

1 The Legislature amended Section 30-6A-3 in 2016, adding Subsection B, an
2 affirmative defense for consensual possession among teenagers. 2016 N.M. Laws ch. 2, §
3 1 (eff. Feb. 25, 2016).

4 Under New Mexico law, consent to the image’s creation may be withdrawn at any
5 time before the creation, and presumably consent to the possession can also be withdrawn.
6 *Cf. State v. Pizio*, 1994-NMCA-152, ¶ 38, 119 N.M. 252, 889 P.2d 860 (“A person is entitled
7 to withdraw his or her consent or express a lack of consent to an act of criminal sexual
8 penetration at any point prior to the act itself.”); *accord State v. McCormack*,
9 1984-NMCA-042, ¶ 13, 101 N.M. 349, 682 P.2d 742 (stating that criminal trespass is
10 established if the defendant “entered or remained without authorization or permission,
11 knowing that consent to enter had been denied or withdrawn”).

12 [Adopted by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed
13 on or after December 31, 2019.]