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FISCAL IMPACT REPORT

SPONSOR Snyder DATE TYPED 02/02/05 HB _____

SHORT TITLE Drug Court Expansion SB 212

ANALYST McSherry

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI	\$529.6	NFI	Indeterminate	Recurring	General Fund
NFI	\$708.9	NFI	Indeterminate	Recurring	General Fund
NFI	\$857.4	NFI	Indeterminate	Recurring	General Fund
NFI	\$160.0	NFI	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Senate Bill 212 largely duplicates the executive recommendation for the General Appropriation Act which includes \$529.6 thousand in increased base funding for drug courts and expansion funding in the amount of \$1,654.2 thousand for a total of \$2183.8 thousand in new drug court funding.

SOURCES OF INFORMATION

- LFC Files
- Administrative Office of the Courts (AOC)
- Children Youth and Families Department (CYFD)
- Public Defender (PDD)
- Department of Health (DOH)
- Corrections Department (CD)

SUMMARY

FOR THE CORRECTIONS OVERSIGHT, COURTS AND JUSTICE COMMITTEE.

Synopsis of Bill

Senate Bill 212 appropriates \$2,255,900 thousand from the general fund to the Administrative Office of the Courts for the purpose of replacing federal and transferred state funds used for drug court programs (\$529.6 thousand), expanding drug court programs (\$708.9 thousand), creating new adult and family drug court programs (\$857.4 thousand), and evaluating drug court programs in the state (\$160 thousand).

Significant Issues

According to the Children Youth and Families Department (CYFD), drug court programs decrease substance use and thereby improve level of behavioral functioning.

The Administrative Office of the Courts (AOC) reports that the number of drug courts has increased from one drug court in 1994 to 28 programs in the state today, and that New Mexico is part of the national trend of “embracing” drug court programs. The Office asserts that national studies have consistently demonstrated that drug courts outperform virtually all other strategies for drug-involved offenders. AOC cites recidivism of drug court graduates as much less than the recidivism of similar offenders, and that the cost-per-client of drug court participants is significantly less than incarceration. The Corrections Department, however, asserts that minimal savings will be incurred by the Corrections Department through the increase in number and size of drug courts.

There are drug court programs in 10 of the state’s 13 judicial districts, and 15 of the state’s 33 counties. The AOC asserts that funds requested in SB 212 are necessary for the continued operation of four programs, the expansion and improvement of nine programs, and the implementation of four new drug courts in underserved areas of the state. Senate Bill 212 also proposes to fund ongoing program and outcome evaluations of the state’s drug court programs.

Attachment I, pages 1 and 2 NM Drug Courts Performance Measures Comparison, Reporting Period FY04, include current drug court statistics and performance measure results.

Attachment II is NM Drug Courts, Funding Sources and Timelines.

The following table shows the AOC proposed breakdown of each of the categories of funds proposed by Senate Bill 212.

*** AOC proposed FY06 Drug Court Appropriation ***					
		Replacement of Lapsing Funds Requests	Expansion Requests	New Drug Court Requests	Drug Court Evaluations
First District	Juvenile (Santa Fe and Rio Arriba Co.)	\$125,080	¹		
	Adult (Santa Fe and Rio Arriba Co.)	\$89,920	¹		
Third District	Juvenile (Dona Ana Co.)		\$34,991		
	Adult (Dona Ana Co.)		\$128,500		
	Family (Dona Ana Co.)		\$50,900		
Fourth District	Juvenile (San Miguel Co.)		\$79,800		
Fifth District	Family (Lea Co.)	\$171,400	\$16,000		
Seventh District	Adult (Socorro Co.)			\$249,300	
Eighth District	Family (Taos Co.)			\$164,780	
Ninth District	Adult (Curry Co.)			\$240,000	
Eleventh District	Adult (San Juan Co.)		\$110,600		
Thirteenth District	Juvenile (Sandoval Co.)		\$54,600		
	Juvenile (Valencia Co.)	\$143,200	\$26,885		
	Juvenile (Cibola Co.)		\$206,600		
	Adult (Sandoval Co.)			\$203,300	
Administrative Ofc. of the Courts					\$160,000
		\$529,600 +	\$708,876 +	\$857,380 +	\$160,000
				FY06 Appropriation Total =	\$2,255,856
Notes:					
¹	- Replacement of FY05 one-time award of Other State Funds				

Proposed Replacement Funds (\$529,600)

According to AOC, four drug court programs will end or severely cut back services in FY06 if they cannot replace lapsing funds. Two of the four of these programs were initiated with federal “seed” funds from the Department of Justice and have existed for several years (Fifth and Thirteenth Districts). The other two programs were started in FY05 through a transfer of other state funds from the Human Services Department and have existed for a few months (First District).

The AOC reports that federal Department of Justice monies for the drug court programs are intended to seed, not permanently support, drug court programs. The Judiciary places a high priority on institutionalizing such programs through recurring state funding. The four programs proposed for receiving replacement funds are the juvenile drug court in Valencia County, family drug court in Lea County, and the juvenile and adult drug courts in First District’s Rio Arriba County which focus on heroin abuse.

Proposed Expansion Funds (\$708,876)

AOC proposes that nine drug court programs would use the expansion funds to improve services and increase program capacity in answer to local demand. The agency cites increased supplies, staffing, and treatment contracts, these programs would increase the courts’ capacity by over 100 participants, an increase of almost one-third their current capacity. See the attached chart for individual district’s current capacities, retention rates, graduation rates and historic data.

Proposed New Drug Court Funds (\$857,380)

According to the AOC, these proposed funds would allow district courts to implement four new drug court programs. Two of the new drug courts would be in judicial districts that do not have a drug court, while the other two 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 needs them.

Proposed Evaluation Funds (\$160,000)

Many of New Mexico drug courts were started with federal seed money and according to AOC were programmatically evaluated according to the differing requirements depending upon the particular federal funding organization and type of grant. The AOC reports that over the last several years, the state has replaced lapsing federal funding of drug courts but that standardized programmatic evaluation criteria has not been established.

According to AOC, the judiciary would like to perform outcomes analysis, cost-benefit, and operational evaluations in order to substantiate drug court programs and to improve the courts performance. AOC asserts that the evaluations would compare long and short-term outcomes to each program's set goals, the outcomes of other New Mexico and national drug courts, and outcomes compared with similar populations (such as probationers) who have not been through a drug court program. The Office states that cost-benefit and operational studies would promote efficient and effective use of funds, staff, contractual entities, and cooperating agencies and community services. The appropriation of evaluation funds, relates AOC, would enable the funding for a single contract organization to develop a standardized set of programmatic evaluation criteria and schedule evaluations for a "significant" number of the drug court programs in FY 06.

PERFORMANCE IMPLICATIONS

FY 06 is the second 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 AOC asserts that funding proposed in this appropriation is necessary to gather the data to calculating and report performance measures.

According to the Corrections Department there may be a very minimal decrease in the Department administrative workload due to a very minimal decrease in prison population that may occur.

FISCAL IMPLICATIONS

The appropriation of \$2,255.9 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the general fund.

The Corrections Department cites a very minimal increase in funds saved that would be saved due to the fact that the Department might have a very insignificant decrease in inmates and a very slightly decreased load of probationers/parolees.

The contract/private prison annual costs of incarcerating an inmate is \$20,720 per year for males. The cost per client to house a female inmate at a privately operated facility is \$26,313 per year. The Corrections Department reports that, because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,452 per year. The cost per client in Intensive Supervision programs is \$2,852 per year. The cost per client in department-operated Community Corrections programs is \$4,371 per year. The cost per client in privately-operated Community Corrections programs is \$9,151 per year. The cost per year for male and female residential Community Corrections programs is \$20,725.

ADMINISTRATIVE IMPLICATIONS

The AOC reports that drug court evaluations require some commitment of administrative personnel and resources in providing program access, requested materials, and database reports to the evaluation team.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 212 largely duplicates the executive recommendation for the General Appropriation Act which includes \$529.6 thousand in increased base funding for drug courts and expansion funding in the amount of \$1,654.2 thousand for a total of \$2183.8 thousand in new drug court funding.

TECHNICAL ISSUES

According to CYFD the expansion appropriation language is not clear as to which type of drug court in the thirteenth district is to be expanded and which is to be added.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Should the appropriation not be continued four drug court programs, two which began this fiscal year using funds from the Human Services Department, and two which were started with federal grant funds several years ago would have significantly reduced budgets or would be required to find funding from a source other than the general fund.

The AOC reports that the expansion and improvement of nine courts, and the implementation of four new drug courts in “underserved” areas of the state would not occur without the enactment of this bill. However, the four new proposed programs have not received federal “seed” funds which have been granted to other drug courts when first created in the state as cited by the agency.

According to the AOC, the loss of funds for existing programs, and without funds to expand or implement programs in underserved areas, would 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.

POSSIBLE QUESTIONS

What percentage of the current percent capacity of each of the programs proposed to receive expansion funding?

Have the four newly proposed drug court programs already applied for federal funds? Are any of the existing programs eligible for continuing or existing federal funds?

Would studies proposed to be funded include comparisons of drug court participants with control groups that would have been qualified to participate in drug courts?

What is the projected cost of full state funding of drug courts should the state eventually assume responsibility for all federal funds currently awarded?

EM/lg:yr

Attachments

**New Mexico Drug Courts
Performance Measure Comparison: FY04**

Judicial District, Court Type, and Location	Recidivism ¹	Cost-per-Client-per-Day ³	Number of Graduates	Graduation Rate	Retention Rate	Employment of Drug Court Graduates (Adult Drug Courts Only)	Educational Attainment of Drug Court Graduates (Juvéniles Only)
1st Adult Santa Fe & Espanola	8.33%	\$14.63	16	27.00%	49.00%	100.00%	
1st Juvenile Santa Fe & Espanola	36.33%	\$20.35	16	46.00%	83.00%		100.00%
2nd Adult Albq	11.65%	\$10.38	183	51.00%	46.00%	83.00%	
2nd Juvenile Albuquerque	9.33%	\$25.40	12	63.00%	90.00%		100.00%
2nd Family Albq	N/A ²	N/A	N/A	N/A	N/A	N/A	
3rd Adult Las Cruces	15.35%	\$23.09	24	58.50%	68.40%	91.67%	
3rd Juvenile Las Cruces	18.73%	\$47.96	20	70.00%	80.00%		90.00%
3rd Family Las Cruces	N/A ²	N/A	N/A	N/A	N/A	N/A	
4th Juvenile Las Vegas	0.00%	\$26.63	0	0.00%	90.50%		0.00%
5th Family Hobbs	40.00%	\$43.05	5	100.00%	83.40%	100.00%	
6th Juvenile Deming	30.33%	\$26.97	3	10.00%	80.00%		100.00%
8th Adult Taos	7.67%	\$25.80	15	73.50%	91.00%	100.00%	
8th Juvenile Taos	10.00%	\$25.32	6	50.00%	87.00%		100.00%
11th Adult Aztec	11.63%	\$10.98	25	63.00%	87.50%	100.00%	
11th Juvenile Farmington	22.67%	\$31.97	11	61.00%	61.00%		100.00%
12th Juvenile Alamogordo	15.87%	\$38.68	9	69.00%	77.42%		100.00%
12th Juvenile Ruidoso	N/A	\$95.75 ⁴	N/A	N/A	71.43%		N/A
13th Juvenile Bernalillo	16.33%	\$23.61	23	74.00%	88.24%		91.30%
13th Juvenile Los Lunas	12.50%	\$14.95	17	83.00%	95.00%		100.00%
13th Juvenile Grants	N/A ²	N/A	N/A	N/A	N/A		N/A
Bernalillo Co. Metro DWI Drug Court	5.95%	\$16.00	182	66.00%	83.00%	100.00%	
McKinley Magistrate DWI Drug Court	17.33%	\$14.20	23	71.00%	34.00%	99.00%	
	16.11%	\$28.20	590	57.56%	76.10%		
	<i>Recidivism and Cost Averages</i>			<i>Graduation and Retention Avgs</i>			
Notes:	¹ Recidivism calculation includes all graduates for last three fiscal years, since July 1, 2001 -- As a point of comparison, the drug court national average for recidivism is 25.7% two years after graduation. -- As a further point of comparison, similar offenders who did not attend a drug court recidivate at a 40-70% rate. ² "N/A" indicates a relatively new drug court that has not yet collected enough data to calculate performance measures ³ As a point of comparison, the average daily cost of incarceration across New Mexico, for both males and females, is \$80.98 ⁴ Cost is high due to unusually low number of active participants. If court was operating at even 90% capacity (11 participants), cost would drop to \$43.52. Court is optimistic that referrals are on the increase and cost will drop accordingly.						

**New Mexico Drug Courts
Performance Measure Comparison: FY04**

Judicial District, Court Type, and Location	Program Started	Program Capacity	Total Graduates Since Inception	Total Participants Since Inception	Currently Active Participants on 6/31/04
1st Adult Santa Fe & Espanola	Jan-97	40	110	367	27
1st Juvenile Santa Fe & Espanola	Jan-01	40	39	150	24
2nd Adult Albq	Sep-95	210	720	2122	178
2nd Juvenile Albuquerque	Aug-98	30	58	143	21
2nd Family Albq	Apr-04	5	0	1	1
3rd Adult Las Cruces	Oct-98	80	101	252	30
3rd Juvenile Las Cruces	Dec-97	70	139	297	36
3rd Family Las Cruces	Sep-04	5	N/A	N/A	N/A
4th Juvenile Las Vegas	Jul-03	18	0	19	12
5th Family Hobbs	Aug-02	15	5	21	12
6th Juvenile Deming	Jul-00	15	9	47	7
8th Adult Taos	Sep-99	25	49	118	21
8th Juvenile Taos	Aug-01	30	16	54	19
11th Adult Aztec	Oct-97	50	91	338	50
11th Juvenile Farmington	Sep-00	30	21	132	24
12th Juvenile Alamogordo	Mar-00	20	26	68	19
12th Juvenile Ruidoso	Sep-03	12	0	7	5
13th Juvenile Bernalillo	Oct-99	30	54	135	17
13th Juvenile Los Lunas	Feb-02	40	17	57	32
13th Juvenile Grants	Jul-04	10	N/A	N/A	N/A
Bernalillo Co. Metro DWI Drug Court	Jun-97	350	660	1345	274
McKinley Magistrate DWI Drug Court	Mar-00	75	79	241	67
		1200	2194	5914	876

Funding Sources and Timelines

District	Court Type	Total Current Funding	**** FY 2003 ****		**** FY 2004 ****		**** FY 2005 ****			**** FY06 ****		Terminal funds 05	Terminal funds 06	Terminal Funds 07	
			State Funds	Other State Funds	State Funds	Other State Funds	State Funds	Other State Funds	Federal (or Non-Recur.) Funds	FY Fed Funds End?	Federal Funds (OJP Grant)				FY Funds End?
1	ADC - Espanola & Santa Fe		292.3		292.3		303.6		89.9	FY05		89.9			
	JDC - Espanola & Santa Fe		47.1		282.2		322.4		125.1	FY05		125.1			
2	ADC - Albq		61.9		106.2	22.4	108.5	22.4							
	JDC - Albq		279.6		386.4	20	410.2	20							
	FDC - Albq								102.6	FY05	73.6	FY06		73.6	
3	ADC - Las Cruces		366.6		366.6	38.4	408.1	38.4							
	JDC - Las Cruces		274.9		517.2	34.7	544.5	34.7			173.8	FY06		173.8	
	FDC - Las Cruces								153.9	FY05	201.1	FY06		201.1	
	DWI - Las Cruces														
4	JDC - Las Vegas					107.3		107.3							
5	FDC - Hobbs					63.9		63.9	171.4	FY05		171.4			
6	JDC - Deming				168.8	26	168.8	26							
7	none														
8	ADC - Taos		244		244		244								
	JDC - Taos				247.2		231.5								
9	none														
10	none														
11	ADC - Aztec		119		119	28.1	130.9	28.1							
	JDC - Farmington		108.4		108.4	40.4	174.6	40.4	40	FY05	100	FY06	40	100	
	DWI - Gallup					14.6		14.6			57.3	FY06		57.3	
12	JDC - Ruidoso					83.5		83.5	449.2	FY07				449.2	
	JDC - Alamogordo		52.1		241.6		270.4		69.9	FY05	69.9	FY06	69.9	69.9	
13	JDC - Los Lunas					48.2	1.2	49.5	143.2	FY05	134.2	FY06	143.2	134.2	
	JDC - Bernalillo		40.6		216	36.1	218.3	37.4							
	JDC - Grants					49.5	0.1	48.2							
Metro	DWI Court		462.5		553.1	823.6	624.3	823.6							
	Urban Native American														
	Mental Health														
	DMV Court														
	Homeless														
Totals		0	2349		3849	1500	4161.4	1501.3	1345.2	0	809.9	0	639.5	809.9	449.2