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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 3/3/2025

SPONSOR Padilla

BILL
NUMBER Senate Bill 334

SHORT TITLE Assault & Battery of CYFD Workers

ANALYST Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	At least \$56.4	At least \$56.4	\$112.8	Recurring	General Fund
Judiciary	No fiscal impact	Up to \$291	Up to \$291	\$582	Recurring	General Fund
CYFD	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund
Total	No fiscal impact	Up to \$347.4	Up to \$347.4	Up to \$694.4	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

- Administrative Office of the District Attorneys (AODA)
- Law Office of the Public Defender (LOPD)
- New Mexico Attorney General (NMAG)
- Children, Youth and Families Department (CYFD)
- New Mexico Sentencing Commission
- New Mexico Corrections Department (NMCD)
- Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From

- Administrative Office of the Courts (AOC)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of Senate Bill 334

Senate Bill 334 creates a new section within the criminal code, creating a new crime related to assault and battery of a child welfare worker.

The bill defines “child welfare worker” as an employee of the Children, Youth and Families Department (CYFD) who conducts direct services with the divisions of CYFD who provide direct services, including Protective Services, Family Services, Juvenile Justice Services, and Behavioral Health Services.

Senate Bill 334 would make assaulting a child welfare worker a misdemeanor crime. The bill makes aggravated assault against a child welfare a third-degree felony. The bill makes assault with the intent to commit a violent felony upon a child welfare worker a second-degree felony.

Senate Bill 334 would make battery against a child welfare worker who is working to complete their duties a fourth-degree felony. The bill makes aggravated battery against a child welfare worker a fourth-degree felony and inflicting great bodily harm a third-degree felony. The bill would make a person who assists another person to commit battery upon a child welfare worker a fourth-degree felony.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Senate Bill 334 does not contain an appropriation.

New Mexico Corrections Department. Incarceration drives costs in the criminal justice system, so the primary fiscal implications examined in this analysis relate to changes in the number of individuals in prison and the length of time served in prison that might result from this bill.

The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico’s prisons and long-term costs to the general fund. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY24 was \$56.3 thousand; however, due to the high fixed costs of the state’s prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per inmate per year across all facilities. This bill will likely increase the number of individuals incarcerated and increase the time they spend incarcerated.

The New Mexico Sentencing Commission (NMSC) notes it is difficult to determine the effect passage of SB334 might have on the state’s prison population. Penalties for the offenses added by SB334 range from a misdemeanor to a second degree felony. Based on the length of state for individuals released from New Mexico jails and prisons in FY24, the median length of stay for these penalties are, as reported by the Sentencing Commission:

- Misdemeanor: 11.43 months
- Fourth degree felony: 1.07 years
- Third degree felony: 1.58 years
- Second degree felony: 3.47 years

NMCD reports the creation of the specific crime proposed could increase the number of individuals sentence to incarceration or community supervision but, “not at a rate that would significantly impact NMCD.” LFC analysis assumes this bill would result in at least two people

serving at least one year in prison, at a cost of \$56.4 thousand annually to NMCD.

Judiciary. In addition, creating a new crime will likely increase workloads within the judicial branch, including the courts, the Administrative Office of the District Attorneys (AODA), and the Law Office of the Public Defenders (LOPD).

In analysis submitted for similar proposed legislation in previous sessions, AODA reports the bill may increase costs to district attorneys by making prosecution of assault and battery more complex. If the victim is a CYFD employee, the district attorneys will need to determine if the case comes under the general assault and battery statutes or under the more specific crimes outlined in the bill. If a crime is brought under the proposed statute, district attorneys will have additional proof elements. The litigants and the court will need to develop jury instructions for these new crimes.

LOPD estimates the bill would increase the number of potential felony assaults and batteries, although it is not known how many new cases would fall under the proposed statute. If there are cases that fall under the proposed statute, it is possible that more defendants would opt to go to trial, rather than plead guilty because of increased penalties, potentially increasing workloads for trial attorneys and support staff in LOPD. The office notes while LOPD would likely be able to absorb some cases under the proposed law, any increase in the number of trials could result in the need for increased funding.

LFC analysis assumes the state may need to hire at least one additional attorney and incur support staff costs in either LOPD or AODA, at a cost of up to \$291 thousand.

CYFD analysis reported no fiscal impact resulting from SB334.

SIGNIFICANT ISSUES

CYFD workers are currently protected by the general assault and battery laws. However, Senate Bill 334 would create special penalties for assault and battery against a child welfare worker, increasing penalties for assault by one degree compared to the same crime against regular civilians.

Senate Bill 334 would create a new crime in statute that follows the same statutory scheme and penalties for assault and battery against other public service workers, including school personnel (Section 30-3-9), sports officials (Section 30-3-9.1), and health care personnel (Section 30-3-9.2).

LOPD analysis noted the Legislature should use caution when considering more severe penalties for assault and battery when committed against certain occupations:

Because they carry higher penalties for comparably less-serious assaults and batteries, these expansions of “special crimes” for particular victims based solely on their employment should not be taken lightly...emotions are high when families are investigated by child protective services. There is no evidence that increasing penalties has a deterrent effect, especially on conduct committed in anger, fear, or frustration.

Additionally, LOPD notes CYFD workers include juvenile parole officers and correctional officers, and “because juveniles in delinquency proceedings interface frequently with CYFD

workers, this legislation could also have the effect of compounding the dispositions of children involved in the juvenile justice system.”

The Administrative Office of the Courts (AOC) notes in analysis provided for similar legislation in a previous session that children could also be charged under this statute and would be less likely to be deterred by higher penalties, as they are often completely unaware of penalties. LOPD noted in analysis for a similar bill introduced in a previous session:

Children may be the ones charged under this statute, as juvenile justice workers and juvenile probation officers are included in the list of positions [in the bill]. Science has identified profound differences between adult and juvenile brains. Children’s minds have an inability to assess consequences, increased risk-taking, and poor impulse control.

CYFD reports the agency’s workers often interact with families during times of extreme stress and volatility, which places them at heightened risk of assault and battery, citing the following statistics:

- The World Health Organization (WHO) reported in 2022 between 8 percent and 38 percent of health workers experience physical violence at some point in their careers.
- 2018 data reported by the Occupational Safety and Health Association (OSHA) and the Bureau of Labor Statistics, 73 percent of non-fatal injuries from occupational assaults and violence occurred in the fields of health care and social services.

The Department of Public Safety reports:

Child welfare workers often work in high-risk environments, facing challenging and volatile situations while trying to protect vulnerable children and families. The bill would provide an extra layer of protection for these workers by categorizing assaults and batteries against them as specific offenses with clearly defined penalties.

PERFORMANCE IMPLICATIONS

CYFD reports the agency has performance measures related to employee retention that could be positively impacted by this legislation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 334 is similar to previously proposed legislation: House Bill 198 (2019), House Bill 243 and Senate Bill 38 (2018), House Bill 44 (2017), and House Bill 142 (2016).

OTHER SUBSTANTIVE ISSUES

AODA notes that New Mexico appellate courts have held that knowledge of the victim’s special status is an essential element of the crime, and the jury must be so instructed, in trials related to the crimes involving assault and battery of the public service workers in existing criminal code.