

Duplicates/Conflicts with/Companion to/Relates to: SB 80, SB 85 and SB 90.
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 94 expands the number of criminal offenses involving domestic violence that requires a defendant to participate in and complete a domestic violence offender treatment or intervention program upon conviction. This bill also allows the court to impose any sentence the court could originally impose upon the defendant as a sanction for the defendant violating the terms of probation, while not allowing the defendant to receive credit for time served on probation.

FISCAL IMPLICATIONS

As penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. These additional costs are not capable of quantification.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

Currently there are three criminal offenses that require a judge to order a defendant to participate in and complete a domestic violence offender treatment or intervention program. These three crimes are: battery against a household member (§30-3-15 NMSA 1978), aggravated battery against a household member (§30-3-16 NMSA 1978), and stalking (§30-3A-3 NMSA 1978). Senate Bill 94 would expand the list of criminal offenses, both misdemeanors and felonies, which would require the judge to order a defendant to participate in and complete a domestic violence offender treatment or intervention program. These seven new criminal offenses include:

- Assault Against a Household Member (§30-3-12 NMSA 1978)
- Aggravated Assault Against a Household Member (§30-3-13 NMSA 1978)
- Assault Against a Household Member with Intent to Commit a Violent Felony (§30-3-14 NMSA 1978)
- Aggravated Battery Against a Household Member - felony (§30-3-16 NMSA 1978)
- Multiple Convictions of Battery or Aggravated Battery (§30-3-17 NMSA 1978)
- Criminal Damage to Property of Household Member (§30-3-18 NMSA 1978)
- Violation of an Order of Protection (§40-13-6 NMSA 1978)

Section 31-12-12 NMSA 1978 creates the domestic violence offender treatment or intervention fund and defines the components of the program. In 2023, Section 31-12-11 NMSA 1978 was repealed. The children, youth and families department is responsible for ensuring programs comply with statutory requirements and use available funds to pay providers for their services.

Section 31-12-12(D)(8) NMSA 1978 requires the domestic violence offender treatment or intervention program be at least fifty-two weeks in duration. Taking into account the time needed for a referral and intake, successful completion of a program cannot be completed within a one year period. For this reason, the period of probation for the misdemeanor offenses of battery against a household member (§30-3-15(D) NMSA 1978) and aggravated battery against a household member (§30-3-16(E) NMSA 1978) is “extended beyond three hundred and sixty-four days but may not exceed two years” to allow a defendant sufficient time to register and successfully complete the program. SB 94 does not extend the period of probation for assault against a household member under §30-3-12 NMSA 1978, which is a petty misdemeanor offense, beyond one year to successfully complete the full 52-week program.

Finally, SB 94 requires judges to order defendants charged with any of the five new felony offenses (aggravated assault against a household member, assault against a household member with intent to commit a violent felony, aggravated battery against a household member, multiple convictions of battery or aggravated battery, and criminal damage to property of household member over \$1,000) to participate and successfully complete a domestic violence offender treatment or intervention program. In addition, if a defendant is convicted of these felony offenses and is sentenced to incarceration, the defendant would not be able to participate and successfully complete a domestic violence offender treatment or intervention program approved by CYFD since none of these programs currently exist in the corrections system.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS – none identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – none identified.

TECHNICAL ISSUES – none.

OTHER SUBSTANTIVE ISSUES – none identified.

ALTERNATIVES – none.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL – none.

AMENDMENTS – none.