

LFC Requester: _____

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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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 2/11/2025

Bill No: SB 331-280

Sponsor: Sedillo Lopez and Crystal Brantley

Agency Name and Code Number: LOPD-280

Short Title: Domestic Violence Programs and Probatio

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	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:

SB 331 proposes to amend five sections of the Criminal Offenses Chapter and one section of the Domestic Affairs Chapter, each pertaining to a “domestic violence criminal offense.” With respect to each of the six identified offenses, the proposed amendment would incorporate provisions currently applicable to domestic *battery* crimes into other domestic violence crimes, including:

Assault crimes:

- NMSA 1978, § 30-3-12 (Assault Against a Household Member);
- NMSA 1978, § 30-3-13 (Aggravated Assault Against a Household Member);
- NMSA 1978, § 30-3-14 (Assault Against a Household Member with Intent to Commit a Violent Felony);

Property damage crimes: NMSA 1978, § 30-3-18

Violation of an Order of Protection: 1978 NMSA, § 40-13-6

These provisions mandate that any convicted person must complete a domestic violence offender treatment or intervention program approved by CYFD, and adds a provision that no-credit shall be awarded toward the suspended sentence for time spent on probation but capping the total sentence to prevent indeterminate probation. The maximum caps vary depending on the basic sentence for the underlying offenses (which include misdemeanors and felonies).

The bill would also incorporate these requirements into a procedural statute, NMSA 1978 § 30-3-17, which imposes collateral consequences for repeat offenders.

The proposed amendments in this bill mirror language in NMSA 1978, §§ 30-3-15 (Battery Against a Household Member) and 30-3-16 (Aggravated Battery Against a Household Member). Both statutes impose similar requirements for domestic violence treatment and

consequences for violations of probation. The requirements in NMSA 1978, §§ 30-3-15 and 30-3-16 were codified following the enactment of SB 820 in 2007.

FISCAL IMPLICATIONS

Although participation in domestic violence offender treatment or intervention programs may reduce recidivism for some LOPD clients, the specific mechanisms of this bill may increase LOPD caseloads by creating longer probationary terms with mandatory program attendance that may increase revocation caseloads.

LOPD represents probationers in district court when probation violations are referred to the district attorney for revocation proceedings, which require due process, a right to counsel, and a right to a direct appeal. Because the no-credit provision can increase the total duration of probation, expanding the list of crimes that are subject to the “no-credit” rule will lead to more revocation hearings. As a result, LOPD probation caseloads would increase. Accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

Longer probation terms also mean more potential for revocation that results in incarceration. Therefore, this change could lead to an increase in incarceration rates, which would increase costs and population in Department of Corrections.

SIGNIFICANT ISSUES

Ordinarily, the available sanction for a probation violation is the entirety of a probationer’s suspended or deferred sentence, which can vary from one year to decades of potential incarceration. For all crimes except domestic *battery* and *DWI*, *see* NMSA 1978, § 66-8-102(T), probationers who are revoked after serving a portion of their probation sentence receive credit for that probation time toward their suspended sentence. *See* NMSA 1978, § 31-21-15(B) (“If imposition of sentence was deferred, the court may impose any sentence that might originally have been imposed, **but credit shall be given for time served on probation.**”) (emphasis added).

SB 331 would increase the consequences of a probation violation for the identified domestic violence crimes by prohibiting credit for time served on probation toward a suspended sentence, which would increase incarceration rates for these categories of offenses.

The bill would also incorporate these requirements into a procedural statute, NMSA 1978 § 30-3-17, which imposes collateral consequences for repeat offenders. Analyst questions the inclusion in this statute, since it is only triggered based on a second or subsequent conviction for one of the listed offenses, and the sentencing provisions in those statutes would control. Incorporating duplicate sentencing terms in Section 30-3-17 could cause confusion or even conflict.

Technical Violations

As written, this proposed amendment does not differentiate between technical violations of probation and more serious violations. As a result, *any* violation of probation for the identified domestic violence offenses would result in loss of time served credit, whether the violation is a one-time technical failure to report, or a serious subsequent incident of domestic violence. The

lack of differentiation for the range of possible violations of probation, coupled with the non-discretionary nature of the loss of time served language, will result in unduly harsh consequences, namely, lengthier terms of incarceration, for minor probation violations in the domestic violence context.

In 2015, researchers did a rigorous evaluation of the impact of jail versus community-based sanctions, using data from over 800 violations committed by a random sample of probationers and parolees on intensive supervision probation to examine whether jail sanctions are more effective than community sanctions in 1) extending time to the offender's next violation event, 2) reducing the number of future violations, and 3) successfully completing the probation program. See Wodahl, E.J., Boman IV, J.H., Garland, B.E. (2015), *Responding to probation and parole violations: Are jail sanctions more effective than community-based graduated sanctions?* JOURNAL OF CRIMINAL JUSTICE, 43, 242-250.

The study found no evidence to suggest that jail sanctions are any more or less effective than community-based graduated sanctions (such as increased treatment participation, electronic monitoring, and written assignments) in bringing about compliance with release conditions. The imposition of a jail sanction for noncompliance as opposed to a community-based sanction did not affect the number of days until the next violation, the number of subsequent violations, or the overall likelihood of completing supervision. Furthermore, the number of times the person went to jail, the number of days spent in jail, or the timing of the jail sanction did not influence peoples' outcomes.

Additional studies in Multnomah County, Oregon and Olympia, Washington found similar results. Rengifo, A.F. & Scott-Hayward, C.S. (2008). *Assessing the effectiveness of intermediate sanctions in Multnomah County, Oregon* (Clients who were given jail plus programs, while still more likely to recidivate than clients who did not receive any sanctions, had a lower likelihood of failure compared to the jail-only sub-sample); Drake, E. K., & Aos, S. (2012, July), *Confinement for technical violation of community supervision: Is there an effect on felony recidivism?* Washington State Institute for Public Policy (using jail as a sanction for a technical violation of the conditions of supervision does not lower recidivism for the commission of new felonies).

Although custodial sanctions may serve purposes other than behavior change (e.g., public safety interest in addressing behavior considered to be a threat to themselves or others), current research does not support the system- and individual-level cost of relying on these sanctions as a method to promote success on supervision.

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**