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## FISCAL IMPACT REPORT

SPONSOR Reeb LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 02/10/2025  
BILL  
SHORT TITLE Telephone, Text & Social Media Crimes NUMBER House Bill 287  
ANALYST Lobaugh

### 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)  
Higher Education Department (HED)

Agency Analysis was Solicited but Not Received From  
Public Education Department (PED)

## SUMMARY

### Synopsis of House Bill 287

House Bill 287 (HB287) amends the crime of the use of a telephone to terrify, intimidate, threaten, harass, annoy, or offend to include text messages and contact via social media. The 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 text messages and social media in Section 30-20-12 NMSA 1987 HB287 could increase the number of individuals incarcerated for this crime. LOPD points out that some of the behavior sanctioned by HB287 may be covered by existing laws (assault, harassment, and stalking, for example). As such, the universe of cases covered by HB287 that would not have been covered by existing law is likely small. This analysis assumes one person will be convicted under the expanded definition proposed by HB287. 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 Public Defender Department (PDD) notes that HB287 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 HB287.

## **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).

HB287 does not necessarily include communication through direct messaging applications (such as Google Messaging or Microsoft Teams) or email. LOPD notes, “Technology-specific laws can become outdated quickly” and recommends “laws should focus on the conduct itself rather than arbitrarily distinguishing between different communication platforms.”

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

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