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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/08

SPONSOR Cervantes, J LAST UPDATED _____ HB 144

SHORT TITLE Drug Court Resources & Expansion SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
\$0	\$2,377.3	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 12, Expand Third District Juvenile Drug Court.

After the Judiciary's hearing before HAFC on 1/18/08, the draft version of the General Appropriations bill contains \$142.8 of the Drug Court Replacement request, \$121.4 of the Expansion request, and \$107.0 of the New Drug Court request (total of \$371.2 out of total request of \$2,377.3).

In order to avoid duplication LFC recommends reducing the 4th District appropriation by \$107 thousand, the 5th District appropriation by \$76.4, the 8th District appropriation by \$45 thousand, the 12th District appropriation by \$62.8 thousand, and the 13th District appropriation by \$80 thousand.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Corrections (DOC)
 Department of Public Safety (DPS)
 New Mexico Health Policy Commission (NMHPC)

SUMMARY

Synopsis of Bill

This bill seeks to appropriate \$2,377,300 from the General Fund to the AOC for expenditure in FY09 to replace lapsing federal and other funds for drug courts (\$206,800), as well as to expand (\$1,026,000), and create (\$1,144,500) drug courts.

FISCAL IMPLICATIONS

The appropriation of \$2,377,300 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 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.

The following table presents a breakdown of the entire appropriation.

Judicial Unit	Drug Court Type and Location	Replacement of Lapsing Funds and Resources Requests	Expansion and Enhancement Requests	New Drug Court Requests
First District	Adult (Santa Fe and Rio Arriba Co.)		100.7	
Second District	Juvenile (Bernalillo Co.)		75.4	
Third District	Juvenile (Dona Ana Co.)		27.2	
Fourth District	Juvenile (San Miguel Co.)		139.8	
	Adult (San Miguel Co.)			213.9
Fifth District	Family Court (Lea Co.)		76.4	
Seventh District	Adult (Socorro Co.)		46.9	
	Adult (Torrance Co.)		46.9	
Eighth District	Adult (Taos Co.)		22.5	
	Juvenile (Taos Co.)		22.9	
	Family Court (Taos Co.)			
	Adult (Colfax Co.)		26.3	
	Juvenile (Colfax Co.)			168.5
Eleventh District	Adult (San Juan Co.)		60.0	
	Juvenile (McKinley Co.)			299.1
Twelfth District	Juvenile (Otero Co.)		20.0	
	Adult (Otero Co.)	126.8		
Thirteenth District	Juvenile (Sandoval Co.)		47.7	
	Juvenile (Cibola Co.)	80.0	75.0	
	Adult (Sandoval Co.)		168.1	
	Adult (Sandoval Co.)		70.2	
	Adult (Valencia Co.)			272.7
	Family Court (Cibola Co.)			190.3
<i>SubTotals =</i>		206.8	1026.0	1144.5
Total FY09 Drug Court Funding Requests =				2377.3

Replacement Funds (\$206,800): Two drug court programs are at risk of shutting down or cutting back services in FY09 if they cannot replace lapsing funds and resources. Federal funds for drug courts, though relatively plentiful in the past, have been cut significantly; what few grant announcements there are become highly competitive and difficult to obtain. Both the Adult program in the Twelfth and the Juvenile program in the Thirteenth have been unsuccessful in

obtaining federal funds, but were both able to begin serving their communities 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 adult offenders in Otero County and juvenile offenders in Cibola County.

Expansion Funds (\$1,026,000): Fifteen 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 by roughly 100 total participants as well as the extent and quality of services offered to their participants.

New Drug Court Funds (\$1,144,500): These funds would allow district courts to begin implementation of five new drug court programs around the state. One of the proposed new adult drug courts would be in San Miguel Co., which already has a juvenile drug court, but it would provide services to Guadalupe county, as well, a county that does not yet have a drug court of any kind (currently, drug courts exist in 23 of the state's 33 counties). The other four 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 5-Year Plan for Growth of New Mexico Drug Courts is to implement a drug court in every county in the state.

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 re-incarcerated 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.

According to the AOC, 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 2100 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 34 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 23 of the state's 33 counties.

The funds requested in this bill are necessary to the continued operation of two programs, the expansion and improvement of fifteen others, and startup funds for five new drug courts in underserved areas of the state.

PERFORMANCE IMPLICATIONS

FY 09 is the fifth year that the courts will participate 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

Probation/parole caseloads will increase in areas that will add adult drug courts. Typically, probation and parole officers are required to spend more time with drug court participants, i.e., more drug testing, more time spent on case management and more time spent in court appearances. Any time drug courts are expanded or created, additional FTEs for the Corrections Department are usually needed.

There is discussion of the AOC taking over the operation of all drug courts. Currently, NMCD essentially operates the drug court in the second judicial district with nine FTEs, and has one FTE in the Farmington office. (The other drug courts in the state are not operated by NMCD.)

DUPLICATION,

Some of the appropriations included in this bill are duplicated by the HAFC draft of HB 2. In order to avoid duplication LFC recommends reducing the 4th District appropriation by \$107 thousand, the 5th District appropriation by \$76.4, the 8th District appropriation by \$45 thousand, the 12th District appropriation by \$62.8 thousand, and the 13th District appropriation by \$80 thousand.

RELATIONSHIP

HB144 relates to SB10, Additional Third Judicial District Judgeship, because it appropriates \$217.535 from the General Fund to the Third Judicial District Court for an additional District Judgeship for expenditure in fiscal year 2009.

HB144 relates to SB11, Additional Third District Court Staff, because it appropriates \$392.4

from the General Fund to the Third Judicial District Court for seven full-time positions for expenditure in fiscal year 2009.

HB144 relates to SB12, Expand Third District Juvenile Drug Court, because it appropriates \$27.2 from the General Fund to the Administrative Office of the Courts to expand the Juvenile Drug Court in the Third Judicial District for expenditure in fiscal year 2009.

OTHER SUBSTANTIVE ISSUES

In January 2006, The New Mexico Supreme Court approved a 5-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 23 of the state's 33 counties); while (2) providing a predictable and stable funding request to the legislature each year of the plan. FY09 will be the third year of the 5-Year Plan. The plan calls for funding in FY09 of \$1.6 million. However, drug courts' success in providing treatment for addictions that, if not treated, result in increased criminal activity, encouraged the Judiciary to seek additional funding of \$777,300 to expand existing drug courts and start new courts beyond the original plan.

According to the AOC, drug court 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 \$25.27 in FY07 versus the average cost of incarceration of \$81.35. Though quantifying the exact savings of drug courts in New Mexico in criminal justice and victimization costs is difficult, a recent study by the Washington State Institute for Public Policy (WSIPP) provides some helpful points of comparison. It was commissioned by that state's legislature to identify alternative options to incarceration that could (a) reduce the future need for prison beds, (b) save money for state and local taxpayers, and (c) contribute to lower crime rates. WSIPP found and analyzed 571 rigorous comparison-group evaluations of adult corrections, juvenile corrections, and prevention programs. Among other findings, WSIPP determined that both adult and juvenile drug courts provided significant reductions in recidivism over treatment as usual, and even more importantly determined that each could lead to overall costs savings of over \$4600 per participant. Using that general savings figure with the number of adult and juvenile drug court participants in FY07 would indicate an overall savings to the citizens of New Mexico in criminal and victimizations of almost \$3,000,000 in FY07.

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.

According to the AOC, 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.

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 two drug court programs, the expansion and improvement of fifteen others, and the startup of five 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 to, 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/mt