F I S C A L I M P A C T R E P O R T

SPONSOR Salazar **ORIGINAL DATE** 2/1/18 **LAST UPDATED** **HB** 183

SHORT TITLE Additional Acts As Extortion **SB**

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		None	None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Public Defender Department (PDD)
New Mexico Attorney General's Office (NMAG)
New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of Bill

House Bill 183 proposes to add threat to impair the integrity or availability of information stored on, processed by or transiting on an information system owned or operated by the person threatened or another to Section 30-16-9 NMSA 1978.

FISCAL IMPLICATIONS

The agencies responding do not report any fiscal impact from this bill.

SIGNIFICANT ISSUES

According to the New Mexico Attorney General's Office (NMAG), the current extortion statute and the relevant Uniform Jury Instructions, 14-1642, do not include explicit language regarding extortion by computer or internet. As currently written in order to prosecute such an act, a

prosecutor would have to rely on subsection (A): "a threat to do an unlawful injury to the person or *property* of the person threatened or of another."

OTHER SUBSTANTIVE ISSUES

The National Conference of State Legislatures, in a late 2016 report entitled "Computer Crime Statutes" (available at: http://www.ncsl.org/research/telecommunications-and-information-technology/computer-hacking-and-unauthorized-access-laws.aspx), noted the following on extortion involving computer systems:

> Laws Addressing Ransomware and Computer Extortion
>
> Ransomware is computer malware that is installed covertly on a victim's computer and preventing access to it, followed by demands for a ransom payment in exchange for returning access or not publishing or exposing data held on the computer.
>
> At least four states, California, Connecticut, Texas and Wyoming, expressly address "ransomware" and/or computer extortion in statute, as follows. However, existing laws in other states that prohibit extortion and computer crimes such as malware or computer trespass may also be used to prosecute ransomware crimes.
> - California: Calif. Penal Code § 523 (2016 S.B. 1137)
> - Connecticut: 2017 H.B. 7304, Public Act 17-223
> - Texas: 2017 H.B. 9, Chap. 684
> - Wyoming: Wyo. Stat. §§ 6-3-506, 6-3-507

ABS/al/jle