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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/07

SPONSOR Lopez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Damage to Household Member's Property SB 454

ANALYST Hanika Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Administrative Office of the Courts (AOC)

Corrections Department (CD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 454 adds a new Section of Chapter 30, Article 15 NMSA 1978 which creates a new criminal offense of damage to a household member's property without consent from all owners of the property. Whoever commits this crime is guilty of a petty misdemeanor, except that when the damage to the property amounts to more than one thousand dollars (\$1,000) he is guilty of a fourth degree felony. A household member is any 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 a household member.

### FISCAL IMPLICATIONS

Any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle increase.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws

and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

### **SIGNIFICANT ISSUES**

Under current law, criminal damage to property consists of intentionally damaging any real or personal property of another without the consent of the owner of the property. The penalties are the same as are in the bill.

The bill attempts to address the issue of whether a person can be guilty of criminal damage to property that he owns with another. The current criminal damage to property statute already applies to household members when the property is not jointly owned by the alleged offender, because the property is “property of another”. PDD reports that the problem with this new legislation is that it makes it possible for a household member with a 1% interest in property to have the person with 99% ownership in the damaged property to be charged with a crime.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Duplicate of HB 446

### **OTHER SUBSTANTIVE ISSUES**

This legislation is related to the Family Violence Protection Act, NMSA 1978, sections 40-13-1, *et seq.* which is intended to prevent domestic abuse. Section 40-13-2(C)(6) defines "domestic abuse" as any incident by a household member against another household member resulting in criminal damage to property and allows the victim to obtain a protective order against the offending household member.

AHO/mt