

SB38/HB243

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Bill Analysis 2018 Regular Session

SPONSOR: Senator Howie Morales and Representative Monica Youngblood

SHORT TITLE: Battery on CYFD Workers

SYNOPSIS OF BILL: SB38/HB243 creates a new crime of assault, aggravated assault, battery, and aggravated battery when the victim is an employee of New Mexico's Children, Youth and Families Department (CYFD) and is performing their job duties. The proposal would also make it a felony to assist someone in committing a battery on a CYFD employee. SB38/HB243 would have the effect of making the criminal consequences of committing an assault or battery on a CYFD employee significantly more punitive.

STRENGTHS: Being a CYFD employee can be a difficult job. The nature of CYFD's work is that staff are often faced with unpredictable scenarios that can sometimes turn violent.¹ This bill is an attempt to address those very real concerns.

WEAKNESSES: This bill is another in a long string of proposals introduced in New Mexico in recent years to create special categories of crimes committed against certain demographics. Although presented with the best of intentions, these laws are unnecessary because New Mexico already has existing criminal laws that make committing an assault or battery on someone a very serious offense.

SB 38 is particularly problematic because it will likely result in the criminalization of many children. The nature of CYFD's mission brings its employees into contact with families who are often locked in traumatic and deeply emotional situations. A child could hit a CYFD employee – or even engage in much more innocuous behavior, such as poking or light pushing – and under this proposal that would now be considered a felony. The reason why battery is considered a misdemeanor under current law is because it can often include largely insignificant acts of physical touching. We don't need yet another bill to increase criminal sentences, especially when significant numbers of children are likely to be arrested under this proposal.

Furthermore, such proposals to enhance criminal penalties always cost the state of New Mexico money. For that reasons, this bill should have an appropriation attached to it.

ADDITIONAL INFO: The particularly inhumane impact of the criminal justice system on children accused of crimes is very well-documented.²

<u>S</u>afer	<u>A</u>political	<u>F</u>iscally-Responsible	<u>E</u>vidence Based	Grade
This bill could potentially make children less safe by exposing them to enhanced criminal penalties for behavior that is relatively minor.	N/A	Although the ultimate price tag for this proposal is unclear, SB 38 will certainly require additional costs in incarceration, prosecutors, public defenders and other criminal justice expenses. For that reason, this bill should have an appropriation attached to it.	There is no evidence that such a bill would actually protect CYFD workers from violence. Experts suggest other much more promising ways for social workers to be protected, including “detailed safety trainings for social workers who make home visits, instilling a culture of safety and risk reduction within agencies, utilizing technology such as GPS tracking and cell phones for social workers in the community, and crisis management and self-defense instruction.” ³	D

¹ Research suggests that at least a quarter of social workers will confront violence in the performance of their jobs. See *Security Risk: Preventing Client Violence Against Social Workers*, Susan Weinger (2001): <https://www.naswpress.org/publications/bestbuys/security-risk.html>

² See “Children in Adult Jails,” Children’s Defense Fund (1976). Retrieved at: http://diglib.lib.utk.edu/cdf/data/0116_000050_000245/0116_000050_000245.pdf

³ “See Violent Crime and Social Worker Safety,” Sherry Saturno, Social Work Today. Retrieved at: http://www.socialworktoday.com/archive/exc_032511.shtml