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FISCAL IMPACT REPORT

SPONSOR Hochman-Vigil/Stansbury **ORIGINAL DATE** 2/14/19
LAST UPDATED _____ **HB** 19

SHORT TITLE Metro Court Grand Juries **SB** _____

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$294.2	\$296.3	\$590.5	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Metropolitan Court

Public Defender Department (PDD)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

House Bill 19 would amend NMSA 1978, §31-6-1, §31-6-2, §31-6-4, §31-6-5, §31-6-6, §31-6-8, §31-6-9, §31-6-12, and §31-6-13 so that a metropolitan judge would now be able to convene one or more grand juries at any time and perform the same functions as a district judge with respect to that process. Section 6 of the bill would allow for the electronic recording of the grand jury proceedings rather than only through the use of notes or transcriptions by court reporters. Section 10 of the bill proposes to amend Section 31-6-13 so that it no longer provides that grand jurors be paid by the district court. Instead, Section 10 of the bill proposes that “the Court convening a grand jury shall pay” the grand jurors and witnesses subpoenaed to testify both a per diem allowance and mileage.

FISCAL IMPLICATIONS

Currently, in Bernalillo County, only the Second Judicial District Court convenes grand juries. If the Metropolitan Court were to convene grand juries, this would have fiscal implications due to the increased number of hearings, the volume of pleadings, the number of jurors being brought to the court, and related changes to the Metropolitan Court’s current jury “code-a-phone” call-in system.

If grand jury proceedings were to be convened in the Metropolitan Court, based on the volume of grand juries convened in the Second Judicial District Court in 2018, the Metropolitan Court would be required to dedicate additional staff for the grand jury proceedings, for the related pre-indictment litigation hearings, and for processing the pleadings related to all of these matters. According to the Metropolitan Court, these costs equate to one-quarter (.25) FTE judge, one-quarter (.25) FTE TCAA, two (2.0) FTE judicial specialists 2, and one (1.0) FTE Court Reporter. If passed, the bill would not take effect until June 14, 2019. The court has projected costs for these salaries and benefit expenses for FY20 of \$253,895 and FY21 of \$256,123 and additional costs for one (1.0) additional contract unarmed security guard at \$39,377 for FY20 and \$40,164 for FY21.

In addition to the fiscal impact to the Metropolitan Court in terms of judges and staff for these proceedings, the court would incur costs for engineering a separate code-a-phone call-in number for grand jurors estimated at \$914. This would be a one-time cost to the Metropolitan Court that would be incurred in FY20.

However, if HB 19 were to result in more grand jury proceedings in lieu of preliminary hearings, there likely would be significant savings to the Second Judicial District Court in staff time that will improve the caseloads of those judges. However, those savings are not likely to result in a reduction of staff expenses at the district court.

HB 19 is unlikely to have any fiscal impact on the Public Defender Department or district attorney. Public defenders and district attorneys would still have the same duties regarding advising individuals for a grand jury. HB 19 is unlikely to increase or decrease prosecution and defense overall workload and, therefore, will have no likely fiscal impact to those agencies.

SIGNIFICANT ISSUES

The Bernalillo Metropolitan Court notes the following concerns:

Limited Jurisdiction: Because Metropolitan Court is a court of limited jurisdiction, with the exception of conducting felony first appearances (where the court reviews felony arrest warrants/complaints for probable cause and sets conditions of release), holding preliminary hearings, and the pretrial supervision of those felony defendants pending their preliminary hearings (which are held within 10 business or 60 calendar days – depending on whether a defendant is in or out of custody), the Bernalillo County Metropolitan Court does not have jurisdiction over felony matters. As such, the only felony cases that metropolitan court initiates are those for defendants who have been arrested on felony charges, and then the court only has limited jurisdiction over those matters for a brief period of time.

Additional Resources for Grand Juries and Pre-Indictment Proceedings: If the Metropolitan Court also convenes grand juries, it would not only have to dedicate additional resources, including judges and staff for the purposes of holding the actual grand jury proceedings, answering questions from grand jurors, addressing conditions of release and presentment orders, but it also would have to devote resources to address the myriad of pleadings and hearings pertaining to pre-indictment litigation matters that are regularly raised in grand jury matters, such as *Bort-Jones* Motions for resolving disputes between the target of the grand jury and the prosecuting attorney on evidentiary and

related matters. *Jones v. Murdoch, 2009-NMSC-002.*

Judicial Economy Concerns: In addition, many of these pre-indictment procedural matters result in appellate-like petitions for writs being filed in higher courts. Under the current system with grand juries only being held in the district court, those petitions only would be filed in the Court of Appeals or Supreme Court, as appropriate. If the Metropolitan Court also were to convene grand juries, this would add one more layer of judicial review with such petitions now also being filed in the District Court. As such, the bill gives rise to considerations of judicial economy. There are judicial economy concerns in the duplication of efforts if both the district and metropolitan courts are convening grand juries – particularly with the resources that the Second Judicial District Court has already devoted to grand jury proceedings (with the dedicated grand jury conference rooms and related offices and judicial and clerical staff), which resources the Metropolitan Court would be required to replicate under this bill.

PERFORMANCE IMPLICATIONS

There are significant concerns about the space necessary to fulfill the obligations of HB 19. The Metropolitan Court finds that “because of the confidentiality of grand jury proceedings, the district court does not have grand jurors waiting with the regular jurors...If the Metropolitan Court now also were convening grand juries, it would have to dedicate space solely for the purpose of these grand jury proceedings in addition to dedicating separate space for the grand jurors to wait before and after grand jury proceedings that would be separate and apart from the jury room where its other jurors wait to be called to a jury trial. While the Metropolitan Court has a sizeable jury room, it is currently being utilized Monday – Wednesday for jurors summoned for jury trials in the civil and criminal cases pending in the court. The court does not have another such room for grand jurors.”

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