

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 01/25/2013
Bill No: HB 234--305

Sponsor: Rep. Mary Helen Garcia **Reviewing** Attorney General's Office
Short CREATE CRIME OF **Person Writing** Trevor A. Rigler, AAG
Title: BULLYING **Phone:** 5052229013 **Email** trigler@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 234, if enacted into law, would create a new crime of bullying. The bill provides definitions and penalties.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

The bill could create additional criminal matters filed in courts of jurisdiction and could require criminal investigations and/or investigative tasks.

SIGNIFICANT LEGAL ISSUES

The conduct proscribed by this bill is largely covered by harassment (§30-3A-2 NMSA) and stalking (§30-3A-3 NMSA).

The bill, as drafted, is vague in that it does not explicitly require the perpetrator to intend the logical consequence of his or her actions. Additionally, the bill’s language would suggest that the victim’s response need not be held to any standard of reasonableness.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

None

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

HB 54 - “SCHOOL BOARD CYBERBULLYING PREVENTION“ (Sheryl Williams Stapleton), which would amend existing law on bullying prevention to require school boards to promulgate policies on cyberbullying.

TECHNICAL ISSUES OR DRAFTING ERROR

None

OTHER SUBSTANTIVE LEGAL ISSUES

None

ALTERNATIVES TO ENACTING THIS BILL

Amend the stalking and harassment statutes to include bullying conduct.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

Include language that the age of the perpetrator and victim are not components of the crime.

Include a clearer intent component – perpetrators must intend not only their immediate conduct but the logical consequences.

Include language requiring a reasonable person standard with regard to the mental state of the victim.