

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/09

SPONSOR Maestas LAST UPDATED _____ HB 363

SHORT TITLE Criminal Defendant Background Information for Judges SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NA	\$298	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Public Defender (PD)
 Administrative Office of the District Attorney (AODA)

SUMMARY

Synopsis of Bill

House Bill 363 provides for an appropriation of \$298,200 in FY10 from the general fund to the Bernalillo County Metropolitan Court to hire staff and to pay related expenses to perform more comprehensive background investigations of criminal defendants posting bond at the Bernalillo County Metropolitan Court or the metropolitan detention center or responding to criminal summonses at the Bernalillo County Metropolitan Court. Unused funds at the end of FY 09 shall revert to the general fund.

FISCAL IMPLICATIONS

The Bernalillo County Metropolitan Court's proposed operating budget is as follows:

House Bill 363 – Page 2

Four full-time Background Investigators

One full-time Pretrial Services Supervisor

Annual cost of the five full-time employees \$278,200

Education and Training of staff; equipment, 20,000

Supplies and database fees

TOTAL

\$298,200

This legislation is part of the judiciary’s unified budget. The appropriation contained in this bill should be incorporated into the Bernalillo County Metropolitan Court’s operating budget. All the funds are recurring.

According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is \$293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context.

SIGNIFICANT ISSUES

This program would expand the Court’s limited test program, which provides more in-depth background investigations of each defendant during the arraignment and bonding process. The background investigations would help judges determine if a defendant has a criminal history and represents a potential danger and/or flight risk.

The Bernalillo County Metropolitan Court implemented a trial project on approximately one-third of the highest risk cases to provide judges with enhanced background investigations of each defendant arrested on charges of domestic violence (DV) and/or driving while intoxicated (DWI). In addition to reviewing the Court’s own database, searches of various New Mexico State and federal sources were conducted, including the National Crime Information Center (NCIC) criminal history database. This trial project resulted in a more thorough background investigation procedure, revealing a defendant’s criminal history from outside of New Mexico.

PERFORMANCE IMPLICATIONS

The appropriation of \$298,200 would allow the Court to augment its current limited test program and increase community safety by making it possible to hire, train and equip five additional staff members and expand the Court’s background investigation procedures.

This appropriation would allow the Court to check the following additional records for all criminal defendants:

- Local and national warrants on NCIC;
- Metropolitan Court criminal history;
- NCIC criminal history;
- State of New Mexico probation and parole history;
- Pending federal cases and federal probation;
- State of New Mexico judiciary database; and
- Motor Vehicle Division database.

In addition, the Court would be able to notify other governmental agencies of the new offenses(s) with which any criminal defendant is charged.

OTHER SUBSTANTIVE ISSUES

The following table is a representative comparison of the results obtained from the existing test project at the Bernalillo County Metropolitan Court utilizing the enhanced background investigation process. This test uncovered criminal histories that would have gone undetected utilizing the standard background investigation procedure.

CHARGE	CURRENT PROCEDURE	PROPOSED PROCEDURE
DWI 1 st	No Criminal History	*71 misdemeanor arrests (2 AZ, 18 CA, 5 CO, 16 FL, 1 ID, 7 IL, 1 NY, 2 NV, 10 OR, 4 UT, 5 WA) *6 DWI arrests *15 felony arrests (7 CA, 2 FL, 1 IL, 4 OR, 1 WA) *4 felony convictions: Residential Burglary (IL) '86; Possession of a controlled substance (CA) '92; Burglary (WA) '99; Resist Violation (FL) '05
Shoplifting (misdemeanor)	2 Misdemeanor Arrests	*26 misdemeanor arrests (1 LA, 2 MO, 6 MN, 14 NB, 2 NM, 1 TX) *12 convictions *7 felony arrests (1 MO, 6 NB) *3 felony convictions
Battery DV	No Criminal History	*12 misdemeanor arrests (4 CA, 3 NV, 5 OR) *7 misdemeanor convictions *2 felony arrests (1 NV, 1 OR) *1 felony convictions: Grand Larceny (NV) '06
Assault DV	1 Felony Arrest (fugitive)	*13 misdemeanor arrests (1 CA, 1 IL, 11 TX) *7 misdemeanor convictions *16 felony arrests (3 CA, 2 IL, 1 NM, 10 TX) *3 felony convictions
Breaking and Entering	No Criminal History	*16 misdemeanor arrests (10 CT, 6 TX) *6 misdemeanor convictions *1 felony arrest *1 felony conviction: Stalking (CT) '01

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

CS/svb