media (‘Deepfakes’) 2024 Legislation”, updated Nov. 2024, available at: <https://www.ncsl.org/technology-and-communication/deceptive-audio-or-visual-media-deepfakes-2024-legislation>). HB 530 would add New Mexico to that list.

It is difficult to determine what the effect of passing HB 530 would be on the state’s prison population. The average per day cost to incarcerate someone in the state’s prison system is \$155.63/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 359 covers the same areas of law as HB 309 and HB 332.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS