

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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**      X   **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 17 January 2024

**Bill No:** HB 96-280

**Sponsor:** Stefani Lord & Harlan Vincent  
**Short**        Interference with Law  
**Title:**        Enforcement Penalties

**Agency Name and Code**        Law Offices of the Public Defender (LOPD) -280  
**Number:** \_\_\_\_\_  
**Person Writing**                Kate Baldrige  
**Phone**        (505) 395-2890    **Email**        Kathleen.baldrige@lopdm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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**

Synopsis:

HP 96 seeks to amend NMSA 1978, Section 30-22-1(B) to increase the penalty for the crime of resisting, evading or obstructing an officer from a misdemeanor to a fourth-degree felony.

**FISCAL IMPLICATIONS**

While the LOPD would likely be able to absorb cases under the proposed penalty increase, any increase in the number of prosecutions brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

Specifically, the dramatic proposed change in penalties (from a misdemeanor to a felony with collateral consequences) is concerning in that many more cases are more likely to go to trial. If more trials result, LOPD is likely to need to hire more trial attorneys. These trials would be handled by mid-level felony capable attorneys (Associate Trial Attorneys). Depending on the volume of cases in the geographic location there may be a significant recurring increase in needed FTEs for the office and contract counsel compensation. Associate Trial Attorney's mid-point salary including benefits is \$136,321.97 in Albuquerque/Santa Fe and \$144,811.26 in the outlying areas (due to necessary salary differential to maintain qualified employees). Recurring statewide operational costs per attorney would be \$12,780.00; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$126,722.33.

Presumably the courts, and DAs would be affected in similar measure to LOPD.

Further, 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 DOC.

**SIGNIFICANT ISSUES**

None noted.

**PERFORMANCE IMPLICATIONS**

See *Fiscal Implications*, above.

## **ADMINISTRATIVE IMPLICATIONS**

See *Fiscal Implications*, above.

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

None noted.

## **TECHNICAL ISSUES**

Reviewer is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill, analyst is unaware if it has been drawn pursuant to a special message of the Governor, and it was not vetoed following the previous regular session.

## **OTHER SUBSTANTIVE ISSUES**

Reviewer questions the implications from the short title categorizing this bill as relating to “interference with law enforcement.” The crime of resisting, evading, or obstructing, is very often charged when a person *avoids* interacting with law enforcement, not a person affirmatively trying to interfere with law enforcement’s duties. It also includes any failure to comply with verbal orders or physically resisting arrest, no matter how minimally or ineffectually.

Finally, reviewer notes that misdemeanor resisting is very often submitted to the jury or offered as a plea bargain as a lesser included offense of fourth-degree felony charges. As noted in the fiscal implications section, by increasing this charge to a felony, many cases that would have pled to this charge as a misdemeanor will now go to trial for lack of a misdemeanor alternative.

## **ALTERNATIVES**

Status quo.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

None known.