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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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and

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date Jan. 25, 2019
Original **Amendment** **Bill No:** HB267
Correction **Substitute**

Sponsor: Ely, Romero and Rue **Agency Code:** 264
Short Criminal Justice **Person Writing** Gail MacQuesten
Title: Reforms **Phone:** 505 466-0532 **Email** gailmacquesten@gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	31,579	nonrecurring	general

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: none found
Duplicates/Relates to Appropriation in the General Appropriation Act: none found

SECTION III: NARRATIVE

HB267 creates the Crime Reduction Grant Act, and amends existing statutes related to criminal justice issues.

Sentencing Commission. Section 1 of HB267 amends Section 9-3-10 NMSA 1978 to change the make-up of the Sentencing Commission, and to require the Commission to create and maintain a data-sharing network.

HB267 replaces the member from the court of appeals with a magistrate judge to be appointed by the chief justice of the supreme court, and adds 3 new members, which will increase the size of the Commission from 24 to 27. The new members are:

- A representative from the behavioral health services division of the human services department;
- One public member appointed by the minority floor leader of the senate; and
- One public member appointed by the minority floor leader of the house of representatives.

The data-sharing network is to receive, store, analyze and disseminate criminal justice data for and between participating criminal justice and behavioral health agencies for the purpose of evaluating local and statewide criminal justice systems and programs and supporting information sharing. The Commission is also to provide data analysis as requested by criminal justice agencies and criminal justice coordinating councils.

Health Information. Section 2 of HB267 amends Section 14-6-1 NMSA 1978, pertaining to the confidentiality of health records. It clarifies some language stating that a custodian of confidential information who furnishes that information to approved recipients shall not be liable for damages.

Arrest Records. Section 3 of HB267 amends Section 29-3-8 NMSA 1978 regarding arrest records. It clarifies and simplifies the provisions regarding the collection of fingerprint and palm print impressions and photographs, describing them all as “biometric identifying information.” It sets out the requirement for an arrest record, directs the department to promulgate rules addressing the collection and submission of biometric identifying information and the creation of a state personal identification number system to identify a person arrested and charged with a crime and the creation of a state arrest tracking number system for each arrest record. It requires the booking facility to forward the arrest record to the department, and the department shall provide the biometric identifying information to the federal bureau of investigation and the state personal identification number to agencies at all levels of government that are engaged in the

apprehension, prosecution or defense, adjudication, incarceration or rehabilitation of criminal offenders, and send arrest records to the administrative office of the district attorneys for submission to the appropriate prosecuting authority. The department shall forward the disposition of all criminal cases to the federal bureau of investigation and the national crime information center within five business days of receipt.

Uniform Crime Reporting System. Section 4 of HB267 amends Section 29-3-11 NMSA 1978, to require the department of public safety to provide the New Mexico sentencing commission access to the data collected and maintained by the department, and to use the new code system required by HB267. The department must make its annual report and other statistical data reports available to the administrative office of the courts.

Release of Information Under the Mental Health and Developmental Disabilities Act. Section 5 of HB267 amends Section 43-1-19 NMSA 1978 of the Mental Health and Developmental Disabilities Act, to provide that authorization from the client is not required for the release of confidential information to assure continuity of care, or when the disclosure is made to a governmental agency, its agent or a state educational institution, a duly organized state or county association of licensed physicians or dentists, a licensed health facility or staff committees of such a facility for the purpose of research.

The Crime Reduction Grant Act. Sections 6-11 of HB267 create the Crime Reduction Grant Act, to be administered by the New Mexico sentencing commission..

Criminal Justice Coordinating Council. It creates a criminal justice coordinating council for each judicial district to be convened by the chief judge of the district court in the district. Membership may include representation from within the district for each court in the district, the district attorney, the district public defender office, law enforcement agencies, jails, correctional facilities, behavioral health programs or other agencies and entities agreed upon by the council. The council shall develop a strategic plan to review the criminal justice system in the judicial district to identify problems and develop data-driven policies and evidence-based best practices; apply as necessary for grants; facilitate the sharing of information; and, in consultation with the commission, develop data-sharing agreements.

Application for grants. HB267 sets out the procedures for a council to apply for a grant on behalf of a member. HB267 lists 10 criminal justice-related reasons for which a grant may be sought. The grants have 8 conditions attached, including that the council and the recipient member to use no more than five percent of a grant for administrative costs, develop data-sharing agreements and methods of data-sharing, develop best practices and performance measures, collect data to evaluate effectiveness, perform quarterly evaluations, and provide monthly and annual reports.

Reports. Each grant administration agency shall report to the commission annually regarding its grants. The commission shall report to the legislature annually.

Appropriation. HB267 appropriates \$31,578,550 from the general fund to agencies as grant administration agencies for grants, distributed a follows:

1. To the administrative office of the courts:
 - \$1,050,000 to allocate up to \$75,000 to each council in addition to other funding received for staff to support the council; and
 - \$3,000,000 for pretrial services.
2. to the administrative office of the district attorneys
 - \$260,000 to replace the loss of fees from pre-prosecution diversion programs;

- \$500,000 for crime reduction grants to reduce financial barriers to participation by criminal offenders in pre-prosecution diversion programs; and
 - \$1,026,000 to recruit and retain prosecutors in low population areas.
3. to the public defender department:
- \$600,000 to improve representation in areas of the state in low population areas; and
 - \$250,000 to expand social work and case management services in low population areas.
4. to the corrections department:
- \$10,357,000 to recruit, train and retain correctional officers; and
 - \$3,558,750 to provide transitional reentry homes.
5. to the department of public safety:
- \$3,000,000 for recruiting, training and equipping law enforcement officers in low-population areas.
6. to the sentencing commission:
- \$3,826,000 to create and implement a data-sharing network.
7. to the behavioral health services division:
- \$1,150,000 to establish pre-arrest diversion programs;
 - \$1,000,000 to establish residential crisis triage centers and outpatient crisis stabilization services;
 - \$1,500,000 to establish, recruit and retain mental health workers in low population areas; and
 - \$500,000 to provide programs in public schools in grades one through three to promote behavioral self-regulation.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The administrative office of the district attorneys will receive just under \$1.8 million under HB267 for pre-prosecution diversion, and to recruit and retain prosecutors in low population areas. District attorneys in each district will participate in the criminal justice coordinating councils.

SIGNIFICANT ISSUES

HB267 creates a criminal justice coordinating council in each judicial district to review criminal justice issues in the district and develop policies and practices to address those issues. The council may apply for grants for their members to address the issues. HB267 imposes reporting requirements and oversight.

In addition, HB267 creates the framework for data-sharing among criminal justice agencies.

PERFORMANCE IMPLICATIONS

The criminal justice coordinating councils are established in each judicial district, so the entity

examining issues and proposing solutions is local. This should help with finding local solutions to local problems. HB267 also allocates funds specifically to provide services in areas of the state with less than three hundred thousand residents.

HB267 provides \$3.8 million to the sentencing commission to create and implement a criminal justice data-sharing network, and amends existing laws to ensure that data is shared among agencies, something that is essential to enforcement and prosecution.

Including metropolitan court and magistrate court members, and a member from the behavioral health services, on the sentencing commission provides better representation from entities that see the direct impacts of criminal justice policy. Adding members from the senate and house minority create a more bi-partisan commission.

ADMINISTRATIVE IMPLICATIONS

It appears that HB267 sets up councils in each judicial district that may seek grants – so the grant process is localized. But Section 12 of HB267 appropriates funds to state-wide agencies as “grant administration agencies” to expend on specific programs. Some of the programs are clearly not grants as defined in HB267. For example, the administrative office of the courts is given funds to allocate to each council. But they are also given money for pretrial services. It is not clear whether the state-wide administrative office of the courts is to administer the funding of the pretrial services, or whether they are to use the money to award grants to local councils (who then award to member courts). If the allocated funds are to be administered by the state-wide agencies, it is not clear whether the appropriated funds are subject to the same administrative requirements (such as the reporting requirements) that apply to grants made by councils. The provision in Section 12 that the agency shall not allocate more than five percent of the appropriated funds to administration expenses suggests that these allocations are not treated as grant funds. If they were, that provision would be unnecessary.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

See Significant Issues, above.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed.