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## FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 03/09/03 HB \_\_\_\_\_

SHORT TITLE: Criminal Damage to Property Penalties SB 868

ANALYST: Fox-Young

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			0.1 Minimal (See Narrative)	Recurring	

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HB 596 (Equitable Sentencing Schedule—conflicting penalties)

### SOURCES OF INFORMATION

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Attorney General (AG)  
 Corrections Department (CD)

#### No Response

Administrative Office of the District Attorneys (AODA)  
 Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 868 amends 30-15-1, increasing penalties for the offense of criminal damage to property. Currently, criminal damage to property is a petty misdemeanor when the value of the damage is not more than \$1000, and all other criminal damage to property constitutes a fourth degree felony. The bill provides that:

- Whoever commits criminal damage to property when the damage is \$100 or less is guilty of a petty misdemeanor;

- Whoever commits criminal damage to property when the damage is more than \$100 but not more than \$1,000 is guilty of a misdemeanor. Upon conviction, the offender shall be sentenced to 30 days or more in jail, which shall not be suspended, deferred or taken under advisement; and
- Whoever commits criminal damage to property when the damage is more than \$1,000 is guilty of a fourth degree felony.

## **FISCAL IMPLICATIONS**

The Corrections Department (CD) notes that the provisions of the bill will likely increase the number of cases in which the total time served for multiple misdemeanor convictions shall exceed one year. In such cases, offenders serve time in department prisons. CD estimates that the fiscal impact to the department will likely be minimal, as the number of multiple misdemeanor convictions and the increase in offenders serving supervised probation will likely be small.

The Attorney General (AG) notes a potential increase in the appellate caseload. AG, the courts, PDD and district attorneys may see slight increases in costs as a result.

## **CONFLICTS**

Conflicts with HB 596 (Equitable Sentencing Schedule). HB 596 provides that penalties for criminal damage to property are as follows:

A petty misdemeanor where the monetary amount involved is \$100 or less;

A misdemeanor where the amount involved is over \$100 but not more than \$1,000;

A fourth degree felony where the amount involved is over \$1,000 but not more than \$2,500;

A third degree felony where the amount involved is over \$2,500 but not more than \$20,000;

And a second degree felony where the amount involved is over \$20,000.

## **TECHNICAL ISSUES**

AG notes that the minimum jail sentence contained in subsection C can be read to apply to any conviction for criminal damage to property. AG recommends clarifying the language, as the application of the minimum sentence to misdemeanors but not to fourth degree felonies appears to be inconsistent and the application of the penalty to petty misdemeanors may not be intended.

**JCF/prr**