



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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 103 would amend Section 30-22-25 NMSA 1978 to increase the felony level for aggravated battery 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.

HB 103 would also make minor changes to the phrasing of the existing law, adding “A” before “Peace Officer” in the title of the Section, replacing the pronoun “he” with “the officer” in Paragraph A, and correcting “which” to “that” in Paragraph B.

The changes proposed in HB 103 would be effective July 1, 2025.

#### **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 battery 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 103 proposes to increase that penalty to a second degree felony, which carries a standard basic sentence of imprisonment of nine years.

It is difficult to determine what the effect of passing HB 103 would be on the state’s prison population, but its increased penalty for aggravated battery upon a peace officer would likely lead to longer periods of incarceration for individuals convicted of that offense. As of June 30, 2024 – the latest data that is available – there were nine individuals incarcerated by the Corrections Department for aggravated battery upon a peace officer. The average cost to incarcerate someone in the state’s prison system is \$155.63/day; this average includes private and public facilities.

Aggravated battery upon a peace officer is also 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 103 is enacted, the penalty for the lesser included offense, aggravated battery 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**