

LFC Requester:

Austin Davidson

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original x **Amendment**
Correction **Substitute**

Date Prepared: 2/1/2024

Bill No: SB 255

Sponsor: Mark Moores

Short Title: Crime of Student Athlete Harassment

Agency Name and Code Number: 305 – New Mexico Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: SB 255 proposes to criminalize harassment of intercollegiate student athletes related to the performance of that athlete in their sport.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

NMSA 1978, Section 30-3A-2 already penalizes the harassment of another person as a misdemeanor. Harassment is defined as “knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.” NMSA 1978, Section 30-3A-2(A). SB 255 takes much of the language used in Section 30-3A-2 but includes some language analogous to NMSA 30-3-9.1(B), Assault upon a Sports Official, namely the requirement of threat of violence or harm is similar to that in Section 30-3-9.1(B)(2), “threat or menacing conduct that causes the sports official...to reasonably believe that he is in danger of receiving an immediate battery”. The language of SB 255 could be more closely tailored to the type of behavior already criminalized for Sports Officials under Section 30-3-9.1(B)(2), which appears to be similar to the type of activity SB 255 attempts to criminalize beyond that which is already considered under Section 30-3A-2.

Additionally, SB 255 expands the threat that the student athlete may perceive to their “immediate family”. While SB 255 defines “student athlete” and “intercollegiate athletics”, a student athlete’s immediate family is not defined. The term “immediate family” has many definitions in state law that are all similar but with small variations. Several examples, but not wholly inclusive, are the following. NMSA 30-3-19, Threatening a judge or an immediate family member of a judge, defines “immediate family member” as “a spouse, child, sibling, parent, grandparent or child...includes a stepparent, a stepchild, a stepsibling and an adoptive relationship”. NMSA 1978, Section 29-15-2, the Missing Persons Information and Reporting Act, defines “immediate family member” as “the spouse, nearest relative or close friends of a person”. NMSA 1978, Section 22-8B-5.2, Governing body conflicts of interest, defines “immediate family member” as the “spouse, father, father-in-law, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law or any other

relative who is financially supported”. NMSA 1978, Section 13-1-62, Procurement Code definition, defines “immediate family” as “spouse, children, parents, brothers and sisters”. As “immediate family” is not defined generally across the criminal code or state law, SB 255 should clearly address the applicable parameters of the term.

Notably, the scope of potentially criminalized behavior is very broad. As SB 255 does not explicitly require the concern for an immediate battery or require the threat to be at a sporting event, it would include harassment via social and other media. These actions, should they rise to the level of threat considered in SB 255, would already be criminalized under the Assault and Harassment sections of the Criminal Code.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS