

LFC Requester:

Henry Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.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}***Date Prepared:** January 14, 2026 *Check all that apply:***Bill Number:** HB 22 Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Christine Chandler**Short Title:** Distribution of Sensitive
and Deepfake Images**Agency Name
and Code
Number:**Administrative Office of the
District Attorneys - #264**Person Writing**M. Anne Kelly**Phone:** 5052503302**Email** akelly@da.state.nm.us**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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

BILL SUMMARY

Synopsis:

Section 1 amends Section 30-37A-1 which is entitled “Unauthorized Distribution of Sensitive Images – Penalties” to include “sensitive deepfake images” to the unauthorized distribution of sensitive images to Subsection A of Section 30-37A-1.

It adds a Subsection B to add a crime of “threatening to distribute” sensitive images or sensitive deepfake images. The threatening must be done “maliciously” with the intent to harass, intimidate, or humiliate the person to whom the threat is made; to cause that person to fear for that person’s safety or the safety of their family; or cause that person to suffer substantial emotion distress.

Subsection (C)(4) is amended to change the definition of “intimate act” from a reference to Section 30-9-2 to instead list specific the sexual acts that qualify.

A new Subsection (C)(6) is added to define “sensitive deepfake image” as one that was “created, altered or digitally manipulated” to depict a person engaging in an “intimate act” or with uncovered genitals, or uncovered breasts if the subject is a woman.

A new Subsection E is added to provide that the crime of threatening to distribute sensitive images is a petty misdemeanor upon first conviction and a full misdemeanor upon a second or subsequent conviction.

Section 2 is new material to be added to Chapter 41 and is entitled “Claims Arising from the Publication of Sensitive Deepfake Images or the Commission of Certain Crimes.”

Subsection A sets out the meaning of “sensitive deepfake image.”

Subsection B provides that a person 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 provided that (1) a person’s consent to the creation of the image does not constitute consent to its distribution; and (2) in addition to actual damages, the person who succeeds in the claim may also recover (a) the monetary gain made by the defendant from the publication of the image; (b) punitive damages; and (c) courts costs and attorney fees; and (d) any other legal or equitable relief ordered by the court.

Subsection C provides that a victim of a crime in Section 30-6A-3(G) (which prohibits “intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act”) or Section 30-37A-1 shall establish a claim of intentional infliction of emotional distress upon filing a petition in district court for such a claim. In addition to actual damages, the successful claimant may also recover the four sets of damages as delineated in Subsection B.

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.

None for this agency.

SIGNIFICANT ISSUES

The crime for “threatening” to distribute sensitive images contains the requirement that the defendant act “maliciously.” This mens rea is not included in the crime of unauthorized distribution. The crime for “threatening” requires the specific intent that the defendant intend to hurt the person depicted (in one of three specified ways) and the additional requirement of “maliciously” may be somewhat superfluous.

There is some possible overlap with the “threatening” crime and the crime of extortion, contained in Section 30-16-9. Extortion is third degree felony – as opposed to the petty misdemeanor liability of the “threatening” crime – and requires the additional proof that the defendant “wrongfully obtain[ed] anything of value” or wrongfully compelled a person to do something or refrain from doing something against his will in response to defendant’s threat. It would still be advisable to charge under the extortion statute if the defendant seeks money from the victim and/or compels the victim to do something in response to the threat, given that extortion is a higher degree of crime. However, that charging decision could be subject to a challenge under a claim that prosecutorial discretion is limited to charging the more specific crime. *See e.g. State v. Cleve*, 1999-NMSC-017, 127 N.M. 240.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS