

LFC Requester:

**AGENCY BILL ANALYSIS
2026 REGULAR SESSION**

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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 20, 2026

Bill No: HB 61-280

Sponsor: Andrea Reeb, William A. Hall II,
Nicole Chavez
Short Title: Aggravated Battery on a Peace
Officer

Agency Name
and Code 280-LOPD
Number: _____
Person Writing Kate Baldridge
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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: HB 60 (adding crimes against peace officers to the Victims of Crimes Act)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 61 is identical to HB 103 and HB 155, introduced in the 2023 and 2025 legislative sessions, respectively. It seeks to amend NMSA 1978, § 30-22-25(C) (1971) “Aggravated Battery Upon a Peace Officer” (with great bodily harm *or* a with deadly weapon *or* in a manner that could cause great bodily harm or death) to enhance the punishment from a third-degree felony (three years) to a second-degree felony (nine years).

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

Higher-penalties cases are somewhat more likely to go to trial and second-degree felonies are often handled by, at a minimum, mid-level felony capable attorneys.

A 2022 workload study by an independent organization and the American Bar Association concluded that New Mexico faces a critical shortage of public defense attorneys. The study concluded, “A very conservative analysis shows that based on average annual caseload, the state needs an additional 602 full-time attorneys – more than twice its current level - to meet the standard of reasonably effective assistance of counsel guaranteed by the Sixth Amendment.”

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls-sclaid-moss-adams-nm-proj.pdf. Barring some other way to reduce indigent defense workload, any increase in the number of serious, complex felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep the LOPD’s workload crisis from spreading.

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. Assessment of the impact on the LOPD upon enactment of this bill would be necessary after the implementation of the proposed higher-penalty scheme.

Any increase in trials would also increase litigation costs for the courts and District Attorneys’ offices. Moreover, this bill would triple the existing basic sentence and, as a *mandatory* serious violent offense, a judge can find egregious convictions ineligible for 50/50 earned meritorious deductions (“good time”), *see* NMSA 1978, § 33-3-34(N)(4)(l), so this legislation is

certain to impact the housing budget for the Department of Corrections.

SIGNIFICANT ISSUES

Charges for battery on a peace officer most often arise during arrests for other crimes, so generally, the punishment for the entire episode would already be more than 3 years. Regardless, it is well-established that incarceration in general is not a deterrent to committing a crime, and even the death penalty has not been proven to deter criminal activity. In fact, more time behind bars can increase the likelihood that someone will commit another crime in the future. See Jamie Santa Cruz, *Rethinking Prison as a Deterrent to Future Crime*, JSTOR Daily (July 18, 2022) <https://daily.jstor.org/rethinking-prison-as-a-deterrent-to-future-crime/#:~:text=In%202021%2C%20a%20much%20larger,that%20didn't%20involve%20imprisonment>.

Also, there is a multitude of ways this crime could be committed. It could be committed (1) by actually inflicting great bodily harm on the officer, or (2) using a deadly weapon even if no harm or minimal harm results, or (3) in a manner that *could* inflict great bodily harm or death (but does not). Under this proposed statute, a person who actually inflicts great bodily harm will be incarcerated for 9 years and a person who does not inflict great bodily harm would also be incarcerated for 9 years. Moreover, the term “deadly weapon” is so broadly defined by the courts that it could include anything, including your mouth or shoe. *State v. Neatherlin*, 2007-NMCA-035, ¶ 15 (stating the person’s mouth was a deadly weapon because they had hepatitis C; *State v. Nick R.*, 2009-NMSC-050, ¶ 40 (recognizing that a shoe could be considered a deadly weapon “if used offensively”); *see also*, NMSA 1978, § 30-1-12(B) (broadly defining “deadly weapon”).

Finally, when the entire sentencing scheme is viewed as a whole, it becomes clear that the increased penalty is not necessary, as there are numerous sentencing options available to address more egregious conduct. First, the existing third-degree felony sentence can already be increased with a firearm enhancement if the deadly weapon used is a gun. *See* NMSA 1978, § 31-18-16. The Habitual Offender Act, NMSA 1978, § 31-18-17, also already provides that persons convicted of a repeat felony is a habitual offender and their sentence shall be increased by one, four, or eight years depending on how many prior felony convictions they have. And if the circumstances of the offense warrant aggravation of the sentence, NMSA 1978, § 31-18-15.1 allows the court to increase the basic sentence by up to one-third. Finally, this is a “serious violent offense,” which drastically limits a prisoner’s ability to earn meritorious deductions of their sentence (“good time”) ensuring they serve at least 85% of the total sentence imposed. *See* § 33-3-34(N)(4)(l).

Prosecutors and judges already have ample tools in their toolbox to ensure that more violent batteries receive greater penalties, and the less serious batteries are not punished as harshly. This legislation runs the risk of painting all batteries with one brush. With the availability of enhancements, judges can already impose harsh penalties under existing law.

PERFORMANCE IMPLICATIONS

See Fiscal Implications.

ADMINISTRATIVE IMPLICATIONS

None known

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None known

TECHNICAL ISSUES

Analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

None known

ALTERNATIVES

None known

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. The conduct which is already criminalized will continue to be punished at existing levels. Prosecutors and judges would retain the ability to increase the sentence as outlined above.

AMENDMENTS

None known