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## FISCAL IMPACT REPORT

SPONSOR Ponce DATE TYPED 2-11-04 HB 65/aHJC

SHORT TITLE Sentencing Certain Domestic Violence Offenses SB \_\_\_\_\_

ANALYST Reynolds-Forte

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 77

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Corrections Department  
 Administrative Office of the Courts  
 Public Defender

### SUMMARY

#### Synopsis of HJC Amendment

The Amendment specifies that it is only section (C) of 30-3-1 that will be defined as a violent offense. Section (C) refers to aggravated battery against a household member by inflicting great bodily harm or doing so with a deadly weapon, or doing so in any manner whereby great bodily harm or death can be inflicted. Under current law, three convictions of specific, violent felonies carry a mandatory sentence of life imprisonment.

#### Synopsis of Original Bill

House Bill 65 adds a felony conviction of third degree aggravated battery against a household member to the list of offenses that qualify as a third strike offense. Under current law, three convictions of specific violent felonies carry a mandatory sentence of life imprisonment.

Significant Issues

Convictions that currently qualify as a third strike offense are: murder in the first or second degree, shooting at or from a motor vehicle and causing great bodily harm, kidnapping resulting in great bodily harm, criminal sexual penetration, and robbery armed with a deadly weapon.

Upon conviction of the third violent felony (from the list above), the court is required to hold a sentencing hearing, separate from the plea or trial, and shall impose a sentence of life imprisonment.

**FISCAL IMPLICATIONS**

The Corrections Department points out that because domestic violence is a wide-spread problem in New Mexico, this bill could result in an increase of persons incarcerated for life sentences with an increase cost to the Department both during incarceration and for probation and parole. It is impossible to estimate the number of additional inmates who will receive life sentences due to the changes in House Bill 65. However, it will cost an additional \$20 to \$26 thousand per year for each additional inmate as noted below.

The contract/private prison annual costs of incarcerating an inmate based upon Fiscal Year 03 actual expenditures is \$20,720 per year for males. The cost per client to house a female inmate at a privately operated facility is \$26,313 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,452 per year. The cost per client in Intensive Supervision programs is \$2,852 per year. The cost per client in department-operated Community Corrections programs is \$4,371 per year. The cost per client in privately-operated Community Corrections programs is \$9,151 per year. The cost per year for male and female residential Community Corrections programs is \$20,725.

**ADMINISTRATIVE IMPLICATIONS**

The District Courts will be impacted by House Bill 65. The Administrative Office of the Court notes that this bill makes a felony conviction for third degree aggravated battery against a household member a third strike conviction that can lead to life imprisonment for the defendant. Since 2001, this charge has been filed 725 times each year in the district courts. The conviction rate on this charge has consistently been almost 50%. If this legislation is enacted, district courts would have approximately 725 more cases each year that carry a third strike enhancement. These cases will require additional judicial and staff time and may require additional resources to handle the increased workload.

**RELATIONSHIP**

House Bill 65 is related to Senate Bill 77 which makes aggravated battery against a household member a serious violent offense for which an inmate serves 85% of the sentence.

**PR/njw:lg**