

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR	<u>House Judiciary Committee</u>	LAST UPDATED	<u>03/09/2025</u>
		ORIGINAL DATE	<u>02/10/2025</u>
SHORT TITLE	<u>Telephone, Text & Social Media Crimes</u>	BILL	<u>CS/House Bill</u>
		NUMBER	<u>287/HJCS</u>
		ANALYST	<u>Lobaugh</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$28.2	At least \$39.8	At least \$68.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 149

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Law Offices of the Public Defenders (LOPD)
New Mexico Attorney General (NMAG)
New Mexico Sentencing Commission (NMSC)
Department of Public Safety (DPS)
Public Education Department (PED)
Higher Education Department (HED)

SUMMARY

Synopsis of HJC Substitute for House Bill

The House Judiciary Committee Substitute for House Bill 287 broadens the existing crime of the use of a telephone to terrify, intimidate, threaten, harass, annoy, or offend to include “electronic communication” which includes text messages, social media posts, or electronic mail. The existing crime of the use of a telephone to terrify, intimidate, threaten, harass, annoy, or offend is a fourth-degree felony in state law, which carries the basic sentence of 18 months imprisonment.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Incarceration drives costs in the criminal justice system, so any changes in the length of time served in prison and jail that might result from this bill could have moderate fiscal impacts. The

creation of any new crime will likely increase the population of New Mexico’s prisons and jails, consequently increasing long-term costs to state and county general funds. Longer sentences are expected to result in fewer releases relative to admissions, driving up overall populations. LFC staff calculated the average cost to incarcerate a single inmate in FY24 was \$56.7 thousand; however, due to the high fixed costs of the state’s prison facilities and administrative overhead, LFC estimates a marginal cost (the cost for each additional inmate) of \$28.2 thousand per year across all facilities.

By including electronic communication in Section 30-20-12 NMSA 1987, the committee substitute for HB287 could increase the number of individuals incarcerated for this crime. LOPD points out that some of the behavior sanctioned by this bill may be covered by existing laws (assault, harassment, and stalking, for example). As such, the universe of cases covered by the HB287 substitute that would not have been covered by existing law is likely small. This analysis assumes at least one person will be convicted under the expanded definition proposed by CS/HB287/HJC. Assuming that person’s behavior would not be covered under existing law, the costs of their incarceration would be novel and could potentially begin in FY26 at a cost of \$28.2 thousand. Those convicted of fourth-degree felonies serve an average of 1.41 years, causing costs to plateau at \$39.8 thousand per year from FY27 forward.

The Law Offices of the Public Defender (LOPD) notes that this bill may call for an increase in expertise in digital forensics (i.e., the recovery, investigation, and analysis of material found in digital devices) within requiring specialized training or experts. However, LOPD did not provide a specific estimate and noted the department could probably absorb the costs. No other agency reported specific fiscal impacts from this bill.

SIGNIFICANT ISSUES

Two different sections of existing state law in the criminal code inconsistently define “harassment” with different criminal classifications. One section of existing state law says the use of a telephone to terrify, intimidate, threaten, harass, annoy, or offend is a fourth-degree felony with a basic sentence of 18 months imprisonment (Section 30-20-12 NMSA 1978); whereas, another section of existing state law says harassment is a misdemeanor with a potential sentence of between six months to one year imprisonment (Section 30-3A-2 NMSA 1978).

The New Mexico Children’s Cabinet reports the percentage of middle school students who were ever electronically bullied (texting, Instagram, Facebook, or other social media) increased from 19 percent in 2013 to 27 percent in 2023. For high school students, those who reported ever having been bullied electronically remained close to 13 percent between 2013 and 2023.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The committee substitute for HB287 relates to Senate Bill 149, which would create the crime of cyberbullying in the state criminal code.

CSL/hj/hg/rl