

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:** 14 January 2026*Check all that apply:***Bill Number:** HB 22Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Chandler**Short** Distribution of Sensitive and**Title:** Deepfake Images**Agency Name
and Code**New Mexico Sentencing
Commission (354)**Number:****Person Writing**Douglas Carver**Phone:** 505-239-8362**Email** dhmcarver@unm.edu**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:

HB 22 amends Section 30-37A-34 NMSA 1978, regarding unauthorized distribution of sensitive images, by adding “sensitive deepfake images”, alongside “sensitive images”, into the section of the statute describing what kinds of images are prohibited from being sent.

HB 22 also creates a new crime, “threatening to distribute sensitive images”, which consists 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 penalty is a petty misdemeanor for the first offense; for a second or subsequent conviction, the penalty is a misdemeanor.

HB 22 also changes the definition of “intimate act”, decoupling it from the definition of “sexual act” in Section 30-9-2 and expanding that definition slightly. “Sensitive deepfake image” is also defined.

HB 22 furthermore creates a new section of law in Chapter 41 NMSA 1978, so that someone 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. Additionally, a victim of the crime provided for in Subsection G of Section 30-6A-3 NMSA 1978 (intentionally distributing any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act) or a victim of a crime provided for in Section 30-37A-1 NMSA 1978 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 22 provides for actual damages and additional recovery.

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.

SIGNIFICANT ISSUES

NCSL in 2024 reported, “As social media sites and email became commonplace, lawmakers in at least 17 states enacted laws that specifically refer to online impersonation done with an intent to intimidate, bully, threaten or harass a person through social media sites, email or other electronic or online communications. These states are California, Connecticut, Florida, Hawaii, Illinois, Louisiana, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Texas, Utah, Washington and Wyoming.” (“Deceptive Audio or Visual Media (‘Deepfakes’) 2024 Legislation”, updated Nov. 2024, available at:

<https://www.ncsl.org/technology-and-communication/deceptive-audio-or-visual-media-deepfakes-2024-legislation>). HB 22 would add New Mexico to that list.

New Mexico is one of the few states not to have enacted some kind of deepfake statute – see this list from Public Citizen, with links to the various pieces of legislation: <https://www.citizen.org/article/tracker-intimate-deepfakes-state-legislation/> (updated October 20, 2025).

This week (on January 13th), the US Senate passed the DEFIANCE Act (Disrupt Explicit Forged Images and Non-Consensual Edits) by unanimous consent; the Act would allow victims to sue the creators of nonconsensual sexually explicit deepfakes for a minimum of \$150,000. Similar legislation was passed by the US Senate last year, but stalled in the House.

Section 30-37A-1 is a misdemeanor, or a 4th degree felony upon 2nd or subsequent conviction. As of 6/30/25, there is no evidence of anyone being incarcerated for this as a lead offense, even as a probation violation.

It is an uncommon charge. In FY2024, the last year available, there were 35 cases that adjudicated a charge under Section 30-37A.

- Most cases included one such charge (89%) or two such charges (6%), though one case had 25 counts and another 28 counts. All were misdemeanors—no 4th degree felonies.
- Five or 17% of the defendants were minors under the age of 18 at time of offense.
- For 24 or 69% of cases, Section 30-37A was the highest charge. Among these 24, 6 or 25% had a finding of guilt or conditional discharge for a Section 30-37A charge.
 - Sentences for convictions where 30-37A was the highest charge were:
 - Probation 1 year (1)
 - Probation 6 months (2)
 - Probation 90 days (2)
 - 364 days confinement, concurrent to existing cases (1)
- Among all 35 cases, there was a finding of guilt or conditional discharge for the Section 30-37A charge in 8 or 22% of cases.
- When there was a higher charge, it was: extortion (2), sexual exploitation of children (pornography) (2), kidnapping, bribery of a witness, robbery, tampering w evidence, stalking, criminal sexual contact of a minor, CSP, or identity theft. Common other misdemeanors included harassment and battery.

It is difficult to determine what the effect of passing HB 22 would be on the state's prison population. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS