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FISCAL IMPACT REPORT

SPONSOR Torraco **ORIGINAL DATE** 2/9/15
LAST UPDATED _____ **HB** _____

SHORT TITLE Metro Court Appeals for Some Convictions **SB** 487

ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Narrative					

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Bernalillo County Metropolitan Court (BCMC)
- New Mexico Sentencing Commission (NMSC)
- Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of the Bill

Senate Bill 487 propose to change appeals from DWI and domestic violence from the Bernalillo County Metropolitan Court to the Court of Appeals instead of to the District Court where appeals are currently sent.

FISCAL IMPLICATIONS

AOC reports that the Second Judicial District Court (2nd), where all Metro Court appeals are filed, will see a reduction in case filings. This reduction in case filings should assist the court in meeting the strict deadlines for all criminal case processing found in the recently rolled out Supreme Court case processing order. In contrast, the Court of Appeals will experience a mirror increase in case filings that are no longer filed in the 2nd. While the Court of Appeals has the institutional knowledge to address these new filings, the staff that analyzes and prepares cases for decision is at or near workload capacity. Additional staff or contract attorney funding might be a foreseeable need to process the new cases timely.

According to AODA, moving the responsibility for BCMC appeals to the Court of Appeals may

reduce costs for the district attorneys in an unknown amount.

SIGNIFICANT ISSUES

According to the AOC, the 2nd does not have a formalized mechanism similar to what the Court of Appeals called the summary calendar. The summary calendar is a case processing mechanism that disposes of a substantial percentage of appeals in the Court of Appeals. The summary calendar moves cases through the system inexorably; cases are addressed and prepared for a panel of judges' decision on a timeline that progresses with or without prompting from the parties. While the increased caseload may result in some staffing issues at the Court of Appeals, it can reasonably be expected that the cases will proceed more quickly because of the summary calendar.

According to the BCMC, implementing the requirements of this bill might mean that administrative processes, such as the transfer of bail bonds in cases on appeal, would need to be updated. Also, the rules of criminal and appellate procedure would need to be updated to reflect this change.

According to annual reports published by the AOC, from 2010 to 2014 an average of 68 per year (a total of 340) new DWI/DUI appeals from BCMC were filed in the 2nd. A total of 12 domestic violence appeals were filed during the same time period. More specifically, zero domestic violence appeals have been filed in the second district court in the past three years.

Under the New Mexico Constitution, district courts have appellate jurisdiction of all cases originating in inferior courts and tribunals in their respective districts. N.M. Const. Art. VI, Section 13. The metropolitan court is considered an inferior court. See Section 34-8A-2 NMSA 1978. By granting appellate jurisdiction over metropolitan court cases involving driving under the influence or domestic violence to the court of appeals, SB487 appears to be in violation of N.M. Const. Art. VI, Section 13.

The PDD reports that if SB487 is found constitutional and takes effect, it will require significant restructuring of duties:

- Appeals from driving under the influence and domestic violence cases in metropolitan court will go directly to the court of appeals, instead of to the district court. This will result in a decrease in the district court caseload, but an increase in the caseload for the court of appeals, which would hear all appeals of driving under the influence and domestic violence cases originating in metropolitan court, and not just those cases that are not resolved through the existing district court appeals process.
- Although the appellate process will be streamlined, in the sense that cases will go directly to the court of appeals and not to the district court (and then the court of appeals, for some cases), the litigants may not see their workload decrease. If existing rules in the court of appeals are applied to metropolitan court appeals, litigants may find that an appeal in the court of appeals requires as much or more work than an appeal to district court.
- Because appeals in the court of appeals are handled by the office of the attorney general, this change will mean an increase in the caseload of the criminal appeals division of the office of the attorney general, and a decrease in the caseload of the district attorneys.
- The court of appeals and the district courts will have to adjust their rules to reflect these changes.

ADMINISTRATIVE IMPLICATIONS

Case management records indicate a range of approximately 50-70+ DWI and DV appeals are filed in the 2nd. Taking those cases out of the 2nd would result in a very minimal percentage change to that court's overall caseload. Adding that many cases to the Court of Appeals would result in a larger percentage increase over its more modest caseload and would need additional staff. A full-time staff attorney would be expected to learn, analyze and recommend disposition on about 50-70 cases per year.

ABS/bb/je