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## FISCAL IMPACT REPORT

SPONSOR: Thompson DATE TYPED: 03/10/03 HB 893

SHORT TITLE: Aggravated Battery Against Household Members SB \_\_\_\_\_

ANALYST: Fox-Young

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General (AG)
- Administrative Office of the District Attorneys (AODA)
- Public Defender Department (PDD)
- Corrections Department (CD)
- Department of Health (DOH)
- Department of Public Safety (DPS)

### SUMMARY

Synopsis of Bill

House Bill 893 amends Section 30-3-5 and Section 30-3-16, increasing penalties for the offenses of Aggravated Battery and Aggravated Battery Against A Household Member.

- The bill increases the penalty for the offense of Aggravated Battery (when it causes painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the body) from a misdemeanor to a fourth degree felony.
- The bill divides an existing category of the crime of Aggravated Battery (inflicting great bodily harm or [doing] so with a deadly weapon or in a manner where great bodily harm or death can be inflicted) into two offenses, providing for a third and a second degree felony.

--Whoever commits aggravated battery with a deadly weapon or does so in any manner whereby great bodily harm or death can be inflicted on a person, but in fact is not, is guilty of a third degree felony.

--Whoever commits aggravated battery, by inflicting great bodily harm on a person, is guilty of a second degree felony.

- The bill amends the crimes of Aggravated Battery Against a Household Member, providing for parallel penalties.

### Significant Issues

The Administrative Office of the District Attorneys (AODA) notes that the bill clarifies that the penalty for aggravated battery with a deadly weapon, which could have caused great bodily harm or death but did not, is a third degree felony. AODA notes that this is currently the law, but that it is not stated very clearly.

The Administrative Office of the Courts (AOC) notes that the offenses of Aggravated Battery and Aggravated Battery Against A Household Member are currently charged as misdemeanors and filed in magistrate courts. The Department of Health (DOH) reports that in 2001, 13% of domestic violence cases heard in magistrate court included charges of Aggravated Battery. The provisions of this bill will likely transfer a number of such cases to district court, as they will be classified as felonies. The Administrative Office of the Courts (AOC) notes that in the alternative, prosecutors may opt to undercharge offenders so that cases may continue to be heard in magistrate court.

The Public Defender Department (PDD) notes that because virtually all batteries can be charged as a felony under the provisions of the bill, bail requirements are likely to rise, making it difficult for defendants to obtain pre-trial release. PDD indicates that an increase in the number of incarcerated defendants will further burden the court's obligation to meet speedy trial provisions.

### **FISCAL IMPLICATIONS**

AOC notes that last year, more than 704 cases were filed in magistrate courts (this figure does not include Bernalillo Metropolitan Court) that would have been filed in district court under the provisions of the bill. Additional cases filed and trials in district court will likely necessitate additional resources. AOC notes that although the bill will likely reduce the number of filings in magistrate court, many preliminary hearings will still be heard in magistrate court.

PDD notes that the provisions of the bill will likely require an increase in contract counsel and in-house staff throughout the state. Because the current misdemeanors and lesser felonies will be superseded by harsher punishments, PDD notes that an increase in jury trials is inevitable. The department estimates an annual increase of \$744.0 to fund an additional in-house attorney in each of the district offices and an annual increase in contract counsel costs of at least \$200.0.

Additionally, PDD notes that increasing bail requirements will cause department attorneys to expend more resources in preparing for trials.

The Corrections Department (CD) notes that individuals convicted under the new penalty

scheme will likely serve longer sentences, supervised parole terms and longer periods of supervised probation. As a result, costs to the department will likely increase significantly.

## **CONFLICT**

Conflicts with (conflicting penalties):

HB 341 (increasing penalties for domestic violence offenses committed in the presence of a child)

HB 561 (increased penalties for domestic violence offenses)

SB 521 (mandatory minimum periods of incarceration for domestic violence offenses)

Relates to:

HB156 (allowing police to hold individuals arrested for domestic violence for 48 hours)

SB52 (appropriating \$2,000.0 from the general fund to CYFD for contracts with domestic violence shelters and programs)

HB257 (allowing local DWI grant funds to be used for domestic abuse programs)

HB264 (requiring first time domestic violence offenders to complete counseling)

## **TECHNICAL ISSUES**

The Attorney General (AG) notes that the existing penalty structure for the crimes of Aggravated Battery Upon a Peace Officer and Aggravated Battery on a Sports Official are not in line with those contained in the bill.

**JCF/yr**