

LFC Requester:	
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**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 1/27/26
Bill No: SB 94-280

Sponsor: Antoinette Sedillo Lopez
Short Title: Domestic Violence Offender Treatment Program

Agency Name and Code LOPD 280
Number: _____
Person Writing Toni Amicarella
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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: Unaware of duplication/conflict/companion to bills in the current legislative session as of 1/26/26
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 94 proposes to add a domestic violence offender treatment or intervention program to domestic violence criminal offenses covered by statutes ranging from petty misdemeanor assault against a household member to aggravated battery against a household member, multiple convictions of the same, and criminal damage to property of a household member (§§ 30-3-12 through 30-3-18) as well as violation of restraining orders granted under the Family Violence Protection Act. (NMSA 1978, 40-13-6). The treatment language tracks the language already appearing in 30-3-15(C) and 30-3-16(D) which reads:

Upon conviction pursuant to this section, an offender shall be required to participate in and complete a domestic violence offender treatment or intervention program approved by the children, youth and families department pursuant to rules promulgated by the department that define the criteria for such programs.

In addition to the treatment component, the bill also proposes that most of the listed statutes incorporate new sentencing language. (Because there are so many statutes covered by this bill, the summary here is somewhat complex.) For the most part, the language is akin to, but not exactly the same as, that already appearing in § 30-3-15(D) (misdemeanor battery against a household member) and § 30-3-16(E) (misdemeanor aggravated battery against a household member). The **current** sentencing language in those statutes reads as follows¹:

~~[Notwithstanding any provision of law to the contrary]~~ If a sentence imposed pursuant to this section is suspended or deferred in whole or in part, the period of probation may extend beyond three hundred sixty-five days but may not exceed two years. If an offender violates a condition of probation, [as a sanction for that violation], the court may impose any sentence that the court ~~could originally have imposed~~ was authorized to impose upon the offender's conviction, and credit shall not be given for time served

¹ Brackets include some newly proposed minor additions and deletions.

by the offender on probation; provided that the total period of incarceration shall not exceed three hundred sixty-four days and the combined period of incarceration and probation shall not exceed two years.

The bill proposes that any **misdemeanor** domestic violence offense addressed by it would read exactly the same as the preceding.

The new sentencing language in the petty misdemeanor statute, § 30-3-12, including the “no credit” provision for pre-revocation probation served and a maximum aggregate of both incarceration and probation that is **greater** than the total period of incarceration. The difference is that the maximum period of incarceration may not exceed one hundred eighty-two days and the combined period of incarceration and probation shall not exceed one year.

This is the language contemplated for all felony offenses under SB 94:

If an offender is convicted of a felony pursuant to this section and the sentence is suspended or deferred in whole or in part and the offender violates a condition of probation, as a sanction for that violation, the court may impose any sentence that the court was authorized to impose upon the offender’s conviction, and credit shall not be given for time served by the offender on probation; provided that the combined period of incarceration and probation shall not exceed the maximum period of incarceration for the sentence that was suspended or deferred.

FISCAL IMPLICATIONS

The fiscal impact of this bill on LOPD is not as apparent as it is for others entities tasked with developing and monitoring the domestic violence treatment programs.

The proposed bill does not cross-reference § 31-12-12 by which the legislature has created the domestic violence offender treatment or intervention fund. This fund is created in the state treasury via the Tax Administration Act, and funds are appropriated to CYFD to defray costs of providing treatment or intervention. Treatment programs must include certain components in order to receive funding. Among other things those components include a written contract signed by the offender that sets forth attendance and participation requirements and consequences for failure to attend or participate as well as confidentiality considerations. Such programs must report monthly to the presiding judge or offender’s probation or parole officer regarding the offender’s enrollment, progress – including fee payments by the offender, and evaluations regarding necessity for further participation. However, lack of reference to the funding statute is consistent with current versions of § 30-3-15 and §30-3-16, which already include the treatment requirement.

Analyst would anticipate the requirements of the programs are great and likely need plentiful monetary and human resources in order to function. SB 94’s addition of this treatment program to essentially every domestic violence conviction in New Mexico would presumably ramp up the need for additional funding. What is consequential to LOPD is that every offender who must participate in the program is required to pay costs and fees associated with attending it. Such costs and fees may be onerous to an offender and failure to pay could result in probation

revocations solely due to inability to pay. Moreover, successful completion of such a program would now become a condition of probation or parole for all defendants convicted of any domestic violence crime. Increased probation violation litigation is to be expected.

Moreover, people facing costs as well as consequences for being unsuccessful may be incentivized to proceed to trial rather than take a plea to such an offense. Increase in additional trials is time-consuming and could result in a need for additional attorneys and staff. In any event, accurate prediction of the fiscal impact is impossible to speculate; assessment of the required resources would be necessary after implementation of the proposed statutory changes.

SIGNIFICANT ISSUES

Treatment program. As with any offense where discharge of a sentence is associated with successful completion of a treatment program present concerns that when a treatment program is calling the shots about whether a defendant is successfully complying with probation, the court ultimately delegates its authority on ensuring compliance and defendants are often revoked for “failure to complete” without a showing of willfulness. A historical stumbling block for defendants required to successfully complete specialized treatment programs is the random nature of what constitutes success and who decides that on a practical level. This leads to significant litigation around alleged probation violations.

In the interests of constitutional principles of due process related to notice, defendants facing charges encompassed by SB 94 would benefit from at least a cross-reference in the relevant criminal offense to the treatment statute which makes the numerous requirements a defendant would have to meet clear before they embark on the program.

Sentence. Obviously, receiving credit for time spent on probation is desired. And § 31-21-15 provides the “general rule” that if probation is revoked, the probationer may be ordered to serve the balance of any sentence imposed or a lesser sentence *with credit given for time on probation*. Clearly, SB 94 departs from that rule. Nonetheless, as indicated above, certain of the domestic violence statutes related to battery have already determined that no credit is provided for probation. This bill would therefore add to the existing “exception.”

Regarding misdemeanors (including petty) where sentence has been deferred or suspended, the sentencing language in SB 94 addressing absence of credit for time spent serving probation in the event of violation of a condition of probation and imposition of a new sentence that nonetheless must not exceed a particular combined (probation and incarceration) aggregate seems to be consistent in spirit across the board with what already appears in 30-3-15 and 30-3-16. Generally, the permissible combined period is greater than the limitation on the total period of incarceration. In contrast, regarding felonies, SB 94 proposes the same lack of credit for time spent on probation when there is a deferred or suspended sentence and a subsequent violation, but the combined period of both probation and incarceration for the new sentence may still not exceed the maximum period of incarceration for the sentence that was suspended or deferred rather than a larger number. This reads favorably in comparison to the misdemeanors.

PERFORMANCE IMPLICATIONS

See above

ADMINISTRATIVE IMPLICATIONS

See above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See above.

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

ALTERNATIVES

One alternative is to leave the statutes in question as is. Another alternative is to leave the statutes as is with the exception that those that currently require the treatment cross-reference the treatment statute.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS