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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/3/2015

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

SHORT TITLE Domestic Violence Orders and Hearings SB 660

ANALYST Chenier

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY15 | FY16                    | FY17                    | 3 Year Total Cost       | Recurring or Nonrecurring | Fund Affected |
|--------------|------|-------------------------|-------------------------|-------------------------|---------------------------|---------------|
| <b>Total</b> |      | See Fiscal Implications | See Fiscal Implications | See Fiscal Implications | Recurring                 | General Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Adult Parole Board (APB)
- New Mexico Corrections Department (NMCD)
- Attorney General’s Office (AGO)
- Administrative Office of the Courts (AOC)
- Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 660 would grant the power to a court or the APB to impose a permanent no contact order, for any length of time, on a probationer or parolee when the probationer or parolee has been convicted of domestic abuse. For victims of domestic abuse, the bill would allow parole hearing attendance telephonically and would allow another person to appear instead of the victim, on the victim’s behalf.

### FISCAL IMPLICATIONS

APB stated that those convicted of crimes associated with domestic abuse will remain the same in number. As the Board conducts hearings at every prison facility on a monthly basis the number of inmate hearings will not increase thus no additional fiscal impact.

### SIGNIFICANT ISSUES

APB stated that parole jurisdiction for crimes associated with aggravated domestic violence ends

after a maximum of two years. In the event there is a contact order violation it would require court action and could not be handled as a parole violation.

AGO stated that Senate Bill 660 codifies the New Mexico Supreme Court decision in *State v. Guthrie*, without clarifying any issues. Minimum Due Process protections are available at hearings adjudicating violations of probation or parole. In *Guthrie*, the Supreme Court interpreted these minimum Due Process guarantees to require in-person testimony at certain probation or parole hearings unless “good cause” is shown that in-person confrontation is unnecessary. Since currently, a court may allow telephonic or proxy testimony in certain situations, the bill likely only codifies Supreme Court precedent. To change practical application of the law, the bill would likely need to change the permissive language of “may” in section 2 to “shall.”

AOC provided the following:

This bill would provide an alternate process for victims of a domestic violence crime to obtain a permanent no contact order restraining the perpetrator of the crime from having contact with the victim through the parole process. Although the intent of the legislation would seem to benefit a victim concerned for her safety, placing this provision within the parole process would create several issues. First, the only victims of crime able to obtain a permanent “no contact order” would be for offenders that are actually convicted of felony level offenses and are subject to parole. Most domestic violence crimes are charged as misdemeanor offenses in New Mexico. Even when an offender is charged with a felony domestic violence crime, these charges are often reduced to misdemeanor or non-household member offenses and most offenders are not incarcerated for their crimes. Therefore this legislation would only apply to a small minority of domestic victims.

The use of “permanent no contact order” in this legislation could cause confusion among law enforcement regarding whether a violation of the order would be a criminal act under the Family Violence Protection Act or a parole violation. It is also unclear whether a permanent no contact order under this new act would fit the legal requirements to be entered in the national registry.

EC/aml