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## FISCAL IMPACT REPORT

SPONSOR: Sanchez DATE TYPED: 02/18/01 HB \_\_\_\_\_  
 SHORT TITLE: Statewide Drug Court Program SB 238  
 ANALYST: Hayes

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 4,910.3			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to HB215, HB433 and SJR6

### SOURCES OF INFORMATION

LFC files  
 Administrative Office of the Courts (AOC)  
 Public Defender Department (PDD)  
 Administrative Office of the District Attorneys (AODA)

### SUMMARY

#### Synopsis of Bill

This bill appropriates \$4,910.3 from the general fund to various courts and related agencies for the purpose of :

1. Amending Section 34-8A-4.1 NMSA 1978 to create an additional judgeship for division 17 at the Bernalillo County Metropolitan Court. The judge will be appointed by the governor and will serve until the 2002 election. His/her successor will be chosen during that general election and will hold office until the general election in 2006.
2. Designating the division 17 judge created by this bill to specifically preside over BCMC's drug court.
3. Providing additional funds to current drug court programs to expand the client base and creating new drug court programs to in other districts statewide. In addition, funding is provided to certain district attorneys and public defenders to supplement and support drug court objectives.

The appropriation in SB238 is distributed in the following manner:

For the **Second Judicial District** adult drug court, \$414,800 for a clerk position and to expand program components, and to provide \$35,000 to the District Attorney's Office for an additional paralegal position, and to provide \$35,000 to the Public Defender Department for a social worker. For the Second Judicial District children's court, \$101,000 for contractual services and salaries for an administrative assistant position, and to start a new dependency court.

For the **Third Judicial District** adult drug court, \$121,600 for contractual services and salaries for a program director and secretary, and to provide \$40,100 to the Public Defender Department for a paralegal position due to increased workload. For the Third Judicial District, \$138,400 to start a new dependency court, and to provide salaries for a secretary and surveillance officer.

For the **Fourth Judicial District**, \$102,300 to establish a juvenile drug court for contractual services, and to provide salaries for a part-time program director and administrative assistant, and to provide \$25,000 for a part-time juvenile probation officer, and \$20,000 for contract services for the Public Defender Department.

For the **Fifth Judicial District**, \$97,600 for contractual services to start a new juvenile drug court, and to provide salaries for a part-time program director and administrative assistant, and to provide \$25,100 for a part-time juvenile probation officer, and \$25,000 for a public defender attorney for the Public Defender Department. The Fifth Judicial District is also requesting \$97,200 for contractual services to start a new dependency court and salaries for a part-time program director and administrative assistant, and to provide \$10,000 to the Institute for Social Research at the University of New Mexico for a process evaluation of its dependency court.

For the **Sixth Judicial District**, \$153,300 to start an adult drug court, and to provide contractual services and salaries for a program director, and to provide \$35,500 for contractual services to the Public Defender Department. The sixth judicial district is also requesting \$51,000 for a surveillance officer to support its already established juvenile drug court program.

For the **Eighth Judicial District**, \$297,200 to expand its adult drug court, and to provide salaries for a half-time coordinator and one-tenth time special master.

For the **Ninth Judicial District** to start a new juvenile drug court, \$110,700 for contractual services and salaries for a program director, and \$40,000 for a paralegal for the Public Defender's Department.

For the **Eleventh Judicial District**, \$100,000 for contractual services to expand its ongoing adult drug court. For the eleventh judicial district \$143,700 to start a new juvenile drug court for contractual services, and for salaries for a probation officer and a secretary.

For the **Twelfth Judicial District**, \$175,200 for contractual services and for salaries and benefits for a program director and a secretary to start a new adult drug court.

For the **Thirteenth Judicial District**, \$290,000 for contractual services and for salaries for a coordinator, administrative assistant, and a surveillance officer to expand its ongoing juvenile drug court, and \$30,000 for contract counsel services to the Public Defender Department.

For **Bernalillo County Metropolitan Court**, \$1,858,200 for contractual services and salaries for an additional judge, twelve probation officer II positions, 2 probation officer II positions, 5 judicial specialist II positions, and a trial court administrative assistant to expand its ongoing DWI adult drug court, and for \$40,000 for the Institute for Social Research at the University of New Mexico for a two-year outcome evaluation of their program.

For the **Public Defender Department**, \$40,000 to provide salary for a social worker to support the increased caseload in the Bernalillo County Metropolitan drug court.

For the **Administrative Office of the Courts**, \$85,700 to provide salary for a statewide drug court coordinator position, and \$171,700 to the Institute for Social Research at the University of New Mexico for a statewide evaluation of drug courts.

The effective date of SB238 is July 1, 2001.

#### Significant Issues

A. *Implementation of New Drug Courts.* The question arises whether or not smaller courts in New Mexico will be able to handle the workload and caseload involved with drug courts. Are the judges and staff willing and able to conduct drug court along with regular courtroom duties? While the judgeship bill introduced (HB215) proposes additional judges for certain areas, the judgeships are not designated for drug court.

B. *Expansion of Current Drug Courts.* This bill more than doubles the funding of existing drug courts. According to the AOC, this is considered a "limited" expansion which "attempts to avoid potential problems associated with over-excelerated growth." However, doubling the current funding level and number of clients served can not be considered as limited growth. Before expanding and doubling their services, one would expect to see an analysis on the effectiveness and success of the *current* drug court programs in New Mexico, e.g., with current dollars, how have drug courts served the public and what are the cost savings.

Funding drug courts at this level, plus doubling clients served and expanding to almost every judicial district in the state, is a major undertaking. A graduated implementation schedule may be more manageable for all parties involved, and may be more prudent and fiscally sound at this juncture.

C. *Facilities Needs.* With new and expanded drug courts resulting in increased staff, social workers, participant clients and administrative needs, it is conceivable that some of the district courts (particularly the smaller courts) will need additional office/work/courtroom space in order to carry out the functions of drug court. Will the Legislature be faced with requests for new facilities in the near future on account of drug court expansion?

D. *Contractual Services.* Virtually all of the drug court testing and treatment services are conducted by medical facilities on contract. The state's Procurement Code only allows the same contractor to be used for up to a maximum of three years, and only if it is a sole source. How will drug courts in smaller districts continue to operate if another vendor/contractor is unavailable to render these services? How will those drug courts continue?

E. *Dependency Court*. This is a new type of court introduced in this bill and not previously discussed or described to the LFC. What is a “dependency court?” How does it differ from drug court? At this time, many courts have an adult drug court and/or a juvenile drug court. SB238 proposes funding and establishing a dependency court—a third type of court to these programs. No definition or explanation of dependency court was provided in the agency analyses nor by the state’s drug court coordinator. No analysis can be provided without the information necessary.

F. *Statewide Evaluation of Drug Courts: Duplications of Funding Request*. In Section 4.R(2) of the bill, \$171.0 is requested to pay the Institute for Social Research at the University of New Mexico (UNM) to conduct “a statewide evaluation of drug court program.” It is not known whether a proposal has already been submitted regarding this study and its precise cost. However, in Section 4.P(2), a separate amount totaling \$40.0 is appropriated to BCMC for engaging the same Institute to conduct an evaluation of BCMC’s drug court program; the same is evident for the Fifth Judicial District whereby Section 4.G(2) appropriates \$10.0 for UNM’s Institute for Social Research to conduct an evaluation. Why are the 5<sup>th</sup> and BCMC getting separate funding for evaluations? Why does an evaluation of statewide drug courts cost \$221.0? Since there is a statewide drug court coordinator housed within AOC, why does that employee not conducted a statewide evaluation of drug courts?

## PERFORMANCE IMPLICATIONS

Drug courts are assuming a greater role in the fight against illegal drug abuse in New Mexico and nationwide. In many instances, drug court-imposed treatment has proven to be an effective method in rehabilitating the lifestyle of a drug offender and in preventing future illegal behavior. According to two national studies conducted on drug court effectiveness,\* the following conclusions were reported:

1. Drug courts continue to be successful in reducing drug use.
2. Drug courts are treating more complex offenders with more serious criminal histories and with complex physical and mental health needs.
3. Drug use for drug court participants remains low compared to similar defendants not in drug court.
4. Recidivism for participants while in the program (as defined by re-arrests) continues to remain low for graduates.
5. Estimates indicate that drug court programs generate a cost-savings primarily to law enforcement, probation and jail. For every \$1.00 spent on drug court, \$2.50 is saved.

\*National study in 1998 and 1999 by the National Center on Addiction and Substance Abuse and an evaluation of the Oregon Drug Courts

According to the AOC’s drug court coordinator for the state, drug courts have significantly reduced costs in the criminal justice system. The average cost of a drug court program per participant is \$1,900 - \$2,500 each year (treatment costs only). This is significantly less than the average cost of \$27,000 for one prisoner incarcerated in a non-treatment venue as estimated by the New Mexico Department of Corrections.

In capturing full cost per participant, it is estimated that each drug court participant costs the state approximately \$3,300 each according to LFC analyst calculations.

With the advent of the Accountability in Government Act, drug court programs lend themselves to performance measurement and assessment. Using the above-reported nationwide findings, specific performance-based budgeting measures can be developed for New Mexico drug court programs such as: recidivism rates, cost per participant, number of re-arrests per participant, number of positive urinalysis, average length of treatment, rate of success/failure, number of drug offenders participating in drug court, etc. With the major funding expansion proposed in this bill, the performance of drug court should be closely evaluated, both for its cost effectiveness and the cost-benefit to the state.

It is suggested that measures developed for drug court are standardized so that all drug courts are measuring the same activities and in the same manner so that meaningful comparisons can be made.

### **FISCAL IMPLICATIONS**

The appropriation of \$4,910.3 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2002 shall revert to the general fund.

The amount being requested in SB238 is in addition to the monies being requested in individual court budgets as base expansions. Base expansions total is \$1.9 million. The base expansion requests are actually for replacement of federal grant money that is terminating by FY02. The LFC did not recommend replacement funding during their fall budget hearings.

Besides federal grant dollars (\$1.9 million) and SB238 appropriations (\$4.9 million), the courts also have approximately \$1.3 million general fund in their current base budgets for drug court. Moreover, various courts receive transfers from other state agencies to supplement drug court funding. Combined, these transfers total \$1.0 million.

If all sources of drug court funding were combined, including SB238 and federal grant replacements, total drug court funding in New Mexico would be **\$11 million**.

### **ADMINISTRATIVE IMPLICATIONS**

There will be a major administrative impact on the courts, especially on judges and court administrative time, as the result of an increase in caseload and drug courts' general programmatic needs. If judges and staff are willing to devote the necessary additional time to drug court operations, the results may be rewarding for both the participant and the taxpayer.

### **DUPLICATION/RELATIONSHIP**

Duplicates HB433, Statewide Drug Court Program  
Relationship with HB215, Additional Judgeships  
Relationship with SJR, Election of Justices and Judges

CMH/njw:jsp