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FISCAL IMPACT REPORT

02/25/13
ORIGINAL DATE 03/06/13
LAST UPDATED 03/11/13 **HB** _____

SPONSOR Rodriguez

SHORT TITLE Court “Adult” Definitions & Reporting **SB** 522/aSJC/aHFI#1

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Narrative	See Narrative	See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of HFI Amendment #1

House Floor Amendment #1 clarifies the definition of “adult” in the Probation and Parole Act to include misdemeanor and felony convictions.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 522 removes metropolitan from the originally proposed change to the definition of “adult” in the “Probation and Parole Act”.

Synopsis of Original Bill

Senate Bill 522 adds persons convicted of crimes in magistrate or metropolitan court to the definition of “adult” within Section 32-21-5 NMSA 1978 “Probation and Parole Act”. Currently only persons convicted in district court are defined as “adult” for the purposes of Article 21, having to do with “Sentence, Pardons, and Paroles”. The expanded definition may lead to an increase in the NMCD’s Probation and Parole Division’s case load by adding individuals sentenced to probation by a magistrate or metropolitan court. The bill also requires the director

of probation and parole to obtain statistical data related to dispositions of defendants from metropolitan courts and magistrate courts. The bill has an emergency provision and would take effect immediately after signing.

FISCAL IMPLICATIONS

The NMCD currently has a minimal amount of defendants sentenced to probation and parole from magistrate courts. Furthermore, the NMCD possesses the infrastructure to absorb a minimal increase of defendants sentenced to probation without incurring additional costs.

It is worth noting that if SB 522 results in a significant increase of defendants sentenced to probation and parole the costs have the potential to be significant. The NMCD stated that the cost per client in probation and parole for a standard supervision program is \$2,227 per year. The AOC stated that statewide currently there are 7,000 magistrate court defendants serving time on probation. If all of these defendants were sentenced to probation with the NMCD the potential cost could be \$15.6 million.

The AOC stated that magistrate judges understand the resources do not exist to assign all persons convicted in magistrate court to probation with the NMCD. Magistrate judges would like to be able to use their discretion to refer defendants convicted of certain serious misdemeanor offenses to the NMCD probation. These defendants are primarily DWI second offense (802), DWI third offense (355), and misdemeanors pled down from felonies (779) for a total of 1,936 defendants. If all of these defendants were sentenced to probation with the NMCD, the potential cost could be \$4.3 million.

SIGNIFICANT ISSUES

The NMCD stated that they have historically had difficulty supervising misdemeanor offenders because it already has average probation caseloads of felony offenders in excess of 115 offenders per probation officer. The NMCD has historically worked in good faith with metropolitan and magistrate judges to supervise only misdemeanor offenders with significant criminal histories on a case by case basis. The NMCD does not have the manpower or financial resources needed to supervise these misdemeanor offenders, and having the NMCD supervise these offenders will jeopardize public safety by stretching the NMCD's already-limited resources even thinner.

PERFORMANCE IMPLICATIONS

This bill will likely result in a substantial number of additional misdemeanor offenders being placed on probation with the NMCD, negatively impacting the NMCD's performance measure regarding the number of offenders supervised by each probation officer.

ALTERNATIVES

The NMCD recommends the following amendments:

Amend the bill to require that magistrate court judges only place misdemeanor offenders on the NMCD probation supervision if (1) the offender has a significant criminal history (of multiple misdemeanor or prior felony convictions) endangering public safety which requires that he or she be supervised on probation by NMCD, and (2) that there are no

county probation or supervision officers in that particular county who can perform these services for misdemeanor offenders.

EC/blm:svb