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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/06

SPONSOR Stewart LAST UPDATED _____ HB 55

SHORT TITLE Increase Domestic Violence Penalties SB _____

ANALYST Medina

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to domestic violence

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)
Attorney General (AG)

SUMMARY

Synopsis of Bill

House Bill 55 amends Section 30-3-15 through 30-3-16 NMSA 1978 to increase criminal penalties for those guilty of committing battery and aggravated batter against household members. The bill establishes additional penalties for second and subsequent offenses by person committing battery or aggravated battery against a household member. For a second offense, the penalty is a misdemeanor and mandatory 48 hour imprisonment. For a third offense, the penalty is a misdemeanor and a mandatory 30 imprisonment. For fourth and subsequent offenses, the penalty is a fourth degree felony and mandatory 6 month imprisonment. The bill also requires that upon conviction the offender complete a mandatory domestic violence offender treatment program. Finally, the bill requires that if a sentence imposed pursuant to the provisions of the bill is suspended or deferred in whole or in part, that the period of probation may extend beyond 364 days but may not exceed 364 days plus 90 days.

SIGNIFICANT ISSUES

According to the Attorney General's office, New Mexico ranks third in the nation for domestic violence-related homicides. There were 26,940 reports of domestic violence incidents reported by law enforcement in New Mexico in 2004, a rate of 15.3 incidents of domestic violence for every 1,000 persons. The Public Defender Department asserts that a very high percentage of repeat offenders have mental health problems for whom incarceration is not the solution. The Attorney General's office and the Public Defender Department agree that treatment is a critical component of stopping domestic violence.

ADMINISTRATIVE IMPLICATIONS

The mandatory treatment provision of this bill may require supervision to ensure compliance. Also, the district attorneys and Public Defender Department caseload may increase commensurate with demands for jury trial due to mandatory incarceration terms. A related increase in the jail population may also be significant.

TECHNICAL ISSUES

The bill only requires that a person commit, rather than be convicted of committing, battery or aggravated battery against a household member to receive the prescribed penalties.

The Public Defender Department notes that by providing for self-enhancement, this misdemeanor will not be subject to additional enhancement under the Habitual Offender Act.

ALTERNATIVES

According to the Public Defender Department, the mandatory sentences included in this bill may provide significant hardships on the families of the offenders and that a sentencing judge should have alternatives to incarceration in certain cases.

DXM/yr