

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

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 17, 2024
Bill No: HB 61

Sponsor: Reeb
Short Title: Aggravated Battery on Peace Officer Penalty

Agency Name and Code Number: NM Sentencing Commission – 354
Person Writing: Keri Thiel
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 61 would amend Section 30-22-25 NMSA 1978 to increase the felony level for aggravated assault upon a peace officer from a third degree felony to a second degree felony when the battery inflicts great bodily harm or is done with a deadly weapon or in any manner that could inflict great bodily harm or death.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Aggravated assault upon a peace officer is currently a third degree felony if the battery causes great bodily harm or is done with a deadly weapon or in any manner that could inflict great bodily harm or death. The standard basic sentence of imprisonment for a third degree felony is three years. HB 61 proposes to increase that penalty to a second degree felony, which carries a standard basic sentence of imprisonment of nine years.

Aggravated assault upon a peace officer is a lesser included offense of assault with intent to commit a violent felony upon a peace officer (Section 30-22-23 NMSA 1978). See *State v. Bojorquez*, [1975-NMCA-075](#). Assault with intent to commit a violent felony upon a peace officer is a second degree felony. If HB 61 is enacted, the penalty for the lesser included offense, aggravated assault upon a peace officer, would potentially be the same as the penalty for the greater offense, assault with intent to commit a violent felony upon a peace officer.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS