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FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/07
 SPONSOR Snyder LAST UPDATED 1/25/07 HB _____
 SHORT TITLE Drug Court Funding & Expansion SB 259
 ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$0	\$1,350.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act:
The LFC budget contains \$296.0 of the Drug Court Replacement request, \$69.8 of the Expansion request, and \$386 of the New Drug Court request (total of \$751.8 out of SB259's \$1,350.0).

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of The Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 259 seeks to appropriate \$1,350,000 from the General Fund to the AOC for expenditure in FY08 to replace lapsing federal and other funds for drug courts (\$296,800), as well as to expand (\$526,600) and create (\$526,600) drug courts.

The following table presents a breakdown of the entire appropriation:

		FY '08 Funding Requests		
Judicial Unit	Drug Court Type and Location	Replacement of Lapsing Funds and Resources Requests	Expansion and Enhancement Requests	New Drug Court Requests
Seventh District	Adult (Socorro/Torrance Co.)			60.0
Eighth District	Family Court (Taos Co.)		17.8	
	Adult (Union Co.)			216.0
Eleventh District	Adult (San Juan Co.)		131.8	
	Juvenile (McKinley Co.)			60.0
Twelfth District	Juvenile (Lincoln Co.)	158.8		
	Adult (Otero Co.)			16.0
Thirteenth District	Juvenile (Valencia Co.)	18.0		
	Juvenile (Cibola Co.)	120.0		
	Adult (Sandoval Co.)		198.1	
Eddy Magistrate	DWI		28.4	
Quay Magistrate	DWI			3.1
Valencia Magistrate	DWI			171.5
Administrative Ofc. of the Courts (AOC)			150.5	
SubTotals		296.8	526.6	526.6

Grand Total =	1350.0
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**The LFC Recommendation is for \$751.8
SB259 Appropriates an additional \$598.2**

Replacement Funds (\$296,800): Three drug court programs are at risk of shutting down or cutting back services in FY08 if they cannot replace lapsing funds and resources. The federal Department of Justice monies for the drug court programs are intended to seed, not permanently support, drug court programs. In addition, the drug court in Cibola County was unable to secure federal grant funds but was able to begin serving its community with the help of volunteer treatment services and donated supplies. The judiciary places a high priority on institutionalizing with recurring state funding such programs that have been successfully serving their community through federal or volunteer resources. These programs enjoy strong support in their communities, targeting juvenile offenders in Lincoln, Valencia, and Cibola Counties.

Expansion Funds (\$526,600): Four drug court programs would use the expansion funds to improve services and increase program capacity in answer to local demand. Through increased supplies, staffing, and treatment contracts, these programs would be able to increase their participant capacity as well as the extent and quality of services offered to their participants. In addition, the AOC would add two staff members to aid in oversight of the state’s drug court programs.

New Drug Court Funds (\$526,600): These funds would allow district and magistrate courts to begin implementation of six new drug court programs around the state. Three of the proposed new drug courts would be in counties (Torrance, Union, and Quay) that do not yet have a drug court of any kind (currently, drug courts exist in 18 of the state’s 33 counties), while the other

three would provide new programs targeting underserved populations in communities that are already benefiting from the drug court model. The judiciary places a high priority on the implementation of drug courts throughout the state, with the goal of making them accessible to everyone who could benefit from such programs. One of the main goals of the Judiciary's Five-Year Plan for Growth of New Mexico Drug Courts is to implement a drug court in every county in the state. This request is contained in the judiciary's unified budget.

FISCAL IMPLICATIONS

The appropriation of \$1,350,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

State funding for existing and new drug court programs would allow programs to expand services and new programs to begin offering services in areas of the state where either limited services or no services exist. Both efforts require administrative personnel and resources to oversee and operate drug court programs.

In January 2006, The New Mexico Supreme Court approved a Five-Year Plan for Growth of New Mexico Drug Courts (available at www.nmadcp.org). That plan has two main goals: (1) to implement a drug court program in every county of the state (there are currently programs in 18 of the state's 33 counties); while (2) providing a predictable and stable funding request to the legislature each year of the plan. FY08 will be the second year of the Five-Year Plan. The Judiciary reviewed over \$3.25 million in drug court requests from courts around the state in preparation for this legislative session, but by applying the priorities outlined in the Five-Year Plan, and focusing on those courts with the greatest need and best preparation to implement state funds, the Judiciary was able to reduce the overall requests to match the \$1.35 million funding cap for FY08 set by the plan.

The drug court program's performance measures show that the drug court programs are good stewards of the taxpayers' money. Cost-per-client-per-day for drug courts is significantly lower than the costs of incarceration, averaging \$24.11 in FY06 versus the average cost of incarceration of \$81.35. There were 620 graduates in FY06. If those graduates had not had access to drug court programs, but had instead gone through the normal probation process, a conservative estimate is that 40% of them would have soon come before the courts again for similar crimes. 40% of 620 is 248, which is 248 offenders who would likely come before the courts again and face a charge leading to a period of incarceration. The cost of incarceration for one month for those 248 reoffenders equals \$605,244, and if they were felony charges leading to a full year's incarceration, that's \$7,363,802. Over the course of a year, that's more than \$7.3 million in avoided incarceration costs due to the drug court programs.

Other studies have looked at the cost benefits of drug court programs from a larger perspective, considering not just avoided incarceration costs, but the following comparisons with probationers: (1) drug court graduates' wages are higher during and after drug court than probationers; (2) they work longer than probationers, resulting in higher taxes and FICA payments, lower TANF and food stamps use; and (3) drug court graduates health care costs and mental health services were significantly lower than those for probationers. Various city and county studies around the country have traced such cost savings for their drug court programs and realized that for every \$1 they spent on their drug court programs they were saving from \$2

to \$10 in other costs.

Other cost savings are realized through the birth of drug-free babies to participants of the drug court programs. There were at least 20 drug-free babies born to program participants in FY05, many of whom would have been drug-affected if not drug-addicted without the mother's participation in the drug court program. Hospitalization and ongoing health care costs for drug-affected or addicted babies are substantial. For example, children with fetal alcohol syndrome can require \$1.4 million in treatment over their lifetime.

Family Drug Courts seek permanency for the child separated from its parents due to an abuse and neglect petition caused by the parents' substance abuse. Studies show that Family Drug Court parents reunify with their children significantly faster than parents who are not part of such programs, benefiting the child as well as avoiding further foster care, social worker, and Medicaid costs.

SIGNIFICANT ISSUES

National studies have shown that 60 to 80 percent of prison and jail inmates, parolees, probationers, and arrestees are under the influence of drugs or alcohol during the commission of their offense, committed the offense to support a drug addiction, were charged with a drug- or alcohol-related crime, or are regular substance abusers.

Incarceration on its own has not resolved the problem, as within 3 years of release from prison, approximately 2/3 of all offenders, including drug offenders, are rearrested for a new offense; 1/2 are convicted of a new crime; and 1/2 are reincarcerated for a new crime or parole violation.

Court-mandated treatment on its own is also insufficient as approximately 70% of probationers and parolees drop out of drug treatment or attend irregularly prior to a 3-month threshold, and 90% drop out prior to 12 months. These thresholds are significant as an evaluation of the Drug Abuse Treatment Outcome Study suggests that 3 months of drug treatment may be a minimum for detecting response effects of the intervention, while 6 to 12 months hold greater promise of a lasting reduction in drug use.

By combining treatment with the coercive power of the judiciary, the drug court model has repeatedly shown through national studies that it outperforms virtually all other intervention strategies for drug involved offenders: recidivism of drug court graduates is much less than for similar offenders, the cost-per-client of drug court participants is significantly less than that for incarceration, and even those who do not successfully complete a program have a greater chance of long-term success due to the longer period of treatment received during their involvement in a drug court program.

Such results have led to the spread of drug courts nationwide, from the first in 1989 in Dade County, Florida, to the over 1600 active today. New Mexico has also benefited from the success of the drug court model, with its drug court programs growing from 1 in 1994 to 30 active today, with several more in the pilot and planning stages. Because of the success of its drug court programs, the New Mexico Judiciary continues working with communities around the state to maintain existing programs as well as establish new drug court programs. Currently, there are drug court programs in 12 of the state's 13 judicial districts, and 18 of the state's 33 counties.

The funds requested in this bill are necessary to the continued operation of three programs, the expansion and improvement of four others, startup funds for six new drug courts in underserved areas of the state, and two staff positions at the AOC to aid in oversight of the state's expanding drug court programs.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. The Drug Court Advisory Committee and the state's drug court coordinators have worked with the LFC to establish performance measures for New Mexico drug court programs. The drug court programs provide performance measure data quarterly to the LFC.

The funding outlined in this appropriation is necessary to the programs' ability to gather the data necessary to calculating and reporting those performance measures.

ADMINISTRATIVE IMPLICATIONS

As the drug court programs continue to increase around the state, so does the need for further administrative oversight staff at the Administrative Office of the Courts. Current AOC staff dedicated to the drug court programs is made up of one Statewide Program Director and a half-time administrative assistant. Additional AOC staff, as requested in this bill, is important to continued oversight of the state's programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The LFC budget contains \$296.0 of the Drug Court Replacement request, \$69.8 of the Expansion request, and \$386 of the New Drug Court request (total of \$751.8 out of SB259's \$1,350.0).

OTHER SUBSTANTIVE ISSUES

The AOC has worked closely with the state's Behavioral Health Collaborative, and the new statewide entity Value Options, to exchange information on the state's drug court programs, the services required by the program participants, and the availability of such services in the area of each drug court program. Drug courts exist in urban, suburban, and rural communities. The availability of treatment and social services needed by drug court participants varies widely around the state, both in cost and accessibility. Value Options has pledged to work with the AOC and the courts to help identify applicable services in each area and to help make those services accessible and cost-effective, as well. In fact, Value Options has begun a tour of the state's drug court programs, bringing their statewide and regional staff to each location for discussions with the judge, treatment provider, and the rest of each drug court team. The AOC and the courts in turn are committed to working with the Behavioral Health Collaborative to ensure that they provide evidence-based treatment to their participants.

Through this collaborative effort, the courts hope to improve the treatment and social services necessary to help the citizens of each community recover from the disabling effects of substance abuse and mental health disorders.

ALTERNATIVES

Reduce this bill (SB259) by \$751.8 to avoid duplication. Only \$598.2 is needed since the LFC recommendation includes the remaining balance.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As stated earlier, the funds requested in this bill are necessary to the continued operation of three drug court programs, the expansion and improvement of four others, and the startup of six new drug courts in underserved areas of the state. Given the success of these programs, the loss of existing programs and the failure to expand or implement programs in underserved areas will lead to increased problems with substance abuse in the affected areas, including increased workload for law enforcement, caseload for the judiciary, and need for beds in detention and corrections facilities.

As drug courts successfully treat their participants for substance abuse, they often find participants suffering from a co-occurring disorder that had previously been masked by the participant's substance abuse. Identification of the participant's schizophrenia, bipolar disorder, severe depression or any other mental health issue allows the drug court to refer, and in some cases provide, the treatment necessary to provide the participant their first chance of full recovery. An ancillary consequence of not enacting this bill is the continued substance abuse by those with co-occurring disorders who will remain doubly afflicted, often unaware of their own underlying mental health issue.

CS/nt