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## FISCAL IMPACT REPORT

SPONSOR Ryan ORIGINAL DATE 01/19/11  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Criminal Defendant Background Info for Judges SB 66  
ANALYST Wilson

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	\$284.5	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 66 appropriates \$284,500 from the general fund to the Bernalillo County Metropolitan Court (BCMC) for expenditure in fiscal year 2012 to hire staff to perform comprehensive background investigations of defendants posting bond at the BCMC or the Metropolitan Detention Center (MDC) or responding to criminal summonses at the BCMC.

### FISCAL IMPLICATIONS

The appropriation of \$284,500 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the general fund.

### SIGNIFICANT ISSUES

Currently the only information regarding a defendant's background that is provided to BCMC judges is accessed from the court's database. Compared to the current background check process, this appropriation will allow the BCMC to identify more defendants with extensive criminal histories. BCMC judges utilize background investigations to help determine if

defendants have criminal histories and represent a potential danger to the community or a flight risk. The enhanced information will allow judges to identify those defendants who are violent felons, habitual offenders, including repeat domestic violence or driving while intoxicated offenders, or who have outstanding felony warrants from other states or other jurisdictions within New Mexico.

Currently, the BCMC only has the resources to conduct local warrant searches on the National Crime Information Center (NCIC) database and on the court's own database for criminal defendants who are being booked into the MDC. If the BCMC is awarded the proposed appropriation of \$284,500, it will permit the court to augment its current program and increase community safety by making it possible to hire, train and equip five (5) additional staff members and expand the Court's background investigation procedures.

This appropriation will allow the Court to check the following additional records for all criminal defendants:

- (1) Local and national warrants on NCIC;
- (2) BCMC criminal history;
- (3) NCIC criminal history;
- (4) State of New Mexico State Probation & Parole;
- (5) Pending federal cases and federal probation;
- (6) State of New Mexico judiciary database; and
- (7) Motor Vehicle Division database.

In addition, the BCMC will be able to notify other governmental agencies of any new offenses with which a criminal defendant is charged.

### **ADMINISTRATIVE IMPLICATIONS**

The BCMC proposed operating budget impact is as follows:

4 full time Background Investigators	
1 full time Pretrial Services Supervisor	
Annual cost of the 5 full time employees	TOTAL = \$284,500

### **OTHER SUBSTANTIVE ISSUES**

The AOC provided the following table as a comparison of actual results obtained from the program at BCMC utilizing the enhanced background investigation process. This program uncovered criminal histories that would have gone undetected utilizing the standard background investigation procedure.

Actual Defendants & Charges	Actual Results of Current Limited Procedures	Actual Results of Enhanced Criminal History Record Check Procedures
<p>Defendant A</p> <p>Criminal Damage &amp; Concealing ID</p>	<p>1 felony arrest 1 misdemeanor arrest</p>	<p><i>29 aliases</i> <i>9 different SS#'s</i> <i>9 different DOB's</i> <i>62 misdemeanors:</i> 21 CA, 2 CO, 1 FL, 24 IL, 2 NM, 1 OH, 5 TX, 7 WA <i>21 misdemeanor convictions</i> <i>53 felony arrests:</i> 15 CA, 2 FL, 7 IL, 3 MN, 4 MO, 1 NM, 3OH, 2 OK, 5 OR, 6 TX, 5 WA <i>13 felony convictions:</i> Possession/Manufacture/Sell Dangerous Weapon '73; Burglary '78, '83, '84, '88, '93, '95 and '05 (2 times); Possession Marijuana '80; Theft '84; Burglary &amp; Receiving Stolen Property '88; Assault w/Deadly Weapon '96</p>
<p>Defendant B</p> <p>DWI</p>	<p>1 misdemeanor</p>	<p><i>12 misdemeanor arrests:</i> 2 AZ, 4 FL, 1 GA, 4 IN, 1 NM <i>3 prior DWI arrests/1 known conviction</i> <i>9 felony arrests:</i> 1 AZ, 7 FL, 3 GA, 2 IN <i>2 felony convictions:</i> Burglary '97; Operating after suspended for Life '01</p>
<p>Defendant C</p> <p>Aggravated DWI</p>	<p>No criminal history</p>	<p><i>16 misdemeanor arrests:</i> 3 CA, 1 OR, 12 WA <i>12 misdemeanor convictions</i> <i>2 prior DWI arrests and convictions</i> <i>8 felony arrests:</i> 2 CA, 2 IL, 2 OR, 2 WA <i>2 felony convictions:</i> Assault '01; Theft '01</p>
<p>Defendant D</p> <p>Shoplifting</p>	<p>No criminal history</p>	<p><i>24 misdemeanor arrests:</i> 1 AR, 6 AZ, 4 CA, 1 KS, 1 MT, 4 ND, 1 OR, 1 SC, 5 TX <i>10 misdemeanor convictions</i> <i>14 felony arrests:</i> 1 CA, 5 FL, 4 MO, 1 MS, 3 ND <i>5 felony convictions:</i> 2<sup>nd</sup> Burglary '81; Vehicle Theft '84; Non-Support '87; Attempted Theft of Property '96; Burglary '90</p>