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FISCAL IMPACT REPORT



SPONSOR: Snyder DATE TYPED: 01/30/02 HB _____

SHORT TITLE: Expand Drug Court Programs SB 35/aSJC

ANALYST: Hayes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
	\$6,525.2			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB273

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
LFC files

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee first amendment changes the original funding request in the bill and decreases the dollar amount to \$1,073,500 on page 1, lines 21 and 22.

The second amendment also changes the original funding request, but increases the dollar amount to \$1,303,900 on page 1, lines 24 and 25.

The total drug court request for FY03 is now \$6,525,200, \$180.8 less than the original bill.

Synopsis of Original Bill

Senate Bill 35 appropriates \$6,706.0 from the general fund to various courts throughout New Mexico for the purpose of supplementing and expanding juvenile and adult drug courts.

The effective date of the bill is fiscal year 2003.

Significant Issues

1. No cost-benefits analysis. Even though drug court judges state that drug courts are effective, no comprehensive analysis has been completed to support that claim. There has been no cost-benefit analysis performed by the courts to compare with incarceration costs to determine drug court effectiveness. A meaningful analysis needs to be compiled in a comprehensive and systematic manner so that informed decisions can be made and so that legislators and taxpayers alike can evaluate the savings and the benefits of instituting and/or expanding drug courts throughout New Mexico. The Legislature should clarify whether it is automatically going to take on the funding obligation of drug court programs after federal grants
2. terminate, or whether it plans on appropriating money based on proven program performance—the standard by which all other state agencies must adhere under performance-based budgeting.
3. Reporting. The University of New Mexico’s Institute of Social Research (ISR) has been engaged by the AOC to conduct a comprehensive, historical evaluation of the state’s drug courts. In short, ISR will compare drug court participants with similar offenders who did not attend drug court to determine any difference in behavior or criminal activity. The study has not yet been completed because, according to Paul Guerin at ISR, he has been unable to obtain drug court information/client data from certain drug courts in order to proceed. The LFC has experienced the same lack of cooperation in obtaining data from certain drug courts. As a result, the LFC recommended deferring additional funding until such time that ISR’s analysis can be completed in order to determine the actual level of success of drug courts.
4. Internal Control Issues. Various financial control problems and procurement code issues have also recently surfaced in drug courts, along with matters concerning the assessment of client fees plus the expenditure and disposition of that fee revenue collected. Because there are questionable practices and transactions, the LFC audit manager will be conducting an audit of all drug courts to document the extent of these problems along with ensuring that fixed assets are being properly recorded, that grant money is being properly spent, etc. In the meantime, the Supreme Court is also identifying areas of improvement and will be recommending new, uniform policies and procedures that will be applicable to all drug courts.
5. FY03 Budgets for Drug Courts. The LFC did not recommend additional funding for drug courts or related expansions above their FY02 levels due to the lack of analysis and the financial issues outlined above. However, members of the LFC acknowledge the merits of drug court. Legislators should be aware that LFC’s budget recommendations with the inclusion of both general fund and grant money provide sufficient funding for all drug courts through FY03.
6. Drug Court Administrator. The only additional drug court funding that LFC supports is for a drug court administrator position. A permanent administrator is needed not only for administrative oversight of the state’s drug courts, but to assist in developing and enforcing minimum standards of uniformity (also suggested by the Judicial System Study Committee).

A drug court administrator could standardize and review treatment services contracts, perform audits, collect performance data, develop a policies and procedures manual, assist with grant writing and provide training.

7. *Implementation of New Drug Courts.* The question arises whether or not smaller courts in New Mexico will be able to handle the workload and caseload involved with drug courts. In addition, are the judges and staff able and willing to conduct drug court along with regular courtroom duties? Some judges have expressed that they are not. Are those courts included in Section 1(b) of this bill? The availability of treatment providers is also an issue in smaller communities along with facilities and staffing.
8. *Accelerated Expansion of Drug Courts.* The appropriations in this bill do not represent incremental growth. Senate Bill 35 more than doubles the funding for drug courts and expands them without consideration of existing drug court problems and without evaluation of the programs' success or effectiveness. Funding and expanding drug courts at an accelerated level, plus doubling the number of clients and implementing drug courts in almost every district in the state is a major undertaking. A graduated implementation schedule may be more manageable for all parties involved, and may be more prudent and fiscally sound at this juncture.

FISCAL IMPLICATIONS

The appropriation of \$6,706.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY03 shall revert to the general fund.

The amount requested in this bill is in addition to the money already appropriated to drug courts; in FY02, drug courts statewide have funding totaling \$4,690.0. FY03 budget recommendations are approximately the same.

ADMINISTRATIVE IMPLICATIONS

There will be a major administrative impact on the courts, especially on judges and court administrative time, as the result of an increase in caseload and drug courts' general programmatic needs. If judges and staff are willing to devote the necessary additional time to drug court operations, the results may be rewarding for both the participant and the taxpayer.

Another issue is that needs to be addressed internally by the judiciary is cooperation and collaboration between drug court staff and the regular court staff. At some courts, this has not been the case. Drug court should be viewed as another "specialty" program within the court-- just like the domestic violence program, mediation program, grade court, teen court and child support hearing program. They should not operate independently nor outside the administrative structure of the court.

DUPLICATION

House Bill 273 duplicates this drug court expansion bill.

TECHNICAL ISSUES

The AOC does not have a drug court, so it is unclear why this bill is appropriating money to that agency. Drug court funding has always been appropriated directly to the recipient court. The only proper funding for AOC would be an appropriation for the permanent Drug Court Administrator position and associated expenses, along with funding to complete the ISR study.

Section 2 of SB35 does not specify types of positions, number of positions, which court or district to whom they are appropriated. This information is necessary to fully understand the funding request.

In Section 3, appropriations to the Public Defender Department need to specify types of positions and associated “costs.”

Are there capital costs/one-time non-recurring expenses included in this appropriation? This needs to be clarified and separated from recurring expenses.

If any of the appropriation contained in this bill is for a judgeship, separate legislation is required.

CMH/ar