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FISCAL IMPACT REPORT

SPONSOR <u>Senate Judiciary Committee</u>	LAST UPDATED <u>3/3/25</u>	ORIGINAL DATE <u>1/21/25</u>
SHORT TITLE <u>Crime of Swatting</u>	BILL NUMBER <u>CS/Senate Bill 18/SJCS</u>	
	ANALYST <u>Valdez</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Costs to state (NMCD)	No fiscal impact	No fiscal impact	At least \$24.8	At least \$24.8	Recurring	General Fund
Costs to counties	No fiscal impact	No fiscal impact	At least \$19.2	At least \$19.2	Recurring	See Fiscal Implications
Total	No fiscal impact	No fiscal impact	At least \$44	At least \$44	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)
 Law Offices of the Public Defender (LOPD)
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Children, Youth and Families Department (CYFD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Substitute for Senate Bill 18

The Senate Judiciary Substitute for Senate Bill 18 (SB18) amends Section 30-39-1, NMSA 1978, to define and criminalize swatting, and prescribe penalties. SB18 changes the title of Section 30-39-1 from “False report; penalty” to “False Reporting Penalties.” In addition, the bill makes minor modifications to Subsection A to clarify the illegality of a person making a false report, and for readability.

Next, the bill adds a new Subsection B, making it unlawful to make a false or misleading report to a public safety agency of an emergency or threat of violence intending to cause that agency to respond immediately. The bill makes such an action a fourth-degree felony. SB18 also adds a Subsection C which defines public safety agencies as law enforcement, firefighters, emergency medical services, or 911 services which dispatch law enforcement, firefighters, or emergency medical services.

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. SB66 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 \$9,600 to \$19.2 thousand to counties. The enhanced punishment proposed in this bill for a fourth-degree felony is punishable by up to 18 months in prison. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY22 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.

As more people are admitted to prison, costs increase. Costs continue to rise each year until offenders admitted in the first year the change takes effect begin to leave prison. For purposes of this calculator, costs ramp up over the term of the average change in time served (for a new crime, the entirety of the average projected time served), with the first year of admissions expected to exit prison after the average change in time served.

It is difficult to estimate how many individuals will be charged, convicted, or sent to jail based on increased sentencing penalties. Without additional information, this analysis assumes at least one person will be admitted to jail each year for this crime. To account for time to adjudication, these costs are not anticipated to be incurred until one year after the bill takes effect, in FY27; however, a minimal cost may apply in FY26 for individuals detained for some period before adjudication. This analysis estimates SB18 will increase annual incarceration costs of at least \$37.5 thousand to the state and at least \$19.2 thousand to counties. Costs to the state are estimated to be at least \$26.6 thousand in FY26 and will rise to \$37.5 thousand in FY27 and future fiscal years.

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 SB18, are not included in this analysis but could be moderate. Agency analyses indicate that beyond the potential rise in incarceration costs following Senate Bill 18's enactment, the bill will lead to higher administrative and operational expenses for the judiciary and Law Offices of the Public Defender (LOPD). This will require more resources to handle increased caseloads and the complexity of trials. According to the analysis provided by the Administrative Office of the Courts, implementing Senate Bill 18 will result in minimal administrative costs for the update, distribution, and documentation of statutory changes across the state. However, the fiscal impact on the judiciary could increase proportionally with the enforcement of the law, leading to commenced prosecutions and appeals from convictions. This potential increase in caseloads due

to new laws and amendments would necessitate additional resources, including more judge and court staff time, as well as increased courtroom availability, thereby extending the time needed to dispose of cases.

According to the analysis provided by the LOPD, the enactment of Senate Bill 18 would necessitate hiring more experienced trial attorneys due to the bill's addition of a new felony crime, potentially leading to higher-penalty trials. Additionally, the bill's new crime could disproportionately affect juvenile offenders, leading to an increase in prosecutions and significantly elevating the overall workload for LOPD. This is primarily because the statute targets insincere threats made by individuals, including minors, who may not fully understand the gravity of their actions, thereby increasing the likelihood of trials defending against felony charges based solely on verbal statements.

SIGNIFICANT ISSUES

The analyses provided by responding agencies expresses concerns over the potential impact of SB18 on juveniles, the potential for broad application and misinterpretation, overlap with federal initiatives, and the collateral consequences of felony charges.

The Administrative Office of the Courts' (AOC) analysis notes that the FBI first identified and defined swatting in 2008 and has been tracking swatting incidents since. They also point out that perpetrators of swatting often hide behind technology and may operate remotely. Both AOC and the Administrative Office of the District Attorneys note that if the bill becomes law, it could increase the number of defendants charged under Section 30-39-1 NMSA 1978, which would add to administrative costs. As the New Mexico Sentencing Commission (NMSC) highlights, passage of this bill may lead to more people incarcerated by the NMCD.

LOPD also raises concerns about the collateral consequences of becoming a felon, such as losing the right to vote. Creating new felonies for behaviors that might not result in serious harm is cautioned against, emphasizing the need for legislation to be narrowly tailored to target specific harmful behaviors without broad applications.

The Department of Public Safety (DPS) notes that swatting is an increasingly disruptive practice. SB18 clarifies the consequences for swatting to the public and signals that the state will take swatting seriously in the future.

JV/hj