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## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Lord/Block **ORIGINAL DATE** 2/13/25

**BILL**

**SHORT TITLE** Penalty For Resisting or Evading Officers **NUMBER** House Bill 318

**ANALYST** Sanchez

### 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 \$28.2	At least \$56.4	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund
Total	No fiscal impact	At least \$47.4	At least \$47.4	At least \$94.8	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Department of Public Safety (DPS)  
 Administrative Office of the Courts (AOC)  
 Law Offices of the Public Defender (LOPD)  
 Administrative Office of the District Attorneys (AODA)  
 Corrections Department (NMCD)  
 New Mexico Sentencing Commission (NMSC)

## SUMMARY

### Synopsis of House Bill 318

House Bill 318 (HB318) seeks to amend Section 30-22-1, NMSA 1978, to increase the penalty for resisting, evading, or obstructing an officer from a misdemeanor to a fourth-degree felony. The bill defines this offense as knowingly obstructing or opposing an officer in the execution of legal duties, intentionally fleeing from an officer who is attempting an arrest, willfully refusing to stop a vehicle when signaled by a uniformed officer in a marked police vehicle, or resisting or abusing a judge, magistrate, or peace officer in the lawful discharge of their duties.

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

HB318 is expected to increase costs across multiple areas of the criminal justice system by reclassifying resisting, evading, or obstructing an officer from a misdemeanor to a fourth-degree felony. The judiciary may experience increased caseloads, requiring additional judge time, courtroom staff, jury fees, and other operational expenses. Felony cases generally require more extensive legal proceedings, including more extended pretrial periods and potential jury trials, which could add to court system expenditures. The Law Offices of the Public Defender (LOPD) anticipates a potential rise in felony cases requiring public defense, which may necessitate additional attorneys and support staff, depending on the volume of cases proceeding to trial.

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.

The overall financial impact on the Corrections Department (NMCD) will depend on the number of new cases resulting from this legislation. Still, even a modest increase in convictions could lead to significant expenditures over time. In addition to the potential for new crimes to send more individuals to prison and jail, longer sentences could result in fewer releases relative to admissions, driving up overall populations. NMCD reports the average cost to incarcerate a single inmate in FY24 was \$59.3 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 additional inmate) of \$28.2 thousand per year across all facilities. LFC staff estimate the cost to counties to hold an individual in jail prior to incarceration is \$19.2 thousand per year.

There is uncertainty regarding the broader fiscal impact, as enforcement patterns and prosecutorial charging decisions will influence the number of cases affected by the penalty increase. Any additional costs to law enforcement agencies are expected to be minimal, as the Department of Public Safety identified no significant operational or administrative expenses. The cumulative effect of similar penalty enhancements in other proposed legislation could contribute to an increased demand for judicial, prosecutorial, and public defense resources.

## SIGNIFICANT ISSUES

HB318 increases the penalty for resisting, evading, or obstructing an officer from a misdemeanor to a fourth-degree felony, which may have implications for the judicial process, law enforcement procedures, and the correctional system. Under current law, individuals convicted of this offense face a maximum penalty of up to 364 days in jail and a \$1,000 fine. If the bill is enacted, the maximum penalty would increase to 18 months in state prison and a \$5,000 thousand fine.

The change in classification may influence prosecutorial discretion, plea bargaining practices, and case dispositions. Currently, resisting, evading, or obstructing an officer is often charged alongside other offenses. The increased penalty could lead to different charging and negotiation strategies and a potential shift in how cases proceed through the criminal justice system. Additionally, public defenders have noted felony charges tend to result in more cases going to

trial rather than being resolved through plea agreements, which could impact case processing times and court resources.

The bill applies to a broad range of conduct, including knowingly obstructing an officer, attempting to evade arrest, and refusing to comply with lawful orders. It also includes resisting or abusing a judge, magistrate, or peace officer in the lawful discharge of duties. Some legal analysts have raised questions about whether the term “officer” is sufficiently defined within the statute, as other sections of state law distinguish between different categories of public officials. Clarifying the scope of the statute could help ensure consistent interpretation and application.

Additionally, limited research exists on the potential deterrent effects of increasing penalties for offenses of this nature. While proponents suggest higher penalties could discourage resistance or evasion, others note factors such as individual circumstances and situational dynamics may influence encounters between law enforcement and the public. Any long-term effects on compliance or public safety outcomes would likely depend on various enforcement and legal factors.

## **PERFORMANCE IMPLICATIONS**

HB318 may have implications for key performance measures within the judicial and correctional systems. Courts track the percentage of cases disposed of as a share of total filings, and an increase in felony cases could affect case processing times and case clearance rates. Felony cases generally take longer to resolve than misdemeanors due to extended pretrial proceedings, discovery requirements, and the possibility of jury trials. If filings under this statute increase, courts may need to adjust workload management strategies to maintain efficiency in case resolution.

For NMCD, the reclassification of this offense could impact facility population levels and probation caseloads, depending on sentencing outcomes. The agency monitors incarceration rates, average length of stay, and use of alternatives to incarceration. If the number of individuals sentenced under this provision rises, these measures could reflect shifts in correctional system utilization. Similarly, probation and parole offices track supervision caseloads, which could be affected if more individuals receive supervised release following felony convictions under the revised statute.

LOPD also tracks caseload levels relative to staffing capacity, and an increase in felony cases could be reflected in workload measures. If more cases proceed to trial, this could influence time-to-resolution metrics and resource allocation within the defense system. Given these potential impacts, relevant agencies may need to assess performance data following implementation to determine any adjustments necessary for maintaining service levels.

## **ADMINISTRATIVE IMPLICATIONS**

The proposed change in HB318 may require state and local agencies to update internal policies, training materials, and case management systems to reflect the reclassification of resisting, evading, or obstructing an officer as a felony offense. Court administrators may need to adjust scheduling practices to accommodate any shifts in case volume or complexity resulting from increased felony filings.

For public defense and prosecution offices, the bill could necessitate adjustments in case screening procedures and workload management strategies to account for any shifts in how these cases are charged and litigated. Additionally, correctional facilities may need to modify inmate classification and tracking procedures if the number of individuals serving felony sentences under this statute increases. While these administrative adjustments are expected to be manageable within existing agency structures, they may require temporary resource reallocation during the transition period.

## **TECHNICAL ISSUES**

The Administrative Office of the Courts (AOC) flagged a potential technical issue related to the definition of “officer” in the statute. The bill applies to individuals who resist, evade, or obstruct an “officer,” but also includes judges and magistrates within that definition. However, New Mexico’s criminal code does not explicitly define “officer” in this context. Other sections of state law distinguish between “public officers” and “peace officers,” and the term “law enforcement” is generally understood to refer only to those engaged in policing duties.

This lack of definition could create ambiguity in how the statute is interpreted and enforced. If the intent is to include all public officers within the scope of the law, lawmakers may wish to clarify this by referencing existing statutory definitions or explicitly defining “officer” within the relevant section of the criminal code. Addressing this issue could help ensure consistent application of the statute and reduce potential legal challenges related to interpretation.

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