

**LFC Requester:**

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.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}*

**Date Prepared:** 1/19/25 *Check all that apply:*  
**Bill Number:** HB 104 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Andrea Reeb **Agency Name and Code** AOC  
**Short Title:** Crimes Against Peace Officer Definitions **Number:** 218  
**Person Writing** Kathleen Sabo  
**Phone:** 505-470-3214 **Email** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 86, also amending Section 31-26-3 NMSA, within the Victims of Crime Act.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 104 amends Section 31-26-3(B) NMSA 1978 to include the following within the definition of “criminal offense” as used in the Victims of Crime Act (VOCA):

- Aggravated assault upon a peace officer, as provided in Section 30-22-22 NMSA 1978;
- Assault with intent to commit a violent felony upon a peace officer, as provided in Section 30-22-23 NMSA 1978;
- Battery upon a peace officer, as provided in Section 30-22-24 NMSA 1978; or
- Aggravated battery upon a peace officer, as provided in Section 30-22-25 NMSA 1978.

HB 104 also clarifies the specific inclusion of the following with regard to crimes currently contained within the definition:

- Negligent arson resulting in death or bodily injury, as provided in Paragraph (1) of Subsection G, rather than Subsection B, of Section 30-17-5 NMSA 1978;
- Voluntary manslaughter, as provided specifically in Subsection A of Section 30-2-3 NMSA 1978;
- Involuntary manslaughter, as provided specifically in Subsection B of Section 30-2-3 NMSA 1978; and
- Abandonment of a child, rather than just abandonment, or abuse of a child, as provided in Section 30-6-1 NMSA 1978.

#### **FISCAL IMPLICATIONS**

Requirements under the VOCA pertaining to inquiries and notifications to be made by the court may be unnecessary and repetitive in instances where a victim is a peace officer, causing unnecessary staff and court time and resources to be spent. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the Judicial Branch would be proportional to the enforcement of this law and commenced prosecutions where the victim is a peace officer.

#### **SIGNIFICANT ISSUES**

- 1) Section 31-26-2 NMSA 1978 states that it is the purpose of the VOCA to assure that:
  - A. the full impact of a crime is brought to the attention of a court;
  - B. victims of violent crimes are treated with dignity, respect and sensitivity at all stages of the criminal justice process;
  - C. victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants; and
  - D. the provisions of Article 2, Section 24 of the constitution of New Mexico are implemented in statute.

Additionally, Section 31-26-4 NMSA 1978 provides victims with the following rights:

- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- B. timely disposition of the case;
- C. be reasonably protected from the accused throughout the criminal justice process;
- D. notification of court proceedings;
- E. attend all public court proceedings the accused has the right to attend;
- F. confer with the prosecution;
- G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
- I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
- J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
- K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property; and
- L. be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender.

There is a question as to whether the purpose of the VOCA reveals an intent and a necessity to protect the rights of a peace officer, engaged in law enforcement and/or vested by law with a duty to maintain public order or to make arrests for crime. (See definition, "peace officer," Section 30-1-12 NMSA 1978.) For example, a stated purpose of the VOCA is to assure that "victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants".

There is also a question as to whether it is necessary to extend the Section 31-26-4 NMSA 1978 rights to a peace officer, who may already be entitled to workers compensation and restitution while in the lawful discharge of the officer's duties. Additionally, the Section 31- 26-8 NMSA 1978 procedures to be undertaken by the investigating law enforcement agency may also be unnecessary in instances where the victim is a peace officer.

If there are specific rights within the VOCA that are not already extended to a peace officer in the lawful discharge of the officer's duties, HB 104 could be tailored to ensure those rights are extended to peace officers in lawful discharge of their duties.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

See "Fiscal Implications," above.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with HB 86, also amending Section 31-26-3 NMSA, within the Victims of Crime Act.

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**AMENDMENTS**