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## FISCAL IMPACT REPORT

SPONSOR HJC DATE TYPED 03/04/05 HB 441/HJCS

SHORT TITLE Criminal Damage to Community Property SB \_\_\_\_\_

ANALYST Ford

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Minimal		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of HJC Bill Substitute

The House Judiciary Committee substitute for House Bill 441 creates the new crime of criminal damage to property of a household member, which consists of intentionally damaging any real or personal property of a household member without the consent of all owners of the property. The violation is a petty misdemeanor, unless the damage amounts to more than \$1,000, in which case the violation is a 4<sup>th</sup> degree felony.

Household member means a spouse, former spouse, or family member, including a relative, parent, present or former stepparent, present or former in-law, co-parent of a child, or person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member.

#### Significant Issues

This bill applies to the facts of a case decided in 2003 by the New Mexico Court of Appeals in which an angry husband destroyed his wife's car. The husband was charged with criminal damage to property but the Court of Appeals held that the charge was invalid because the husband was destroying community property in which he had an ownership interest.

**FISCAL IMPLICATIONS**

The bill may result in minor costs increases for increased judicial proceedings and criminal sentences. However, the total impact is likely to be minor.

**TECHNICAL ISSUES**

The definition of household member is somewhat broad, particularly as it applies to a “person with whom a person has had a continuing personal relationship.” Could this be read to include friends or other individuals who would not normally be considered household members?

**EF/yr**