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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/16
SPONSOR Gentry **LAST UPDATED** 2/10/2016 **HB** 153

SHORT TITLE Criminal Justice Clearing House **SB** _____

ANALYST Sánchez/Rogers

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|---------|---------------------------|---------------|
| FY16 | FY17 | | |
| \$0.0 | \$597.7 | Recurring | General Fund |
| \$0.0 | \$175.4 | Nonrecurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY16 | FY17 | FY18 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------|---------|---------|-------------------|---------------------------|---------------|
| Total | \$0.0 | \$597.7 | \$597.7 | \$1,195.4 | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Partially Duplicates an Appropriation in the General Appropriation Act
 Relates to HB 153.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Responses Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 153 appropriates \$700 thousand from the General Fund to DPS to create a criminal justice clearinghouse. The clearinghouse will allow the merger of data from multiple criminal justice databases and will be used by the courts and law enforcement to access comprehensive

information on criminal suspects and defendants.

FISCAL IMPLICATIONS

The majority of the \$700 thousand appropriation in this bill is a recurring expense to the general fund. Unexpended balances remaining at the end of FY17 shall revert to the general fund.

The cost to DPS to have the clearinghouse located within the department is detailed on the attachment. DPS stated that if the final appropriation is insufficient to cover costs the department will delay enhancements to the Consolidated Offender Query (COQ) system until funding is available, which would defer \$150 thousand of the nonrecurring costs.

| DPS Estimate of Costs to Implement Database | | | | |
|--|------------------|----------------------|------------|------------------|
| | Recurring | Non-recurring | FTE | Total |
| Personnel | \$556,485 | | 10 | \$556,485 |
| Equipment | \$2,688 | \$10,400 | | \$13,088 |
| Supplies | \$2,500 | | | \$2,500 |
| Office | | | | |
| Space | \$36,000 | \$15,000 | | \$51,000 |
| Systems | | \$150,000 | | \$150,000 |
| Total | \$597,673 | \$175,400 | 10 | \$773,073 |

The LFC recommended \$500 thousand as a special appropriation for the clearinghouse. The executive recommended \$597.7 thousand and 10 FTE from the general fund for the clearinghouse. A review of the breakdown of the \$773.1 thousand request submitted by the department supporting a clearinghouse shows that 77 percent is a recurring expense, of which \$556.5 thousand is for additional personnel.

It is unclear from the bill if the full amount is to acquire a system or if DPS can use the appropriation for other purposes for the clearinghouse.

SIGNIFICANT ISSUES

DPS explained that in August, 2015, the New Mexico Supreme Court’s Ad Hoc Pre-trial Release Committee recommended that the state develop a centralized clearinghouse that would be responsible for providing prompt criminal histories for risk assessments to detention facilities and courts, including municipal courts. The database would allow jurisdictions statewide to immediately compile the criminal history of a defendant and conduct an empirical risk assessment to determine flight risk and danger to the community. The committee believes the approach would be consistent with State v. Brown (2014-NMSC-038) as “the release decision would be based on the likelihood that the defendant will appear in court as required and will not pose a danger to any other person or the community.”

The development of the database dovetails with the ad hoc committee’s recommendation that Article II, Section 13 of the New Mexico Constitution be amended “to permit a court to order a defendant’s pre-trial detention in a case where no type of pretrial release and/or conditions of

pre-trial release will reasonably assure the defendant's appearance in court or the safety of any other person and the community" (New Mexico Supreme Court Ad Hoc Pre-trial Release Committee, August 11, 2015). Currently, a judge cannot deny bail to a defendant known to be a flight risk or hazard to the community.

DPS provided information on the feasibility of a statewide criminal history clearinghouse. DPS is the central source for all statewide criminal databases as well as databases that are maintained by the district courts. The department believes that the ability to consult multiple databases is of critical importance, as not all information on a defendant may be up to date or relevant in any one system. The search combination that would yield the most relevant information about an offender is located in two databases: the Consolidated Offender Query (COQ) and the Law Enforcement Agencies Data System (LEADS) which combines the results of National Crime Information Center (NCIC) and Criminal Justice Information Services (CJIS).

Access to this information via a clearinghouse is critical to being able to accurately and expediently assess bond for an offender in accordance with the constitution. Missing or inaccurate information may hinder the process and lengthen the amount of time an offender waits for his determination.

ADMINISTRATIVE IMPLICATIONS

There will be an administrative impact associated with enhancing the COQ system, locating the space to house the unit and set up workstations and a secure, badged environment, and in the establishment of the positions and the hiring process.

ABS-TMR/al/jle

**CRIMINAL HISTORY CLEARINGHOUSE
ESTIMATE OF EXPENSES TO ESTABLISH AND OPERATE**

| | <u>Quantity</u> | <u>Cost Source</u> | <u>Description</u> | <u>Cost Basis</u> | <u>Recurring</u> | <u>Non-recurring</u> | |
|-------------------------------|-----------------|--|---|-------------------|-------------------|----------------------|-------------------|
| PERSONNEL | 8 | Background Check Specialists (Business Operations - Operational) | 24/7 Coverage, 2 day shift, 3 evening shift, 3 night shift | \$17.70 | \$ 413,925 | | |
| | 4 | Shift Differential | | .90 hr. | \$ 11,232 | | |
| | 1 | Business Operations Supervisor | Supervisor of the Clearinghouse employees, program technical lead and program evaluation. | \$22.00 | \$ 64,310 | | |
| | | Overtime | Occasional need to cover for absences | | \$ 14,400 | | |
| | 1 | Help Desk Technician | DPS's Help Desk is already understaffed - DPS will need an additional Technician to cover access and system technical issues for to assist customers statewide. | \$18.00 | \$ 52,618 | | |
| | | | | | | | \$ 556,485 |
| EQUIPMENT | 4 | Desktop Computers & Monitors | Standard desktop, 2 monitors | \$1,300.00 | | \$ 5,200 | |
| | 4 | MS Office 365 | Annual cost | \$108.00 | \$ 432 | | |
| | 4 | Desk Phones | | \$47/mo. | \$ 2,256 | | |
| | 4 | Desks & Chairs | | \$1,300.00 | | \$ 5,200 | |
| SUPPLIES | | Office Supplies | | | \$ 2,500 | | |
| OFFICE SPACE | | Lease Space | DPS HQ does not have any room to house this function. | | \$ 36,000 | | |
| | | | Set up a secure, badged area to meet Federal requirements and other one time set up costs. | | | \$ 15,000 | |
| SYSTEMS | | COQ (Consolidated Offender Query) Enhancements | Federal regulations require incryption on database information; need to have multiple levels of user access; also need database search enhancements. | | | \$ 100,000 | |
| | | COQ System Enhancements Installation | Require contractor to design/install COQ interface enhancements. | | | \$ 50,000 | |
| | | | | | | | \$ 41,188 |
| TOTAL ESTIMATED COSTS | | | | | \$ 597,673 | \$ 175,400 | \$ 597,673 |
| TOTAL FIRST YEAR COST: | | | | | | \$ 773,073 | |