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# FISCAL IMPACT REPORT

**SPONSOR** Sedillo Lopez/Herndon/Lujan/Torres-Velásquez **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 01/30/2025  
**BILL**  
**SHORT TITLE** Protection Against Abuse and Violence Act **NUMBER** Senate Bill 26  
**ANALYST** Chilton

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

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

Related to House Bill 12

### Sources of Information

LFC Files

Agency Analysis Received From  
 Department of Health (DOH)  
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From  
 Administrative Office of the Courts (AOC)  
 Children, Youth and Families Department (CYFD)

## SUMMARY

### Synopsis of Senate Bill 26

Senate Bill 26 (SB26) extensively rewrites existing law (the Family Violence Protection Act, Article 13, Section 40-13 NMSA 1978), which governs the issuance of orders of protection. SB26 renames the act to the Protection Against Abuse and Violence Act and expands the definitions of abuse to include kidnapping, false imprisonment, interference with communication, threats to disclose immigrant status, harm or threatened harm to an animal to intimidate, threaten, or harass a person, and unauthorized distribution of sensitive images. SB26 deletes the “domestic abuse” and “mutual order of protection” definitions and adds a “credible threat” definition.

There is a provision for parties who do not understand English. A protection order may now be issued to protect or restrain a minor under 12. The bill allows a minor who is 13 or older to seek a protection order from a co-parent or another with whom the minor has had a continuing personal relation or when stalking or sexual abuse is alleged.

SB26 clarifies that a criminal complaint need not be filed before a law enforcement officer can request an emergency protection order. An officer must inform a victim that the officer may petition a court for an emergency on the victim's behalf, which petition shall describe the need for that order, and provide information about the alleged perpetrator's location and telephone number if known. A district judge in each judicial district must be always available to hear a petition for an emergency order. SB26 allows for temporary orders restraining the perpetrator from committing or threatening to commit acts of abuse against the protected party or a household member and prevents any contact or communication with the protected party.

Temporary custody and visitation of any children involved may also be addressed, although limited to a period of six months, subject to a six-month extension. If a temporary protection order is not immediately issued, a hearing must be held within 72 hours, with no requirement for personal service. Provisions regarding any animal owned by either party or a minor in the household may also be included.

SB26 specifically directs that an order cannot require a protected party to participate in treatment or counseling related to abuse. Orders of protection may be for a fixed period of any length, as appropriate to protect the safety of the protected party and may be extended. The existing six-month cap is removed.

The bill prohibits a restrained party from owning or possessing a firearm while an order of protection is in effect. Emergency assistance provided by a local law enforcement officer is expanded to include other household members as well as the protected party, and when making arrests, the officer must identify whether a party acted in self-defense, as well as identifying and documenting in the criminal complaint and incident report the names and relationships between people present during the incident, including additional victims and witnesses. Detention centers and jails must make reasonable efforts to notify the victim when a restrained party or an alleged perpetrator of abuse, stalking, or sexual assault is released from custody, escapes, or is transferred to another facility.

SB26 clarifies that petitions, orders, injunctions, and other pleadings and documents can remain on the judiciary's case management and e-filing system as long as the address of a protected person is redacted.

The effective date of this bill is July 1, 2025.

## **FISCAL IMPLICATIONS**

There is no appropriation in SB26. Agencies responding do not foresee any fiscal impact from the passing of this bill.

## **SIGNIFICANT ISSUES**

According to the Department of Health (DOH):

Intimate partner violence is broader than domestic violence as it includes physical aggression, threatening behavior, emotional abuse (i.e., intimidation or controlling behavior to isolate an individual) that can involve (a) parents, children, siblings, or

roommates living in the same household; or (b) romantic partners who may or may not be living together (Domestic Violence and Its Effects on Women, Children, and Families). In New Mexico, intimate partner violence is an area of concern, with 37.6 percent of women and 33.3 percent of men experiencing intimate partner violence during their lifetime

Further, DOH notes the effects of intimate partner violence on any children who experience it, either as victim or as bystander. DOH cites data showing that 50 percent of children who have been exposed to such violence are found to have behavioral problems afterwards; even preschool children witnessing domestic violence experience sleep disturbances and may be subject to injury when a parent or parents are engaged in intimate partner violence. Intimate partner violence also affects the adults participating or witnessing such violence, often resulting in such mental health disorders as depression and anxiety.

The Department of Public Safety believes that given that the crime of stalking is, by definition, a “pattern of conduct,” and that, by requiring a restraining order to be issued on a “pattern of stalking”, SB26 is raising a new, unknown offense to law enforcement, which may trigger a concern that the statute is unconstitutionally vague. Regarding “sensitive issues,” DPS “believes that use of the term ‘sensitive images’ raises similar concerns of being unconstitutionally vague.” Regarding an order of protection, DPS “believes clarification on the officer's responsibilities in petitioning for this order and contacting CYFD and reporting under the Abuse and Neglect Act should be added.”

Regarding Section 14B-6 of the bill, which deals with family pets and other animals, DPS believes requiring that there be probable cause to believe the restrained party has harmed or threatened to harm the animal may make it easier for the officer to justify this request in any petition filed by an officer.

## **ADMINISTRATIVE IMPLICATIONS**

DPS notes that:

Implementing SB0026 will require significant administrative efforts, including updating legal forms, training judicial and law enforcement staff, and establishing streamlined protocols for emergency orders. Courts will need to adapt to the increased volume and complexity of cases, while law enforcement agencies are responsible for ensuring the timely entry of orders into the National Crime Information Center (NCIC) National Protection Order File (FPOF).

Given that DPS stated this bill would have no fiscal impact, LFC staff believe these efforts could be handed with existing staff resources.

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

This bill, with minor changes, duplicates Senate Bill 12 from the 2024 legislative session. The changes include the addition of a definition for the term “sensitive images;” other changes are in language alone. This bill relates to House Bill 12, which deals with extreme risk firearm protection orders, which may be deemed necessary in a case of intimate family violence.

LC/rl/SB2