

LFC Requester:

Scott Sanchez

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: 27 January 2026 *Check all that apply:*
Bill Number: SB 86 Original Correction
 Amendment Substitute

Sponsor: Brantley **Agency Name and Code Number:** New Mexico Sentencing Commission (354)
Short Title: Harassment by Telephone **Person Writing:** Douglas Carver
Title: _____ **Phone:** 505-239-8362 **Email:** dhmcarver@unm.edu

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
	\$451	Nonrecurring	

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:

SB 86 amends Section 30-20-12 NMSA 1978, regarding the use of telephone to harass, by broadening the statute to include all electronic communications. The bill defines electronic communication as “(a) a wire line, cable, wireless or cellular telephone call; (b) a social media post; (c) a text message; or (d) an instant message or electronic mail.” “Social media is also defined as: “a website or internet medium that: (a) permits a person to become a registered user, establish an account or create a profile for the purpose of allowing the person to create, share or view user-generated content through users' accounts or profiles; (b) enables one or more than one user to generate content that can be viewed by other users of the medium; and (c) primarily serves as a medium for users to interact with content generated by other users of the medium.”

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

SB 86 poses potential conflicts with existing law, as follows:

1) Cyberbullying is defined in Section 2 of the Safe Schools for All Students Act (Section 22-35-1 NMSA 1978 *et seq.*), in reference to bullying. That Act states that “‘cyberbullying’ means any bullying that takes place through electronic communication,” and “electronic communication” is defined as “a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording.” Additionally, the Safe Schools for All Students Act defers to local school boards to develop policies to handle bullying, including cyberbullying.

2) In addition, New Mexico has an existing law penalizing harassment, at Section 30-3A-2, as follows:

30-3A-2. Harassment; penalties.

A. Harassment consists of knowingly pursuing a pattern of conduct that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose. The conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

B. Whoever commits harassment is guilty of a misdemeanor.

3) Additionally, Section 30-37A-1, concerning unauthorized distribution of sensitive images, includes intent to harass in its elements. The statute states:

Unauthorized distribution of sensitive images consists of distributing, publishing or otherwise making available, by an electronic communications device or other means, sensitive images of a person, with or without information identifying that person, without that person's consent:

- (1) with the intent to:
 - (a) harass, humiliate or intimidate that person;
 - (b) incite another to harass, humiliate or intimidate that person;
 - (c) cause that person to reasonably fear for that person's own or family members' safety;
 - (d) cause that person to suffer unwanted physical contact or injury; or
 - (e) cause that person to suffer substantial emotional distress; and
- (2) where the conduct is such that it would cause a reasonable person to suffer substantial emotional distress.

The penalty is a misdemeanor; upon a second or subsequent conviction, the offender is guilty of a fourth degree felony. Section 30-37A-1 would thus also conflict with the provisions of SB 86.

Section 30-20-12 is not a statute that often results in a conviction. In FY25 there were 20 cases disposed with Section 30-20-12 as the lead offense. One (5%) of those disposed cases led to a conviction and 19 (95%) resulted in a dismissal.

It is difficult to determine what the effect of passing HB 86 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