

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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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 96

**Sponsor:** Lord  
**Short Title:** Interference with Law Enforcement Penalties

**Agency Name and Code**    NM Sentencing Commission (354)  
**Number:** \_\_\_\_\_  
**Person Writing**    Douglas Carver  
**Phone:** 505-239-8362    **Email** dhmcarver@unm.edu

**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)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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 96 increases the penalty for resisting, evading or obstructing an officer (Section 30-22-1) from a misdemeanor to a fourth degree felony.

**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**

Changing mere resisting in Section 30-22-1 to a fourth degree felony would introduce disproportionality into our criminal statutes. The arguably more serious crimes of assault and battery have penalties that rarely rise to a fourth degree felony. Assault (Section 30-3-1) is a petty misdemeanor, while regular aggravated assault (Section 30-3-2) is a fourth degree felony. Battery (Section 30-3-4) is a petty misdemeanor, while regular aggravated battery (Section 30-3-5) is a misdemeanor. Even in the five special categories of assault and battery – on school personnel (Section 30-3-9), sports officials (Section 30-3-9.1), health care professionals (Section 30-3-9.2), household members (see the Crimes Against Household Members Act, Section 30-3-10 *et seq.*), and, most especially, peace officers (Section 30-22-21 through -25), penalties do not go higher than a fourth degree felony unless there is serious bodily harm. Similarly, threatening a judge (Section 30-3-19) is also a fourth degree felony. Increasing the resisting penalty to a fourth degree felony would mean that it is considered as grievous, or more, of a harm as assault and battery.

It is difficult to determine what the effect of passing HB 96 would be on the state’s prison population, but the penalties included in the bill could lead to more people being incarcerated by the Corrections Department. Looking at cases disposed in the Courts in FY2023, this charge appeared in 3,285 Magistrate or Metropolitan Court cases at the misdemeanor level – if this charge was changed to a felony, these cases would have been felony cases. This charge appeared in 1,653 cases disposed in District Court. The average per day cost to incarcerate someone in the

state's prison system is \$156.45/day; this average includes private and public facilities.

**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**