

LFC Requester:

Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** 1/15/26*Check all that apply:***Bill Number:** HB 22Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Rep. Christine Chandler
Short Title: Distribution of Sensitive and Deepfake Images**Agency Name and Code Number:**AOC
218**Person Writing** Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 530 amends Section 30-37A-1 NMSA 1978, within the Criminal Code and governing the crime of distribution of unauthorized sensitive images, to include sensitive deepfake images within the crime, and to create the petty misdemeanor crime of “Threatening to distribute sensitive images”, consisting of maliciously making a threat to a person to distribute, publish or otherwise make available sensitive images or sensitive deepfake images of the person with intent to: (1) harass, humiliate or intimidate that person; (2) cause that person to reasonably fear for that person's own or family member's safety; or (3) cause that person to suffer substantial emotional distress.

The HB 530 amendment to Section 30-37A-1 NMSA 1978 defines “sensitive deepfake image” to mean

...an image, recording or other digital depiction or digital data capable of conversion to an image, recording or other digital depiction of a person that was created, altered or digitally manipulated to depict a person: (a) with uncovered genitals or, if the person is a woman, a breast below the top of the areola that is uncovered or visible through less- than-fully opaque clothing; or (b) engaging in an intimate act.

HB 530 provides a misdemeanor penalty for a second or subsequent conviction for the crime of threatening to distribute sensitive images.

HB 530 also enacts a new statutory section of Chapter 41 NMSA 1978, governing torts, to provide 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 a sensitive deepfake image alone shall not establish that the person consented to the publication, exhibition or communication of the image; and

(2) in addition to actual damages, a person who succeeds in a claim for libel, slander or invasion of privacy based on the publication, exhibition or communication of a sensitive deepfake image may recover: (a) if applicable, an amount equal to the monetary gain made by the defendant from the publication, exhibition or communication of the sensitive deepfake image; (b) punitive damages; (c) court costs, reasonable attorney fees and other litigation costs reasonably incurred; and (d) any other legal or equitable relief the court deems just and proper.

HB 530 provides that a victim under Section 30-6A-3(G) NMSA 1978, governing sexual exploitation of children, or a victim under Section 30-37A-1 NMSA 1978, governing unauthorized distribution of sensitive images and threatening to distribute sensitive images, shall establish a prima facie case for a claim of intentional infliction of emotional distress upon filing a petition in the district court for such a claim. HB 530 further

provides that, in addition to actual damages, a person who succeeds in claim for intentional infliction of emotional distress, may recover:

- (1) if applicable, an amount equal to the monetary gain made by the defendant from the fruits of the crime committed;
- (2) punitive damages;
- (3) court costs, reasonable attorney fees and other litigation costs reasonably incurred; and
- (4) any other legal or equitable relief the court deems just and proper.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. This bill creates a new cause of action exists and with the increase in use of deepfakes, there may be an increase in criminal cases filed. That is paired with the extended trial time to demonstrate that there was indeed a deepfake. Deepfake technology is moving very quickly and the ability to demonstrate through metadata who created it or disseminated it will become more difficult to discern.

Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and appeals from convictions, as well as any increase in civil actions based on the publication, exhibition or communication of a sensitive deepfake image, including for the intentional infliction of emotional distress, and any appeals from the awarding of damages, costs and fees, or other equitable relief. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) The FBI notes that it has seen a “huge increase” in the number of cases involving children and teens being threatened and coerced into sending explicit images online – a crime called sextortion. See *Sextortion*, <https://www.fbi.gov/how-we-can-help-you/scams-and-safety/common-frauds-and-scams/sextortion> . See also, *Nonconsensual Distribution of Intimate Images: What to Know*, Federal Trade Commission (FTC), <https://consumer.ftc.gov/articles/nonconsensual-distribution-intimate-images-what-know>.
- 2) Defining what constitutes a deepfake of a specific person remains an issue that may increase the complexity of a criminal proceeding, especially a proceeding that is for a petty misdemeanor. Deepfake technology is developing quickly and the ability to demonstrate through metadata who created or disseminated images will become more difficult to discern.
- 3) Section 30-16-9 NMSA 1978 governs the crime of extortion, consisting of the communication or transmission of any threat to another by any means whatsoever with intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will. Among the acts listed as constituting a threat is “a threat to expose, or impute to the person threatened, or another, any deformity or disgrace”. While there is a question as to whether the conduct described in the HB 530 amendment to Section 30-37A-1 NMSA 1978 as “threatening to distribute sensitive images” would also constitute extortion, state and federal legislation, proposed and passed, would seem to support this interpretation. See California’s proposed legislation, CA AB355,

expanding the definition of extortion by adding a new provision that specifically addresses threats involving AI-generated content. <https://www.billtrack50.com/billdetail/1812534#:~:text=This%20bill%20amends%20Section%20519,blackmail%20using%20artificial%20intelligence%20technology>. (As of April 9, 2025, the bill was in committee.) See also California’s earlier proposed legislation, 2023 CA A 1872, https://custom.statenet.com/public/resources.cgi?mode=show_text&id=ID:bill:CA2023000A1872&verid=CA2023000A1872_20240122_0_I&, providing that a threat to post, distribute, or create AI-generated images or videos of another may also induce fear sufficient to constitute extortion. (As of May 2024, the legislation was “In committee: Held under submission.”)

The federal Take it Down Act, was passed on April 28, 2025 and signed into law on May 19, 2025, requiring certain websites and online or mobile applications to implement a “notice-and-removal” process to remove intimate images, including deepfakes, in certain circumstances. The bill’s criminal prohibition took effect immediately, while covered platforms have one year to establish the required notice-and-removal process. The criminal prohibitions consist of seven separate offenses, including threats involving authentic intimate depictions of adults or minors and threats involving digital forgeries of adults and digital forgeries of minors. See [*The TAKE IT DOWN Act: A Federal Law Prohibiting the Nonconsensual Publication of Intimate Images*](#), Congress.gov

4) According to the National Conference of State Legislatures (NCSL),

In 2025, at least half the states enacted legislation addressing deepfakes, which use generative AI to create seemingly realistic, but fabricated, images and sounds. New laws focus on [election campaigning](#), nonconsensual intimate images, and simulated child sexual abuse material. States will continue to protect against online impersonation, including AI-generated content.

...

ACTION: In the [2025 legislative session](#), all 50 states, Puerto Rico, the Virgin Islands and Washington, D.C., considered AI legislation, and 38 states adopted or enacted about 100 measures. Lawmakers efforts to regulate and invest in AI are expected to continue in 2026.

See [As AI Tools Become Commonplace, so Do Concerns](#), NCSL Staff, November 11, 2025. See also, Deceptive Audio or Visual Media (‘Deepfakes’) 2024 Legislation, November 2024, <https://www.ncsl.org/technology-and-communication/deceptive-audio-or-visual-media-deepfakes-2024-legislation>, including a table of legislation enacted in each state.

5) There is a possibility that the federal government will ban states from imposing rules on AI companies or their clients. President Trump signed an executive order in mid-December, pressuring states not to regulate artificial intelligence, arguing that “the limited regulations already enacted by states, and others that might follow, will dampen innovation and growth for the technology.” [What to know about Trump’s executive order to curtail state AI regulations](#), *Associated Press*, December 12, 2025. The executive order directs federal agencies to identify burdensome state AI regulations and threatens withholding federal funding or challenging the laws in court.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS