

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

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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, or in the case of a state entity required by
 21 statute to apply to a court to issue a subpoena in connection
 22 with the state entity's own investigations or proceedings, is
 23 sought to be issued, determines by a preponderance of the
 24 evidence, after providing notice and an opportunity to be heard
 25 to the covered journalist, that:

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1 A. disclosure of the protected information is
2 necessary to prevent, or to identify any perpetrator of, an act
3 of terrorism; or

4 B. disclosure of the protected information is
5 necessary to prevent a threat of imminent violence, great
6 bodily harm or death, including specified offenses against a
7 minor.

8 SECTION 4. [NEW MATERIAL] LIMITS ON COMPELLED DISCLOSURE
9 FROM COVERED SERVICE PROVIDERS.--

10 A. In any matter arising under state law, a state
11 entity shall not compel a covered service provider to provide
12 testimony or any document consisting of any record, information
13 or other communications stored by a covered service provider on
14 behalf of a covered journalist, including testimony or any
15 document relating to a personal account of a covered journalist
16 or a personal technology device of a covered journalist, unless
17 a court in the judicial district in which the subpoena or other
18 compulsory process has been issued, or in the case of a state
19 entity required by statute to apply to a court to issue a
20 subpoena in connection with the state entity's own
21 investigations or proceedings, is sought to be issued,
22 determines by a preponderance of the evidence that there is a
23 reasonable threat of imminent violence if the testimony or
24 document is not provided and issues an order authorizing the
25 state entity to compel the disclosure of the testimony or

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1 document.

2 B. A state entity seeking to compel the provision
3 of testimony or any document described in Subsection A of this
4 section shall inform the court that the testimony or document
5 relates to a covered journalist.

6 C. A court may authorize a state entity to compel
7 the provision of testimony or a document pursuant to this
8 section only after the state entity seeking the testimony or
9 document provides the covered journalist on behalf of whom the
10 testimony or document is stored pursuant to Subsection A of
11 this section with:

12 (1) notice of the subpoena or other compulsory
13 request for such testimony or document from the covered service
14 provider not later than the time at which the subpoena or
15 request is issued to the covered service provider; and

16 (2) an opportunity to be heard before the
17 court before the time at which the provision of the testimony
18 or document is compelled.

19 D. Notice and an opportunity to be heard pursuant
20 to Subsection C of this section may be delayed for not more
21 than forty-five days if the court involved determines there is
22 clear and convincing evidence that the notice would pose a
23 clear and substantial threat to the integrity of a criminal
24 investigation or would present an imminent risk of death or
25 great bodily harm, including specified offenses against a

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1 minor.

2 E. The forty-five-day period described in
3 Subsection D of this section may be extended by the court for
4 additional periods of not more than forty-five days if the
5 court involved makes a new and independent determination that
6 there is clear and convincing evidence that providing notice to
7 the covered journalist would pose a clear and substantial
8 threat to the integrity of a criminal investigation or would
9 present an imminent risk of death or great bodily harm under
10 current circumstances.

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

17 A. not be overbroad, unreasonable or oppressive and
18 shall, as appropriate, be limited to the purpose of verifying
19 published information or describing any surrounding
20 circumstances relevant to the accuracy of the published
21 information; and

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

25 SECTION 6. [NEW MATERIAL] RULE OF CONSTRUCTION.--

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1 Nothing in the Protect Reporters from Exploitative State Spying
 2 Act shall be construed to prevent the state from pursuing an
 3 investigation of a covered journalist or organization that is:

4 A. suspected of committing a crime;

5 B. a witness to a crime unrelated to engaging in
 6 journalism;

7 C. suspected of being an agent of a foreign power,
 8 as defined in Section 101 of the federal Foreign Intelligence
 9 Surveillance Act of 1978;

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

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

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

18 **SECTION 7. REPEAL.**--Section 38-6-7 NMSA 1978 (being Laws
 19 1973, Chapter 31, Section 1) is repealed.

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