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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Garratt **ORIGINAL DATE** 1/29/25

BILL

SHORT TITLE Fourth Degree Felony for Shooting Threat **NUMBER** House Bill 31

ANALYST Valdez

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	Indeterminate but minimal	At least \$24.8	At least \$24.8	Recurring	General Fund
Costs to counties	No fiscal impact	Indeterminate but minimal	At least \$19.2	At least \$19.2	Recurring	See Fiscal Implications
AOC	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	Indeterminate but minimal	At least \$44.0	At least \$44.0	Recurring	See Fiscal Implications

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorneys (AODA)

Department of Public Safety (DPS)

Law Offices of the Public Defender (LOPD)

New Mexico Sentencing Commission (NMSC)

New Mexico Homeland Security and Emergency Management Department (DHSEM)

Public Education Department (PED)

Agency Analysis was Solicited but Not Received From

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of House Bill 31

House Bill 31 (HB31) amends Section 30-20-16 NMSA 1978 by enhancing the penal for making a shooting threat to a fourth-degree felony. This amendment aligns the penalties for making shooting threats with those for making bomb threats.

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 number of individuals in prison and jail and 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, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds. LFC estimates a marginal cost (the cost per additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. HB31 is anticipated to increase the number of incarcerated individuals.

Based on the marginal cost of each additional inmate in New Mexico's jail system, each offender sentenced to jail for this crime could increase costs by approximately \$19.2 thousand to counties. The punishment proposed in this bill is a fourth-degree felony punishable by up to 18 months in prison. The New Mexico Corrections Department (NMCD) reports 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 per each additional inmate) of \$28.2 thousand per year across all facilities.

It is difficult to estimate how many individuals will be charged, convicted, or sent to jail based on steeper sentencing penalties. Without additional information, this analysis assumes at least one person will be incarcerated each year for this crime. However, statute currently classifies shooting threats as misdemeanors; LFC staff analysis suggests most individuals convicted of a misdemeanor are incarcerated for slightly more than one year. Therefore, the new fiscal impact associated with HB31 would only occur in FY27, as current law would already require someone convicted of misdemeanor shooting threat to serve roughly one year. This analysis estimates HB31 will increase annual incarceration costs by at least \$24.8 thousand to the state in FY27 and at least \$19.2 thousand to counties starting in FY27.

Additional increased system costs beyond incarceration, such as costs to the judicial branch for increased trials or to law enforcement to investigate and arrest individuals for the new crimes under HB31, are not included in this analysis but could be moderate.

SIGNIFICANT ISSUES

The Administrative Office of the Courts (AOC) points out that increasing the penalty is likely to increase the number of defendants invoking a right to trial, which will increase the administrative costs associated with prosecution. The Administrative Office of the District Attorneys (AODA) notes that this change could invoke arguments based on the First Amendment of the U.S. Constitution, though they point out that threats of violence are outside of the protections offered by the Constitution. In addition, AODA points out that the restitution language in HB31 may be duplicative of 31-17-1 NMSA 1978 as "actual damages" as defined by 31-17-1 (A)(2) is "almost the same" as restitution under HB31.

The Law Office of the Public Defender highlights that the elements of making a shooting threat

do not require actual fear, harm, or even the intent to do harm beyond causing a disruption or eliciting a law enforcement response. This broad definition could criminalize what is described as "thought crimes" or "idle threats," with implications for statements made by children or juveniles without a full appreciation of the consequences.

New Mexico Sentencing Commission (NMSC) cites legal research that highlights the difficulty in ascribing *mens rea* (the mental state of a defendant who is accused of a crime) to those accused of making such threats. NMSC additionally notes that HB31 increases the severity of punishment for shooting threats which were added to law as a misdemeanor in 2022. While threats to schools have been in decline in recent years, violent incidents have increased.

The Public Education Department (PED) notes that many schools across New Mexico were subject to shooting threats in 2024. Additionally, as of 2022, firearms were the leading cause of death among children in New Mexico. PED points out that most school shooting threats are made by juveniles, and HB31 may disproportionately impact juveniles. PED suggests restorative practices as an alternative to penal measures. These practices include prevention, restorative justice, mental health support, and threat assessment models.

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