

LFC Requester: _____

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date 11 February 2025
Bill No: SB 334-280

Sponsor: Michael Padilla
Assault & Battery of CFYD
Workers

Agency Name and Code Number: 280 Law Offices of the Public Defender [LOPD]

Person Writing: Kate Baldrige
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Short Title: _____

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

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

SB 334 creates a new Section 30-3-9.3 NMSA 1978, assault and battery against a “child welfare worker” which is defined in Subsection A as employees of the Children, Youth and Families Department (CYFD). Under Subsection B, simple assault against a CYFD worker would be punished as a full misdemeanor. Under Subsection C, aggravated assault with a deadly weapon or with intent to commit any felony against a CYFD worker would be punished as a 3rd degree felony. Under Subsection D, assault with the intent to commit a violent felony against a CYFD worker would be punished as 2nd degree felony. Under Subsection E, simple battery against a CYFD worker would be punished as 4th degree felony. Under Subsection F(1), aggravated battery against a CYFD worker inflicting injury not likely to cause great bodily harm would be punished as a 4th degree felony. Under Subsection F(2) aggravated battery against a CYFD worker with a deadly weapon, or inflicting great bodily harm, or in any manner whereby great bodily harm or death can be inflicted, would be punished as a 3rd degree felony. Finally, under Subsection G, assisting or being assisted in a battery against a CYFD worker would be punished as a 4th degree felony.

FISCAL IMPLICATIONS

This bill would seem to 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 would fall under the proposed statute as opposed to existing assault and battery statutes, it is possible that more defendants would opt to go to trial rather than plead guilty because of the increased penalties, which would increase the workload for trial attorneys and support staff in both LOPD and offices of the district attorneys, as well as for the courts. While LOPD would likely be able to absorb some cases under the proposed law, any increase in the number of trials brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates.

If more higher-penalty trials result, LOPD may need to hire more trial attorneys with greater experience. These felonies would be handled by mid-level felony capable attorneys (Associate Trial Attorneys). Depending on the volume of cases in the geographic location there may be a significant recurring increase in needed FTEs for the office and contract counsel compensation. An Associate Trial Attorney's mid-point salary including benefits is \$136,321.97 in Albuquerque/Santa Fe and \$144,811.26 in the outlying areas (due to necessary salary differential to maintain qualified employees). Recurring statewide operational costs per attorney would be \$12,909.00 with start-up costs of \$5,210.00; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$123,962.51. Again, assessment of the impact would be necessary after the implementation of the proposed legislation, but such is likely to result in a requirement for additional funds to LOPD in order to provide constitutionally required effective assistance of counsel.

Assessment of the impact on the LOPD upon enactment of this bill would be necessary after the implementation of the proposed higher-penalty scheme. Enactment of any higher criminal penalty is likely to result in more trials, as more defendants will prefer to risk a trial than take a plea to the greater penalty. If more higher-penalty trials result from enactment, LOPD may need to hire more trial attorneys with greater experience to stay ahead of the rush. Additionally, courts, district attorneys, the DOJ, and DOC could anticipate increased costs.

SIGNIFICANT ISSUES

CYFD workers are protected by the general assault and battery laws that already exist. However, SB 334 parallels previously-enacted statutes covering assault and battery against health care workers (NMSA 1878, Section 30-3-9.2), school personnel (NMSA 1978, Section 30-3-9), and sports officials (NMSA 1978, Section 30-3-9.1). Nevertheless, creating special penalties based on occupation should be the narrow exception, not the rule. 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 being 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, CYFD workers include juvenile parole officers and correctional officers. 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.

PERFORMANCE IMPLICATIONS

See Fiscal Implications

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found

TECHNICAL ISSUES

None noted

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None noted