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FISCAL IMPACT REPORT

SPONSOR: Vaughn DATE TYPED: 03/04/03 HB 341

SHORT TITLE: Children & Crimes 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)
 Corrections Department (CD)
 Administrative Office of the District Attorneys (AODA)
 Attorney General (AG)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 341 amends Section 30-3-11 NMSA 1978, providing the following increases in penalties for crimes committed against a household member, when they are committed **in the presence of a child**:

- Assault against a household member becomes a full misdemeanor instead of a petty misdemeanor;
- Aggravated assault against a household member becomes a third degree felony instead of a fourth degree felony;
- Assault against a household member with intent to commit a violent felony becomes a second degree felony instead of a third degree felony; and
- Battery against a household member becomes a fourth degree felony instead of a full misdemeanor.

“Child means a minor under the age of thirteen.”

Significant Issues

The Administrative Office of the District Attorneys (AODA) notes that "presence of a child" should be defined. It is not clear whether the child must merely be present, within sight or sound of the incident or cognizant of the perpetrator's actions. AODA indicates that it is unclear whether the presence of a sleeping child or the presence an infant qualifies an offender for the new penalties.

The Public Defender Department (PDD) notes that a huge number of domestic abuse incidents happen in the presence of a child, meaning that the bill will likely have an immediate and significant effect on the department's clients and their families. PDD notes that the provisions of the bill will likely increase the number of children who act as witnesses.

FISCAL IMPLICATIONS

PDD indicates that increased attorney time and ever-burgeoning trial dockets will drive up the costs associated with in-house attorneys and contract counsel throughout the state. PDD estimates an increase of \$166.0 for in-house counsel and a parallel increase in contract attorney fees. Additionally, the bill will likely have a significant fiscal impact on prosecutors and on the courts.

AOC notes that if the trial rate increases significantly as a result of the provisions of the bill, courts may need additional personnel to manage the caseload.

The Corrections Department (CD) notes that the bill will likely result in increased costs to the department, as a number of domestic violence offenders will be serving longer terms. CD further notes that the longer terms of supervision of offenders on probation and/or parole will likely prompt a slight increase in administrative costs.

JCF/njw