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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/16/08  
 SPONSOR Adair LAST UPDATED 2/11/08 HB \_\_\_\_\_  
 SHORT TITLE Increase Domestic Penalties SB 68/aHJC/aSJC  
 ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General’s Office (AGO)  
 Public Defender Department (PDD)  
 NM Health Policy Commission (NMHPC)

#### Responses Received From

Administrative Office of the Courts (AOC)  
 NM Sentencing Commission (NMSC)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment clarifies how to determine the number of offenses committed, explaining that multiple offenses will be counted after a conviction for the preceding offense.

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment inserts a new section to add definitions as used in the Crimes Against Household Members Act. It defines “household member” and “continuing personal relationship”. The amendment goes on to replaces “dating or intimate” with “continuing personal relationship” throughout the bill.

Finally, it makes the Act applicable to convictions obtained on or after July 1, 2008.

Synopsis of Original Bill

Senate Bill 68, increasing penalties for three or more batteries or aggravated batteries against certain household members, makes it a fourth degree felony against whoever commits four or more offenses of battery against a household member or when the household member is a spouse, former spouse, co-parent, or has been intimately involved.

SB 68 amends language to include a program of “intervention” as a mandatory sentencing option for the court to impose upon conviction of misdemeanor aggravated battery against a household member.

SB 68 amends “may” language to “shall” to express requirement that a sentence imposed pursuant to Section 30-3-15 and 30-3-16 not exceed period of incarceration authorized.

**FISCAL IMPLICATIONS**

Corrections Department acknowledges that new felony convictions are likely to increase its costs moderately with additions to the inmate population and probation/parole caseloads. The bill is unlikely to cause a moderate or substantial number of convictions, but it is always difficult to predict the effect of any new crime bill with any certainty.

**PERFORMANCE IMPLICATIONS**

The Public Defender Department notes that due to the collateral consequences inherent in felony convictions, including habitual offender enhancement and mandatory parole, there is a potential of increased workload for the Public Defender Department when a penalties are increased from the misdemeanor to the felony level.

**TECHNICAL ISSUES**

The Attorney General’s Office notes that the term “dating”, proposed in SB 68, is new household member language. The bill does not include a definition for “dating” and should consider including a definition for “dating”.

**OTHER SUBSTANTIVE ISSUES**

At present, the penalty for battery against a household member is punishable as a misdemeanor; aggravated battery when done in a manner not likely to cause death or great bodily harm, but that does cause painful temporary disfigurement, is also punishable as a misdemeanor; aggravated battery, where great bodily harm is inflicted or when done with a deadly weapon or in a manner whereby great bodily harm is inflicted is punishable as a third degree felony.

According to the New Mexico Coalition Against Domestic Violence, there were 28,256 domestic violence incidents reported to law enforcement in New Mexico in 2005, a 4.8% increase over 2004. Of the 28,256 cases reported, 18,778 (66%) victims of domestic violence were identified and of those, 13,422 (73.5%) were female.