

LFC Requester:	
-----------------------	--

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date January 24, 2025
Bill No: SB 18-280

Sponsor: Craig W. Brandt
Short Title: Crime of Swatting

Agency Name and Code 280-LOPD
Number: _____
Person Writing Nina Lalevic
Phone: 505-395-2890 **Email** Nina.lalevic@lopdnm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

SB 18 proposes to add the new crime of “Swatting” to NMSA 1978, § 30-20-16. This proposal was previously a part of SB 66 (2024).

SB 18 would define Swatting as making a false or misleading report to a public safety agency of an ongoing emergency or threat of violence, with the “intent to cause an immediate response from law enforcement and other first responders.” The bill proposes to define “public safety agency” as including law enforcement, firefighting agencies, and emergency medical service agencies.

The bill also would add the proposed crime of “swatting” to the restitution subsection of § 30-20-16. It allows a court to order a person convicted of swatting to reimburse for economic harm, including lost wages.

FISCAL IMPLICATIONS

This bill would create a new felony offense. It is difficult to predict the number of cases of this sort that would be brought in any given year. LOPD workload is so heavy in some offices that lawyers have been required to move to withdraw from new cases in order to provide effective assistance of counsel to their existing clients. Any increase in the number of felony prosecutions would bring a concomitant need for an increase in indigent defense funding. Of course accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

In addition, as making false reports is currently a misdemeanor (see below, Significant Issues), this proposed statutory scheme might also be seen as an increase in penalty. There has been no research that has found that increasing penalties has a deterrent effect on the commission of crimes. Therefore, this change would, at most, lead to an increase in incarceration, which would increase costs and population in Department of Corrections.

SIGNIFICANT ISSUES

As noted above, New Mexico already prohibits “intentionally mak[ing] a report to a law enforcement agency or official, which report he knows to be false at the time of making it, alleging a violation by another person of the provisions of the Criminal Code.” NMSA 1978, §

30-39-1. It is punished as a misdemeanor. This bill proposes to create a new, broader crime, that also punishes the making of “misleading” reports. While punishing broader behavior, and without defining the difference between “false” and “misleading,” this bill proposes to punish this behavior as a felony. The current misdemeanor crime requires proof that the person “knows [the report] to be false at the time of making it, alleging a violation by another person of the provisions of the Criminal Code.” *See* § 30-39-1. False reporting requires some showing of actual harm because it falsely accuses another person of committing a crime, and yet is punished as a misdemeanor. Meanwhile, the “swatting” provision of SB 66 only requires an intent that police respond. It does not require an actual response.

One could envision a scenario where a person called law enforcement and falsified the reason for the call for a reason other than “swatting,” such as a victim providing false information so as not to alert an abuser. In addition, the intent to cause a law enforcement response is also the intent for a *proper* 911 call.

As this bill proposes creating a new felony, it is important to consider that becoming a felon comes with many collateral consequences. For example, a person loses the right to vote. Creating new felonies that punish behavior that causes less serious harm should not be done lightly. Swatting is clearly a nationwide issue. If it is to be punished, the language must be more narrowly tailored to punish the targeted behavior, not simply a misleading report with an intent that something occur.

PERFORMANCE IMPLICATIONS

See *supra* Fiscal Implications.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill seeks to add a new crime to NMSA 1978, § 30-20-16. HB 31 seeks to increase the penalty for one of the existing crimes (making a shooting threat) outlined in the same statute.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None noted.