

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 153

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

AN ACT

RELATING TO JOURNALISM; ENACTING THE PROTECT REPORTERS FROM
EXPLOITATIVE STATE SPYING ACT; REPEALING AND ENACTING SECTIONS
OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Protect Reporters from Exploitative State Spying
Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Protect Reporters from Exploitative State Spying Act:

A. "covered journalist" means a person who
regularly gathers, prepares, collects, photographs, records,
writes, edits, reports, investigates or publishes news or
information that concerns local, national or international
events or other matters of public interest for dissemination to

.230685.1

underscored material = new
[bracketed material] = delete

1 the public;

2 B. "covered service provider" means a person that,
3 by an electronic means, stores, processes or transmits
4 information in order to provide a service to customers of the
5 person, including:

6 (1) a telecommunications carrier and a
7 provider of an information service;

8 (2) a provider of an interactive computer
9 service and an information content provider;

10 (3) a provider of a remote computing service;

11 and

12 (4) a provider of an electronic communication
13 service to the public;

14 C. "document" means writings, recordings and
15 photographs, as those terms are defined by Rule 11-1001 NMRA;

16 D. "journalism" means gathering, preparing,
17 collecting, photographing, recording, writing, editing,
18 reporting, investigating or publishing news or information that
19 concerns local, national or international events or other
20 matters of public interest for dissemination to the public;

21 E. "personal account of a covered journalist" means
22 an account with a covered service provider used by a covered
23 journalist that is not provided, administered or operated by
24 the employer of the covered journalist;

25 F. "personal technology device of a covered

1 journalist" means a handheld communications device, laptop
2 computer, desktop computer or other internet-connected device
3 used by a covered journalist that is not provided or
4 administered by the employer of the covered journalist;

5 G. "protected information" means any information
6 identifying a source who provided information as part of
7 engaging in journalism and any records, contents of a
8 communication, documents or information that a covered
9 journalist obtained or created as part of engaging in
10 journalism; and

11 H. "state entity" means an entity or employee of
12 the legislative or executive branch of the state government or
13 an administrative agency of the state government with the power
14 to issue a subpoena or issue other compulsory process.

15 SECTION 3. [NEW MATERIAL] LIMITS ON COMPELLED DISCLOSURE
16 FROM COVERED JOURNALISTS.--In any matter arising under state
17 law, a state entity shall not compel a covered journalist to
18 disclose protected information unless a court in the judicial
19 district in which the subpoena or other compulsory process has
20 been issued determines by a preponderance of the evidence,
21 after providing notice and an opportunity to be heard to the
22 covered journalist, that:

23 A. disclosure of the protected information is
24 necessary to prevent, or to identify any perpetrator of, an act
25 of terrorism; or

.230685.1

1 B. disclosure of the protected information is
2 necessary to prevent a threat of imminent violence, significant
3 bodily harm or death, including specified offenses against a
4 minor.

5 SECTION 4. ~~[NEW MATERIAL]~~ LIMITS ON COMPELLED DISCLOSURE
6 FROM COVERED SERVICE PROVIDERS.--

7 A. In any matter arising under state law, a state
8 entity shall not compel a covered service provider to provide
9 testimony or any document consisting of any record, information
10 or other communications stored by a covered service provider on
11 behalf of a covered journalist, including testimony or any
12 document relating to a personal account of a covered journalist
13 or a personal technology device of a covered journalist, unless
14 a court in the judicial district in which the subpoena or other
15 compulsory process has been issued determines by a
16 preponderance of the evidence that there is a reasonable threat
17 of imminent violence if the testimony or document is not
18 provided and issues an order authorizing the state entity to
19 compel the disclosure of the testimony or document.

20 B. A state entity seeking to compel the provision
21 of testimony or any document described in Subsection A of this
22 section shall inform the court that the testimony or document
23 relates to a covered journalist.

24 C. A court may authorize a state entity to compel
25 the provision of testimony or a document pursuant to this

1 section only after the state entity seeking the testimony or
2 document provides the covered journalist on behalf of whom the
3 testimony or document is stored pursuant to Subsection A of
4 this section with:

5 (1) notice of the subpoena or other compulsory
6 request for such testimony or document from the covered service
7 provider not later than the time at which the subpoena or
8 request is issued to the covered service provider; and

9 (2) an opportunity to be heard before the
10 court before the time at which the provision of the testimony
11 or document is compelled.

12 D. Notice and an opportunity to be heard pursuant
13 to Subsection C of this section may be delayed for not more
14 than forty-five days if the court involved determines there is
15 clear and convincing evidence that the notice would pose a
16 clear and substantial threat to the integrity of a criminal
17 investigation or would present an imminent risk of death or
18 serious bodily harm, including specified offenses against a
19 minor.

20 E. The forty-five-day period described in
21 Subsection D of this section may be extended by the court for
22 additional periods of not more than forty-five days if the
23 court involved makes a new and independent determination that
24 there is clear and convincing evidence that providing notice to
25 the covered journalist would pose a clear and substantial

.230685.1

1 threat to the integrity of a criminal investigation or would
2 present an imminent risk of death or serious bodily harm under
3 current circumstances.

4 SECTION 5. [NEW MATERIAL] LIMITATION ON CONTENT OF
5 INFORMATION.--A subpoena for any testimony, document or
6 protected information sought to be compelled pursuant to
7 Sections 3 and 4 of the Protect Reporters from Exploitative
8 State Spying Act and the extent of any information ordered to
9 be disclosed in proceedings to enforce such a subpoena shall:

10 A. not be overbroad, unreasonable or oppressive and
11 shall, as appropriate, be limited to the purpose of verifying
12 published information or describing any surrounding
13 circumstances relevant to the accuracy of the published
14 information; and

15 B. be narrowly tailored in subject matter and
16 period of time covered so as to avoid compelling the production
17 of peripheral, nonessential or speculative information.

18 SECTION 6. [NEW MATERIAL] RULE OF CONSTRUCTION.--
19 Nothing in the Protect Reporters from Exploitative State Spying
20 Act shall be construed to prevent the state from pursuing an
21 investigation of a covered journalist or organization that is:

22 A. suspected of committing a crime;
23 B. a witness to a crime unrelated to engaging in
24 journalism;
25 C. suspected of being an agent of a foreign power,

1 as defined in Section 101 of the federal Foreign Intelligence
2 Surveillance Act of 1978;

3 D. an individual or organization designated under
4 Executive Order 13224 (50 U.S.C. 1701);

5 E. a specially designated terrorist, as that term
6 is defined in Section 595.311 of Title 31 of the Code of
7 Federal Regulations, or any successor thereto; or

8 F. a terrorist organization, as that term is
9 defined in Section 212(a)(3)(B)(vi)(II) of the federal
10 Immigration and Nationality Act.

11 **SECTION 7. REPEAL.**--Section 38-6-7 NMSA 1978 (being Laws
12 1973, Chapter 31, Section 1) is repealed.

13 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
14 provisions of this act is July 1, 2025.

underscoring material = new
~~bracketed material~~ = delete