

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Senate Judiciary Committee</u>	<b>LAST UPDATED</b> <u>3/7/2025</u> <b>ORIGINAL DATE</b> <u>3/4/2025</u> <b>BILL NUMBER</b> <u>CS/Senate Bill 70/SJCS/aSFC/aSF 1#1</u>
<b>SHORT TITLE</b> <u>Add Racketeering Crimes</u>	<b>ANALYST</b> <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
NMCD	At least \$28.2	At least \$56.4	At least \$70.5	At least \$155.1	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 86 and Senate Bill 74

### Sources of Information

LFC Files

Agency Analysis Received From  
 Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Law Office of the Public Defender (LOPD)  
 New Mexico Attorney General (NMAG)  
 New Mexico Sentencing Commission (NMSC)  
 Department of Public Safety (DPS)

## SUMMARY

### Synopsis of SFI#1 to Senate Bill 70

The Senate floor amendment to Senate Bill 70 (SB70) inserts the words “(31) cockfighting, as provided in Section 30-18-9 NMSA 1978” back into the list of cited offenses chargeable or indictable as racketeering.

### Synopsis of SFC Amendment to Senate Bill 70

The Senate Judiciary Committee amendment to Senate Bill 70 strikes the words “and cockfighting” from the list of cited offenses constituting racketeering.

### Synopsis of SJC Substitute for Senate Bill 70

Senate Bill 70 amends the Racketeering Act to add these offenses to the list of offenses constituting racketeering:

- Sexual exploitation of children,
- Criminal sexual penetration,
- Criminal sexual contact,
- Dog fighting and cockfighting,
- Bringing contraband into places of imprisonment, and
- Human trafficking.

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 significant 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. 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. The Corrections Department (NMCD) reports that the average cost to incarcerate a single inmate in FY22 was \$56.2 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. SB70 is anticipated to increase the time individuals spend incarcerated, although the impact of adding six offenses that constitute racketeering is not quantifiable.

Based on estimates of actual time served provided by the New Mexico Sentencing Commission (NMSC), actual time served for the third-degree felony is 2.5 years. Assuming that one person is incarcerated for this crime per year, the cost is \$28.2 thousand in FY26, increasing to \$56.4 thousand in FY26, and to \$70.5 thousand in FY27.

## SIGNIFICANT ISSUES

The Administrative Office of the District Attorneys (AODA) notes that SB70 provides law enforcement and prosecutors more tools to address organized crime because the added crimes are frequently committed by organized crime, such as prison gangs and sex traffickers.

NMSC notes the additional crimes contemplated by SB70 do not seem to correspond with the purpose of the Racketeering Act (Section 30-42-2), which is "to eliminate the infiltration and illegal acquisition of legitimate economic enterprise by racketeering practices and the use of legal and illegal enterprises to further criminal activities."

The Law Office of the Public Defender (LOPD) notes the state can already charge someone with "conspiracy to commit racketeering" by relying on the existing conspiracy statute, 30-28-2NMSA 1978. In such cases, conspiracy to commit racketeering must involve an enterprise and a pattern of racketeering activity.

LOPD adds that racketeering prosecutions are rare, and that adding new crimes could increase the number of prosecutions. This might cause a strain on LOPD, which already carries a heavy

workload.

## **PERFORMANCE IMPLICATIONS**

LOPD argues that racketeering is the incorrect statute under which to prosecute sexual assault from which the enterprise profits:

The inclusion of crimes like sexual assault...as “racketeering” conduct is unlikely to improve the ability to dismantle and prosecute of criminal enterprises. Nearly any criminal enterprise designed to “profit” from a pattern of conduct that includes sexual assault crimes is likely is already criminal as either human trafficking, Section 30-52-1 NMSA 1978, or promoting prostitution, Section 30-9-4 NMSA 1978. Racketeering is simply the incorrect criminal statute to address it. Similarly, crimes like escape from jail are not those typically committed as a profitable criminal enterprise, nor crimes committed as a “pattern.” Their inclusion in racketeering is misguided.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The addition of human trafficking to the definition of racketeering is partially duplicative of both House Bill 86 and Senate Bill 74. Those bills, among other things, also propose to amend the Racketeering Act in this manner.

JV/sgs/hg/sgs/hj/SL2