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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 61

**SHORT TITLE:** Aggravated Battery On Police Officer

**SPONSOR:** Reeb/ Hall/ Chavez/ Hernandez

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 01/26/2026 **ANALYST:** Sanchez

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$27.2	At least \$27.2	At least \$54.4	Recurring	General Fund
<b>Total</b>	No fiscal impact	<b>At least \$27.2</b>	<b>At least \$27.2</b>	<b>At Least \$54.4</b>	<b>Recurring</b>	<b>General Fund</b>

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Administrative Office of the Courts  
Administrative Office of the District Attorneys  
Office of the Attorney General  
Law Offices of the Public Defender  
Corrections Department  
Department of Public Safety  
New Mexico Sentencing Commission

## SUMMARY

### Synopsis of House Bill 61

House Bill 61 (HB61) proposes to amend Section 30-22-25 NMSA 1978, which governs the offense of aggravated battery upon a peace officer. Under the current statute, the offense is defined as the unlawful touching or application of force to a peace officer with the intent to injure while the officer is lawfully discharging their duties. The bill retains the existing statutory definition but modifies the penalties for certain violations of the section.

Specifically, HB61 amends Subsection C of Section 30-22-25 to increase the classification of aggravated battery upon a peace officer resulting in an injury not likely to cause death or great bodily harm from a third-degree felony to a second-degree felony. Under Section 31-18-15 NMSA 1978, a third-degree felony is subject to a basic sentence of up to 3 years' imprisonment.

In contrast, a second-degree felony carries a basic sentence of up to 9 years' imprisonment. The bill does not amend the classification for aggravated battery upon a peace officer that causes great bodily harm or results in disfigurement or disability; this offense remains a second-degree felony under existing law.

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

## **FISCAL IMPLICATIONS**

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and the length of time served may have significant fiscal implications for the state. HB61 proposes to increase the felony classification for certain offenses of aggravated battery upon a peace officer from a third-degree to a second-degree felony. As a result, this change is expected to increase the amount of time individuals serve in prison when convicted under the revised statute. Assuming the number of admissions remains constant, increasing sentence lengths would reduce the number of releases per admission, leading to an overall increase in the incarcerated population at any given time.

According to the New Mexico Sentencing Commission, in FY24, 99 cases statewide were filed with aggravated battery upon a peace officer as the lead charge, resulting in 11 convictions and 19 individuals incarcerated for that offense as of the end of the fiscal year. These individuals had an average expected sentence length of 4.5 years, with a median of 2.6 years served, including anticipated earned meritorious deductions. Reclassifying the offense to a second-degree felony would raise the statutory basic sentence from three to nine years under Section 31-18-15 NMSA 1978, and, because the offense qualifies as a serious violent offense, individuals may be required to serve at least 85 percent of their sentence.

NMCD estimates the average cost to incarcerate a single inmate in FY25 was \$61.5 thousand annually; however, the Legislative Finance Committee estimates a marginal cost of \$27.2 thousand per year per additional inmate, reflecting the incremental cost above fixed facility expenses. While NMCD did not estimate a significant immediate fiscal impact, any increase in sentence lengths and total time served is likely to raise long-term costs to the state's general fund through higher incarceration rates and associated operating costs.

Additional system costs—such as those related to prosecution, defense, or court administration—are not included in this estimate but may also increase. For example, the Law Office of the Public Defender notes that cases involving more serious felony charges are more likely to proceed to trial and require representation by higher-level attorneys, contributing to workload pressures in a system already operating under capacity. While the extent of these impacts is difficult to quantify, they may contribute to longer-term cost pressures across the criminal justice system if the change leads to increased litigation or greater caseload complexity.

## **SIGNIFICANT ISSUES**

One potential issue raised by House Bill 61 is its effect on the statutory hierarchy of criminal offenses involving peace officers. Under current law, aggravated battery upon a peace officer is a third-degree felony when committed with a deadly weapon or in a manner likely to cause great bodily harm. Assault with intent to commit a violent felony upon a peace officer under Section

30-22-23 NMSA 1978, by contrast, is classified as a second-degree felony. By reclassifying aggravated battery in these circumstances to a second-degree felony as well, HB61 may create circumstances in which a lesser-included offense carries the same penalty as the greater offense. The Sentencing Commission notes this alignment could result in similar penalties being applied to offenses that differ in statutory definition and evidentiary burden, potentially affecting plea negotiations, charging decisions, and sentencing outcomes.

Additionally, although HB61 proposes changes to sentencing classifications, it does not modify underlying statutory definitions of aggravated battery or create new procedural standards for determining the degree of harm or the presence of a deadly weapon. As a result, the application of the reclassified penalties will depend on prosecutorial discretion and judicial findings regarding injury severity and the use of force. This may result in broader prosecutorial authority to charge second-degree felonies in cases previously limited to third-degree penalties under existing law.

Finally, while HB61 addresses the statutory penalty, it does not amend provisions related to earned meritorious deductions, parole eligibility, or early release. However, because aggravated battery upon a peace officer is classified as a serious violent offense under Section 33-2-34 NMSA 1978, individuals convicted under the revised statute would continue to be subject to statutory requirements mandating service of at least 85 percent of their sentence. This legal framework may result in reduced eligibility for early release and could affect the rate at which individuals transition from incarceration to supervised parole or reentry programs.

SS/ct/cf