

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 adds a new section to the Criminal Code – Section 30-3-9.3 entitled “Assault – Battery – Child Welfare Workers of the Children, Youth and Families Department”

Subsection A defines (1) “child welfare worker” and (2) “in the lawful discharge of the child welfare worker’s duties.”

Subsection B provides that assault on a child welfare worker is a misdemeanor.

Subsection C provides that aggravated assault on a child welfare worker is a third degree felony.

Subsection D provides that assault to commit a violent felony with intent to kill upon a child welfare worker is a second degree felony.

Subsection E provides that battery on a child welfare worker is a fourth degree felony.

Subsection F provides that aggravated battery on a child welfare worker (1) is a fourth degree felony if an injury is inflicted that is not likely to cause death or great bodily harm but that does cause painful temporary disfigurement or temporary loss or impairment of any part of the body; and (2) a third degree felony if the battery inflicts great bodily harm or is done with a deadly weapon or in any manner whereby great bodily harm or death can be inflicted.

Subsection G provides that anyone who “assists or is assisted by one or more other persons” to commit battery on a child welfare worker is guilty of 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.

Creating a new crime will increase the workload on the courts, the public defenders’ office, and the district attorneys and will likely require additional funding for training, staff, and/or IT resources.

SIGNIFICANT ISSUES

This bill follows the same statutory scheme as those for assault and battery on school personnel (Section 30-3-9), sports officials (Section 30-3-9.1), and health care personnel (Section 30-3-9.2).

The 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. *See State v. Nozie*, 2009-NMSC-018, ¶ 30 (knowledge that the victim is a police officer is an essential element of aggravated battery on an officer, although not expressly stated in the statute). *State v. Valino*, 2012-NMCA-105, ¶¶ 15, 17 (same for battery on a health care worker).

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

n/a

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a