

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment _____
Correction _____ Substitute _____

Date Jan. 30, 2024

Bill No: HB 102-280

Sponsor: Christine Chandler
Short Title: Magistrate as Court of Record

Agency Name and Code Number: LOPD-280
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	300	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 102 would make changes to the magistrate court record and appeal process.

Section 1 adds a new section to Chapter 35, Article 13 NMSA. It provides that the magistrate court is a court of record for everything except civil actions brought under the Uniform Owner-Resident Relations Act (UORRA). It further designates that appeals from UORRA actions are to the district court.

Section 2 omits the language “from district court” from the title of the statute—“Court of appeals; procedure for appeals from district court” This omission would allow appeals from magistrate court to the court of appeals (see Section 4), except for the civil UORRA cases.

Section 3 declares the magistrate court a court of record.

Section 4 changes verbiage to gender neutral. It also declares that people convicted in magistrate court may appeal to the court of appeals by changing “district court” to “court of appeals.”

Section 5 updates exemption statutes, changes verbiage to gender neutral, and changes “district court” to “court of appeals.” This would allow parties aggrieved by the judgment on the claim of exemption to appeal from magistrate court to the court of appeals in certain circumstances.

Section 6 changes “district court” to “court of appeals.” This would allow appeals of judgments or final orders to be made to the court of appeals, instead of the district court.

Section 7 appropriates \$300,000 (non-reverting) to cover expenses each year for magistrate courts to have on-record proceedings.

Section 8 repeals all further statutes that provide procedures for appeals from magistrate court to district court.

FISCAL IMPLICATIONS

If magistrate courts become courts of record there may be a need to spend more LOPD time and resources on certain cases, due to the potential unavailability of de novo trials in district court, *see Significant Issues*, and the need to develop an appellate record.

LOPD trial counsel currently handles all de novo appeals in district court, and the Appellate Division handles any subsequent appeal to the Court of Appeals. Not all appeals from magistrate court end up being appealed to the Court of Appeals; LOPD does not readily have data for what percentage of cases finally resolve in district court, and would now necessitate a full on-record appeal to the Court of Appeals. Nevertheless, if all appeals from magistrate court had original jurisdiction in the Court of Appeals, the LOPD Appellate Office would certainly see *some* increase in appellate cases. This may make it necessary not only to hire more appellate attorneys in LOPD, but also to provide office space and support staff and services for those additional FTEs.

SIGNIFICANT ISSUES

This bill is similar to 2023's HB 113, which passed the House and later died without a hearing in SJC. The primary differences in this year's HB 102 is that, in addition to making the magistrate court a court of record, HB 102 would give the Court of Appeals original jurisdiction to hear most magistrate court appeals. Unlike HB 113 (2023), HB 102 no longer seeks to increase the qualification requirements of magistrate judges.

As noted above, the amendment from magistrate court being "not a court of record" to "a court of record" *and* giving the court of appeals original jurisdiction over appeals from magistrate court has potentially significant implications.

It is difficult to predict the resource allocation implications for handling magistrate cases if they are on-record and do not receive de novo proceedings in district court. Certainly, issues would be more heavily litigated in magistrate court, but without necessitating the de novo appeal. The impact could be a wash, or LOPD could end up with drastic reallocations of FTE and trial resources.

In addition, in many counties indigent defense is provided by private attorneys on contract with the LOPD. Contracts may have to be restructured, with potentially more funding allocated, to ensure that all issues are fully litigated at the Magistrate Court level, since without a de novo appeal many issues will no longer be able to be adequately addressed on appeal.

It is also difficult to assess any potential increase in number of magistrate court cases that resolved in district court but would now be appealed to the Court of Appeals. There is some concern that legal errors more easily addressed by a de novo appeal will now be more difficult to address (and remedy) under a deferential appellate standard of review.

PERFORMANCE IMPLICATIONS

It is important to remember that indigent criminal defense is a constitutionally mandated right, and that LOPD does not control the decision to charge or the number of resultant cases that are assigned or appealed. Of course accurate prediction of the fiscal and workload impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

Under the present statutory scheme, the LOPD appellate workload is extremely heavy, causing many attorneys to file for multiple extensions in the Court of Appeals and the Supreme Court on every case. The proposed legislation would also have a large fiscal impact on the Court of Appeals and the NMDOJ.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None known.

TECHNICAL ISSUES

As noted.

OTHER SUBSTANTIVE ISSUES

None known.

ALTERNATIVES

Making magistrate court of record but allowing the district court to review the magistrate court record, instead of conducting a trial de novo. It is likely that this could weed out some appeals before requiring a full Court of Appeals review.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. Litigants will continue to appeal magistrate court judgments and final orders under a de novo review in district court.

AMENDMENTS

None at this time.