

<b>LFC Requester:</b>	Jorgensen, Connor
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**AGENCY BILL ANALYSIS  
2014 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**      X      **Amendment**            
**Correction**              **Substitute**          

**Date** January 30, 2014  
**Bill No:** HB163-305 Jan 30

**Sponsor:** Kelly K. Fajardo  
Penalties for Electronic  
**Short**    Communication of Images to a  
**Title:**    Child

**Reviewing**    Attorney General's Office  
**Person Writing**    Shannon Murdock  
**Email**  
**Phone:** 222-9000    :    smurdock@nmag.gov

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

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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:

This Bill changes the law from making it a crime to send pictures of a person’s own intimate parts to pictures of *any* person’s intimate parts.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

None

**SIGNIFICANT LEGAL ISSUES**

None

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

This Bill will allow prosecutors to charge this crime not just when the person the specific child is communicating with sends a picture of that person’s intimate parts but any person’s intimate parts including pornographic images to children. Rather than having to charge distribution of sexually obscene material to minors under NMSA 1978, Section 30-37-2 (1973), prosecutors could charge this felony instead. Prosecutors would be able to argue that a specific child is not a real child and that the felony would cover images sent to undercover officers while the distribution of sexually obscene material to minors would have to be an attempt given the definition of minor in that statute not covering undercover officers posing as a child.

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None

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

N/A

**TECHNICAL ISSUES OR DRAFTING ERROR**

See above

**OTHER SUBSTANTIVE LEGAL ISSUES**

See above

**ALTERNATIVES TO ENACTING THIS BILL**

None

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

Status quo

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

Possibly a definition of specific child allowing it to cover undercover officers posing as children under 16 years of age.