

LFC Requester:	Connor Jorgensen
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**AGENCY BILL ANALYSIS
2015 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	<input type="checkbox"/>	Amendment	<input checked="" type="checkbox"/>	Date	<u>1/22/2015</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>HB 132</u>

Sponsor:	<u>Sen. Daniel A. Ivey-Soto</u>	Agency Code:	<u>Attorney General's Office</u>
Short Title:	<u>Expand Voyeurism to Include Attempt to View</u>	Person Writing	<u>James Torres</u>
		Phone:	<u>827-6064</u>
		Email	<u>jtorres@nmag.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	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

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

BILL SUMMARY

Synopsis:

HB 132 amends and modifies the definition of voyeurism proscribed under 30-9-20 to include attempt. Under the current statute, culpability requires the intentional completion of the act(s) proscribed by the statute. This bill proposes to expand the definition of voyeurism to include the intentional attempt to carry out acts proscribed by this statute.

FISCAL IMPLICATIONS

N/A

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

The current statute makes the commission of voyeurism punishable as a misdemeanor, unless the victim is under the age of 18, in which case the crime is punishable as a 4th degree felony. This raises two issues. First, §30-28-1 prohibits sentencing a person for attempt to commit a misdemeanor. However, the NMSC has ruled that a statute may override §30-28-1, allowing for the punishment of an attempted misdemeanor. *See State v. Sims*, 2010-NMSC- 027, ¶ 27, 148 N.M. 330, 338-39. Second, §30-28-1 provides that the attempt to commit a 4th degree felony is punishable as a misdemeanor. By including attempt within the definition of voyeurism, §30-28-1 would not cause the commission of a 4th degree felony to be dropped to a misdemeanor.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

Addressed above

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS