

LFC Requester:

Sanchez, Scott

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 1/23/2026

Check all that apply:

Bill Number: SB57

Original x Correction
Amendment Substitute

Sponsor: Sen Antoinette Sedillo Lopez

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

Short Title: Concealing Identity of a Peace Officer

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with columns: Appropriation (FY26, FY27), Recurring or Nonrecurring, Fund Affected

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Table with columns: Estimated Revenue (FY26, FY27, FY28), Recurring or Nonrecurring, Fund Affected

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(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 57 would create misdemeanor and felony offenses for law enforcement officers who conceal their identity, amends the definition of peace officer for purposes of the impersonating a peace officer statute, and restricts the representations and scope of actions of bail enforcement agents.

**Section 1** creates a misdemeanor offense for a peace officer “concealing [his or her] face, badge, name or employer” during “execution of a search, seizure or service of process,” if done so “in a manner that causes a person to reasonably believe the officer is acting without lawful authority,” and creates a fourth degree felony for peace officers commit the offense “with the intent to deceive or intimidate a person or the public at large or to interfere with the creation of a public record.” Section 1 defines “peace officer” as “a federal state or local full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with a duty to maintain the public peace.”

**Section 2** redefines “peace officer” for purposes of the impersonating a peace officer statute as defined above in Section 1.

**Section 3** prevents persons other than certified peace officers who are “authorized to apprehend an individual who fails to appear at the time and place fixed by the terms of the individual’s bail bond” to represent that they are a peace officer, wear a badge, uniform, or assume an identity “that represents that person’s self as belonging to a federal, state or local government;” forbids using bail enforcement authority “for the purpose of immigration enforcement, except pursuant to a valid judicial warrant or court order.” However, the bill also indicates that it does not “restrict a governmental entity or official from sending to or receiving from, federal immigration authorities information regarding the citizenship or immigration status, . . . of a person.”

**FISCAL IMPLICATIONS**

The fiscal impact upon the New Mexico Department of Justice will depend upon the degree to which it will be prosecuting such cases and therefore cannot be determined at this time.

**SIGNIFICANT ISSUES**

By its terms, Section 1 might prevent plainclothes or undercover officers from participating in

arrests or searches. It is unclear if this is intended.

SB 57 contains a different definition of “peace officer” than is found throughout the rest of the Criminal Code. Generally, peace officer means “any public official or public officer vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes.” NMSA 1978, Section 30-1-12(C). In contrast, SB 57 would define peace officer to mean “a federal, state or local full-time salaried or certified parttime salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace.” This mismatch in definitions could cause confusion and odd results. For example, trial courts might give the wrong definitional jury instruction of “peace officer” for a charged crime. And the same individual might be a peace officer for the purposes of one statute but not a peace officer for the purposes of another.

Defining peace officers as persons who are “vested by law with a duty to maintain the peace” is vague and leaves “maintaining the peace,” and may therefore create a defense for law enforcement officers who argue they have a narrower focus (e.g., enforcing immigration laws).

This statute would apply to federal officers. Pursuant to the intergovernmental immunity doctrine, federal law enforcement officers have immunity from state prosecution for their “necessary and proper” actions to the “discharge of their duties.” See *Martin v. U.S.*, 605 U.S. 395 (2025) (quoting *In re Neagle*, 135 U.S. 1 (1890)). It is unclear whether concealment would count as a “necessary and proper” action.

Federal officers enforcing immigration laws might argue as well that the doctrine of preemption as applied to the sphere of immigration enforcement prevents state regulation or restrictions as it affects immigration enforcement. However, this has not prevented the Ninth Circuit from upholding some provisions of a California statute requiring state inspection of immigration detention issues. See *U.S. v. California*, 921 F.3d 865 (2018).

Section 3 limits the activities of bail bond agents. It is unclear bail bond agents exist in New Mexico. Monetary bail in New Mexico is unusual since the 2016 amendments to Article II, Section 13 came into effect. When defendants released on conditions fail to appear as required, courts generally issue bench warrants for their arrest, which are executed by peace officers.

Moreover, it is unclear how Section 3 would operate. Unlike other provisions of the Criminal Code, Section 3 does not appear to define a crime. So it is not clear what the consequence of a violation for Section 3 would be.

## **PERFORMANCE IMPLICATIONS**

Because this could affect law enforcement operations, NMDNJ’s criminal investigations bureau might be affected.

## **ADMINISTRATIVE IMPLICATIONS**

As discussed under performance and fiscal implications above, this impact is currently unknown.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

None.

### **OTHER SUBSTANTIVE ISSUES**

The crime defined in Section 1 does not contain a mens rea, or a culpable mental state. Accordingly, courts would likely conclude that an officer would have to act with general criminal intent. *See State v. Rael*, 2024-NMSC-010, ¶¶ 43-45.

### **ALTERNATIVES**

None.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Not passing the bill will maintain the status quo.

### **AMENDMENTS**

None.