

LFC Requester:	Marty Daly
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 2/8/2024
Bill No: SB 255

Sponsor: Senator Moores
Short Title: Crime of Student Athlete Harassment

Agency Name and Code University of New Mexico-952
Number: _____
Person Writing Lenaya Montoya
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 225 and SB 55
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 255 creates the crime of student athlete harassment. Student athlete harassment consists of knowingly directing threats of violence or harm at a specific athlete in which the harassment is related to the performance of the athlete in intercollegiate sport and is done with the intent to place the student athlete in reasonable fear for the athlete’s safety or the safety of their immediate family. The conduct must be such that a reasonable person would suffer substantial emotional distress. A first offense is a misdemeanor. A second or subsequent conviction is a fourth-degree felony. The offender must also participate in professional counseling at their own expense. SB 255 also defines “student athlete” as an individual who engages in or is eligible to engage in an intercollegiate sport. Intercollegiate

is defined as those sports played at the collegiate level and requirements for eligibility are established by a national association for the promotion of college athletics.

FISCAL IMPLICATIONS

UNM Office of Compliance, Ethics & Equal Opportunity-

No appropriation is included in SB 255. There may be fiscal impact to campus police forces and other law enforcement agencies that must recognize and investigate intercollegiate harassment for criminal prosecution.

SIGNIFICANT ISSUES

UNM Athletics does not have any concerns with the bill.

UNM Police Department-

In May of 2023 it was reported that the National Collegiate Athletics Association (NCAA) was advocating for the introduction of new laws to prevent student-athletes from “harassment or coercive behavior” by sport bettors. Basically, the NCAA was engaging with “lawmakers in states where sports betting has not been legalized to lobby for the inclusion of anti-harassment provisions into sports betting legislation” (<https://www.egr.global/northamerica/news/ncaa-targets-anti-harassment-laws-with-new-advocacy-initiative/>).

The article goes on to mention that one state has laws in place but did not mention the state. It appears at this time that anti-harassment laws have not been widely adopted.

The first offense is a misdemeanor offense, and any other subsequent offenses would be considered a fourth-degree felony. Additionally, the person convicted of student athlete harassment will have to complete a program of professional counseling at the person’s own expense. Supportive information is lacking in the bill regarding the aforementioned elevation of penalties for subsequent offenses. Potentially, the sponsor could include an enhancement in the bill for penalties if it involves a group rather than individual perpetrator. Moreover, there should be additions to the bill to include the use of social media to harass.

Also missing from the bill are protocols for reporting and tracking incidents of harassment specific to student athletes. There also should be something regarding training and/or raising the level of awareness of this law and expectations regarding student athletes.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

UNM Office of Compliance, Ethics & Equal Opportunity-

May be related to HB 225 and SB 55, both of which criminalize hazing activities, to include hazing of student athletes. SB255 does not specifically refer to hazing but appears to more broadly address student athlete harassment which is defined as threats of physical violence or harm. Although some acts of hazing could be included in the scope of SB 255, SB 255 does not clearly reference hazing. Hazing may include threats of physical violence (or actual violence),

but hazing may also include humiliation, forced alcohol ingestion and other behaviors that may not neatly fit in the scope of SB 255. It is not clear if SB 255 intends to augment HB 225 and/or SB 55, or if SB 255 is distinctly focused on other types of threats of violence made against inter-collegiate student athletes.

SB 255 focuses solely on criminalizing threats of violence made against inter-collegiate athletes whereas HB 225 and SB 55 focus broadly on all students.

SB 225 criminalizes specific behavior against inter-collegiate athletes but does not include the training, reporting or educational requirements included in HB 225 and SB 55.

UNM Police Department-

The crime of harassment already exists in the NMSA (Chapter 30 – Criminal Offenses Article 3A – Harassment and Stalking Section 30-3A-2 – Harassment). Title IX also indirectly address harassment.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

UNM Police Department-

Currently, there is not a law specific to the harassment of student athletes. However, other harassment laws exist, which could address this issue. It should be noted that the NCAA is advocating for such laws so there may be an unintended consequence if this bill is not enacted.

AMENDMENTS