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## FISCAL IMPACT REPORT

SPONSOR: Vaughn DATE TYPED: 3/4/03 HB 561

SHORT TITLE: Counseling for Domestic Violence Offenders SB \_\_\_\_\_

ANALYST: Chavez

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |               | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------------|----------------------|---------------|
| FY03                    | FY04 | FY03                        | FY04          |                      |               |
| NFI                     | NFI  |                             | See Narrative |                      |               |
|                         |      |                             |               |                      |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)  
 New Mexico Corrections Department (NMCD)  
 LFC Files

### SUMMARY

#### Synopsis of Bill

House Bill 561 amends the Crimes Against Household Members Act, § 30-3-10 through § 30-3-16 NMSA 1978 to provide for increases in penalties for crimes against household members. The effective date of the provisions of the act is July 1, 2003.

#### Significant Issues

- Household members is defined in § 30-3-11 as a spouse, former spouse or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crime Against Household Members Act.
- House Bill 561 increases penalties for a second or subsequent conviction for 1) assault, 2) aggravated assault, 3) assault with intent to commit a felony, 4) battery, and 5) aggravated battery against a household member.

- Further, the bill provides that in addition to any punishment provided, the court is required to order a person convicted of 1) assault, 2) aggravated assault, 3) assault with intent to commit a felony, 4) battery, and 5) aggravated battery against a household member to participate in and complete a program of professional counseling at his own expense.
- Unless otherwise provided, all persons convicted of a crime under the laws of New Mexico shall be sentenced in accordance with the provisions of the Criminal Sentencing Act, Chapter 31, Article 18 NMSA 1978, provided that a person sentenced as a serious youthful offender or as a youthful offender may be sentenced to less than the basic or mandatory sentence prescribed by the Criminal Sentencing Act.
- If a person is convicted of a non-capital felony, the basic sentence of imprisonment is as follows:
  - 1) for a first degree felony, eighteen years imprisonment;
  - 2) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;
  - 3) for a second degree felony, nine years imprisonment;
  - 4) for a third degree felony resulting in the death of a human being, six years imprisonment;
  - 5) for a third degree felony, three years imprisonment; or
  - 6) for a fourth degree felony, eighteen months imprisonment.

The offender's sentence for imprisonment is subject to meritorious deductions.

- The Corrections Department (CD) stated that the increased penalties for domestic offenses will make it likely that there will be more offenders spending more time in correctional facilities. Second or subsequent convictions for battery and aggravated battery would now be felonies and the CD states that the offenders would be sentenced to prison rather than serve their time in jail. Further, the CD states that this would create more supervision of probationers and/or parolees.

## **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. However, there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

The CD indicates that there would be a likelihood of increased expenses for the probation and parole officers which would be somewhat offset by increased fees paid to the CD and increased fines paid to the court. There is a standard probation and parole fee charged to an offender. Policy allows for a charge of up to \$75 to be charged. However, because a majority of offenders are unemployed a fee of roughly \$20 is charged per month per offender. Furthermore, courts have their own fees that they assess when offenders are sentenced.

## **ADMINISTRATIVE IMPLICATIONS**

The CD indicates that the present administration could absorb any additional load created by greater numbers of offenders in correctional institutions or on probation.

**RELATIONSHIP**

There are other pieces of legislation that increase penalties for domestic violence (SB 521), provide for fees for domestic violence offenders, (SB 327, HB 414) and HB 156 provides for domestic violence arrests.

**POSSIBLE QUESTIONS**

1. How will indigent offenders pay for mandatory counseling costs?
2. What is the definition of “professional counseling” as provided for in the bill?
3. Does the mandated professional counseling have to be approved by the court?

FC/lr:yr