



NEW MEXICO LEGISLATURE

COURTS, CORRECTIONS AND JUSTICE COMMITTEE

2023 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE
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TABLE OF CONTENTS

INTERIM SUMMARY

WORK PLAN AND MEETING SCHEDULE

AGENDAS AND MINUTES

ENDORSED LEGISLATION

INTERIM SUMMARY

Courts, Corrections and Justice Committee 2023 Interim Summary

The Courts, Corrections and Justice Committee (CCJ) was created by the New Mexico Legislative Council on May 1, 2023 for the 2023 interim. The CCJ met for a total of 15 days and traveled around the state to the cities of Santa Fe, Las Cruces, Albuquerque and Las Vegas and the village of Ruidoso. During the July meeting, the committee focused on the Children, Youth and Families Department (CYFD) and firearm safety. Committee members also allocated time for a broader discussion on proposed gun and CYFD legislation to be considered for endorsement for the 2024 legislative session.

In August, committee members toured the J. Paul Taylor Juvenile Detention Center, discussed regulatory measures regarding cannabis and received an update on border security from a narcotics and human trafficking perspective as well as a Corrections Department update.

In September, the CCJ discussed artificial intelligence and the implications as applied to legal professions, predictive policing, probation and parole from a national perspective. Committee members also revisited Senate Bill 84 (2023), relating to probation and parole violation changes, which was introduced and passed but was vetoed by the governor. The committee also discussed the proposed Cannabis Tax Distribution Act, potential creation of a cannabis equity fund and implementation of Senate Bill 64 (2023), relating to juvenile justice reform.

In October, the committee heard presentations on district attorney and public defender workloads, pretrial assessment from the bench, DWI case studies and secret settlements. The CCJ then revisited the topic of firearms with a concentration on magazines, assault weapons, waiting periods and age restrictions. The meeting concluded with a final update from the superintendent of regulation and licensing before her retirement that day.

In November, the committee met in Santa Fe and received a presentation from New Mexico Counties on legislative priorities for county detention facilities. On a motion duly made and seconded, and without any objections, the committee voted to recess the meeting and reconvene in December to allow committee members and members of the public to review the legislation proposed for committee endorsement. The CCJ held its final meeting in December and endorsed 15 pieces of legislation.

WORK PLAN AND MEETING SCHEDULE

**2023 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

Members

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu
Sen. Gregory A. Baca
Rep. Gail Chasey
Sen. Antonio Maestas
Rep. Alan T. Martinez

Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle
Rep. Andrea Reeb
Rep. William "Bill" R. Rehm
Rep. Andrea Romero
Rep. Angelica Rubio
Sen. Antoinette Sedillo Lopez

Advisory Members

Rep. John Block
Rep. Cynthia Borrego
Rep. Micaela Lara Cadena
Rep. Ambrose Castellano
Sen. Katy M. Duhigg
Sen. Daniel A. Ivey-Soto
Rep. D. Wonda Johnson

Sen. Linda M. Lopez
Rep. Stefani Lord
Rep. Tara L. Lujan
Rep. Willie D. Madrid
Sen. Mimi Stewart
Rep. Reena Szczepanski
Sen. Peter Wirth

Work Plan

The New Mexico Legislative Council created the Courts, Corrections and Justice Committee (CCJ) on May 1, 2023. During the 2023 interim and as time permits, the CCJ will examine the following topics and receive presentations that address or include:

A. courts:

1. an update from the Administrative Office of the Courts (AOC);
2. updates from the judiciary, including from the supreme court, the dean of the University of New Mexico School of Law and the chair of the Appellate Judges Nominating Commission;
3. an update from the Public Defender Department, including discussion of:
 - a. caseloads;
 - b. staffing and staff training; and

- c. programs, budgets and budget priorities in each district and legislative priorities;
 4. an update from the AOC, the Administrative Office of the District Attorneys and the New Mexico District Attorney Association, including discussion of:
 - a. caseloads;
 - b. staffing and staff training; and
 - c. programs, budgets and budget priorities in each district and legislative priorities;
 5. justice reinvestment opportunities for the AOC, public defenders and district attorneys;
 6. peer support and divergence; and
 7. sufficient court funding;
- B. corrections oversight:
 1. discussion of CCJ staff oversight;
 2. an update from the New Mexico Sentencing Commission;
 3. an update from the Corrections Department, including discussion of:
 - a. staffing and staff training;
 - b. programs, budgets, budget priorities and legislative priorities; and
 - c. probation and parole;
 4. a report on a review of DWI arrests, booking and post-arrest protocol (House Memorial 74 (2023)); and
 5. a report regarding changes to improve compliance of local, county, state and federal jails and detention and correctional facilities with the federal Prison Rape Elimination Act of 2003 (House Memorial 40 (2023));
- C. criminal law and criminal justice reform:
 1. criminal justice reform and recommended legislation, including:

- a. probation and parole reform;
 - b. pretrial detention;
 - c. fines and fees reform; and
 - d. justice reinvestment;
2. a study and redraft of the Criminal Code by the New Mexico Sentencing Commission; and
 3. an update from the Office of the Attorney General;
- D. policing and law enforcement;
- E. gun safety;
- F. the Children, Youth and Families Department (CYFD), regarding the *Kevin S.* settlement discussion regarding codification;
- G. topic requests by committee members, including:
1. legislative history and interpretation;
 2. intergovernmental tribal agreements;
 3. AOC specialty courts;
 4. the Children's Code Task Force;
 5. guardianship oversight;
 6. data integration;
 7. the Gateway Center;
 8. the Veterans Integration Centers;
 9. methadone clinics;
 10. overcrowded jails;
 11. police shootings;
 12. gun safety, including what other states have done to address gun safety;

13. sexual and domestic violence in relation to landlords and tenants;
14. the CYFD Juvenile Advisory Council;
15. parole reform (Senate Bill 84 (2023));
16. the Constitutional Revision Commission;
17. legislative pay;
18. the separation of powers;
19. probation and parole technical violations;
20. an evaluation of vetoed bills;
21. detainment for federal immigration violations (Senate Bill 172 (2023));
22. the processes of selecting and retaining judges;
23. public safety and pretrial detention;
24. language access in state courts;
25. a tour of Crossroads for Women;
26. the process by which New Mexico can access an annual \$25 million federal grant to address post-separation child and intimate partner abuse cases appearing in family and domestic violence courts;
27. the "Let Them Play" bill relating to provisions concerning student athletics (Senate Bill 384 (2023));
28. the use of a search warrant for a blood draw on a person charged with a misdemeanor DWI, which is not allowed under current law, and whether to allow the use of such search warrants for a first, second or third offense;
29. a presentation regarding pretrial detention, including updated data on re-offenders and habitual offenders;
30. an explanation of recent changes to the use of the Arnold tool by the Second Judicial District Court;
31. an update regarding officer vacancies in the Albuquerque Police Department;

32. a comprehensive discussion of behavioral health services and responses to criminal activity;
 33. a presentation regarding the fentanyl epidemic, including updated data for fentanyl-related deaths;
 34. a presentation from the AOC regarding the processing of outstanding warrants;
 35. a presentation regarding infant fatalities occurring while a child is under the care of the CYFD and a discussion of oversight options for the CYFD;
 36. a presentation regarding issues associated with the legalization of recreational marijuana, including jurisdictional issues for minors found in possession of marijuana at school, marijuana as contraband and driving while under the influence of marijuana;
 37. a presentation from the New Mexico Livestock Board regarding livestock theft;
 38. construction of a regional behavioral health facility to address behavioral health needs;
 39. an examination of chaptered bills;
 40. police training reform;
 41. a discussion of fines and fees;
 42. juvenile life without parole;
 43. foster youth identification cards;
 44. gun legislation to address liability for manufacturers; and
 45. firearm accessibility and preventive measures;
- H. legislation for committee consideration; and
- I. as necessary, examination of other issues relevant to courts, corrections and justice and criminal justice reform.

Please note that the aforementioned categories are for organizational purposes only, and specific presentation items may fall within more than one category.

**Courts, Corrections and Justice Committee
2023 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 5	Santa Fe
July 17-18	Ruidoso
August 22-24	Las Cruces
September 27-29	Albuquerque
October 25-27	Las Vegas
November 20-21	Santa Fe

AGENDAS AND MINUTES

Revised: June 1, 2023

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**June 5, 2023
State Capitol, House Chamber
Santa Fe**

Monday, June 5

- 10:00 a.m. **Call to Order and Introductions**
—Senator Joseph Cervantes, Chair
—Representative Christine Chandler, Vice Chair
- 10:15 a.m. (1) **Planes, Trains, Automobiles and Yachts? Ethics and the New Mexico
Judiciary — The New Mexico Supreme Court and Down**
—The Honorable David K. Thomson, Justice, New Mexico Supreme Court
—Phyllis A. Dominguez, Executive Director and General Counsel, Judicial
Standards Commission
—Denise Torres, Chair, Judicial Performance Evaluation Commission
- 11:30 a.m. (2) **Review and Adoption of the 2023 Work Plan and Meeting Schedule**
—Nancy Martinez, Researcher, Legislative Council Service
- 1:00 p.m. **Adjourn**

**MINUTES
of the
FIRST MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**June 5, 2023
State Capitol, House Chamber
Santa Fe**

The first meeting of the Courts, Corrections and Justice Committee was called to order by Senator Joseph Cervantes, chair, on June 5, 2023 at 10:11 a.m. in the House Chamber of the State Capitol in Santa Fe.

Present

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair
Rep. Eliseo Lee Alcon
Sen. Gregory A. Baca
Sen. Antonio Maestas
Rep. Alan T. Martinez
Sen. Bill B. O'Neill
Rep. Andrea Reeb
Rep. Andrea Romero
Sen. Antoinette Sedillo Lopez

Absent

Rep. Janelle Anyanonu
Rep. Gail Chasey
Sen. Cliff R. Pirtle
Rep. William "Bill" R. Rehm
Rep. Angelica Rubio

Advisory Members

Rep. Cynthia Borrego
Rep. Ambrose Castellano
Sen. Daniel A. Ivey-Soto
Sen. Linda M. Lopez
Rep. Stefani Lord
Rep. Reena Szczepanski

Rep. John Block
Rep. Micaela Lara Cadena
Sen. Katy M. Duhigg
Rep. D. Wonda Johnson
Rep. Tara L. Lujan
Rep. Willie D. Madrid
Sen. Mimi Stewart
Sen. Peter Wirth

Staff

Nancy Martinez, Researcher, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS
Christopher Copeland, Staff Attorney, LCS
Domenica Nieto, Assistant Librarian, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

References to Webcast

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at www.nmlegis.gov, under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

Monday, June 5

Planes, Trains, Automobiles and Yachts? Ethics and the New Mexico Judiciary — The New Mexico Supreme Court and Down (10:23 a.m.)

The Honorable David K. Thomson, justice, New Mexico Supreme Court; Phyllis A. Dominguez, executive director and general counsel, Judicial Standards Commission; and Denise Torres, chair, Judicial Performance Evaluation Commission, provided the committee with an overview of the judicial selection and retention process and the handling of judicial ethics complaints, and the panel answered committee members' questions.

Review of the 2023 Work Plan and Meeting Schedule (11:22 a.m.)

Senator Cervantes led the committee in an open discussion of topics of interest for committee consideration during the interim.

Adjournment

There being no further business before the committee, the meeting adjourned at 11:52 a.m.

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**July 17-18, 2023
Inn of the Mountain Gods
287 Carrizo Canyon Road
Mescalero**

Monday, July 17

- 9:30 a.m. **Call to Order and Introductions**
—Senator Joseph Cervantes, Chair
- (1) [Mescalero Detention Planning and Program](#)
—Duane T. Duffy, Secretary, Tribal Council, Mescalero Apache Tribe
- 10:00 a.m. (2) [Update on Congressional Redistricting Litigation: *Republican Party of New Mexico v. Michelle Lujan Grisham, S-1-SC-39481*](#)
- **New Mexico Supreme Court Order of July 5, 2023**
 - **United States Supreme Court Updated Rulings on Redistricting**
- Lucas M. Williams, Partner, Hinkle Shanor LLP
- 10:45 a.m. (3) [Review of 2023 Bill Introductions for the Children, Youth and Families Department \(CYFD\)](#)
- **Learning from Introductions, Analysis and Outcomes**
- Sean Dolan, Staff Attorney, Legislative Council Service (LCS)
- 11:30 a.m. (4) [CYFD Reforms and Programs](#)
—Teresa Casados, Acting Secretary, CYFD
—Julie A. Sakura, General Counsel, CYFD
- 12:30 p.m. **Working Lunch and Discussion**
- Approval of Minutes**
- 1:30 p.m. (5) [Legislative Finance Committee \(LFC\) Report 2023 and Updates](#)
—John Campbell, Program Evaluator, LFC
—Micaela Fischer, Program Evaluation Manager, LFC
- 2:00 p.m. (6) [CYFD in Collaboration with the New Mexico Courts](#)
—Beth Gillia, Executive Director, Office of Family Representation and Advocacy

3:00 p.m. (7) [Kevin S. Settlement: History and Performance Measures](#)
—Gary D. Housepian, Chief Executive Officer, Disability Rights New Mexico
—Bette Fleishman, Executive Director, Pegasus Legal Services for Children

4:00 p.m. **Committee Discussion of CYFD Legislation and Reforms for 2024**

5:00 p.m. **Recess**

Tuesday, July 18

8:30 a.m. **Reconvene**

8:35 a.m. (8) [Federal Courts' Jurisprudence on Second Amendment in 2023](#)

- **Pre-Bruen following *New York State Rifle and Pistol Assoc. v. Bruen***
—Senator Daniel A. Ivey-Soto
—Brandon Cummings, 2023 Legislative Analyst, Senate Judiciary Committee
- **United States Circuits Post-Bruen**
- **States' Responses Post-Bruen**
- **United States Supreme Court *Bruen* Dicta and Dissents: Clues, Strategies, Openings and Prognostications**

10:30 a.m. (9) [Proposed Laws Related to Firearms](#)
—Jason R. Bowie, Secretary, Department of Public Safety (DPS)
—Senator Daniel A. Ivey-Soto
—Brandon Cummings, 2023 Legislative Analyst, Senate Judiciary Committee
—Sean Dolan, Staff Attorney, LCS

- **Assault Weapons: Banning "Assault Style", Automatic and Semiautomatic Firearms**
 - Understanding automatic, semiautomatic and "assault" firearms
 - Federal restrictions on sales and possession of automatic firearms
 - Past federal bans and expiration of federal ban
 - 2023 New Mexico legislative introductions on "assault weapons"
 - Sponsors and outcomes
 - Modifying firearms, bump stock, ghost guns, Glock switch and others
 - States' legislative responses to "assault weapons" and bans
 - Prognosticating assault weapons restrictions under the United States Supreme Court post-*Bruen*
- **Age Restrictions on Firearm Purchases in New Mexico**
 - Existing federal and state age requirements
 - 2023 New Mexico legislative introductions on age of purchase and possession

- Age restrictions under the United States Supreme Court post-*Bruen* and prognostications
- **Governor's Proposed Laws on Assault Weapons and Age Restrictions**
—TBD, Office of the Governor (invited)
- **Committee Discussion on Assault Weapons and Age Restrictions**

12:00 noon **Working Lunch**

12:30 p.m. (10) **[Proposed Laws Related to Firearms \(Continued\)](#)**

- Jason R. Bowie, Secretary, DPS
- Senator Daniel A. Ivey-Soto
- Brandon Cummings, 2023 Legislative Analyst, Senate Judiciary Committee
- Sean Dolan, Staff Attorney, LCS
- **Waiting Periods for Firearm Purchases**
 - Existing federal and state waiting periods
 - 2023 New Mexico legislative introductions on waiting periods
 - Waiting periods under the United States Supreme Court post-*Bruen* and prognostications
- **Background Checks for Firearm Purchases**
 - Federal background checks in practice
 - Current New Mexico law on background check requirements
- **Federal Law Immunities for Gun Manufacturers and Sellers**
—David Pucino, Deputy Chief Counsel, Giffords Law Center
 - Exceptions to federal immunities
 - States' responses to federal immunities for gun manufacturers
 - 2023 New Mexico legislation introduced on gun manufacturers and sellers
- **Governor's Proposed Laws on Waiting Periods and Background Checks**
—TBD, Office of the Governor (invited)

2:30 p.m. (11) **[Committee Discussion on Proposed Gun Legislation for 2024](#)**

- **Governor's Proposed Gun Legislation for 2024**
—TBD, Office of the Governor (invited)

3:30 p.m. **Adjourn**

**MINUTES
of the
SECOND MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**July 17-18, 2023
Inn of the Mountain Gods
287 Carrizo Canyon Road
Mescalero**

The second meeting of the Courts, Corrections and Justice Committee was called to order by Senator Joseph Cervantes, chair, on July 17, 2023 at 9:59 a.m. at the Inn of the Mountain Gods in Mescalero.

Present

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu
Sen. Gregory A. Baca (7/17)
Rep. Gail Chasey (7/17)
Sen. Cliff R. Pirtle (7/18)
Rep. Andrea Reeb
Sen. Antoinette Sedillo Lopez

Absent

Sen. Antonio Maestas
Rep. Alan T. Martinez
Sen. Bill B. O'Neill
Rep. William "Bill" R. Rehm
Rep. Andrea Romero
Rep. Angelica Rubio

Advisory Members

Rep. John Block
Rep. Micaela Lara Cadena
Rep. Ambrose Castellano
Sen. Daniel A. Ivey-Soto
Rep. Stefani Lord
Rep. Willie D. Madrid

Rep. Cynthia Borrego
Sen. Katy M. Duhigg
Rep. D. Wonda Johnson
Sen. Linda M. Lopez
Rep. Tara L. Lujan
Sen. Mimi Stewart
Rep. Reena Szczepanski
Sen. Peter Wirth

(Attendance dates are noted for members not present for the entire meeting.)

Guest Legislator

Rep. Harlan Vincent

Staff

Nancy Martinez, Researcher, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS
Domenica Nieto, Assistant Librarian, LCS
Yessica Marquina, Intern, LCS
Ian Carrillo, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

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References to Webcast

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Monday, July 17

Mescalero Detention Planning and Program (10:17 a.m.)

Duane T. Duffy, secretary, Tribal Council, Mescalero Apache Tribe, introduced members of the Tribal Council in the audience, provided an overview of the tribal justice system, the tribal branches of government and issues with criminal jurisdiction and provided an update on the building of a detention facility. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20071723%20Item%201%20Mescalero%20Apache%20Tribe%20Justice%20System.pdf>.

Update on Congressional Redistricting Litigation: *Republican Party of New Mexico v. Michelle Lujan Grisham*, S-1-SC-39481 (11:07 a.m.)

Lucas M. Williams, partner, Hinkle Shanor LLP, and Ann Cox Tripp, associate attorney, Hinkle Shanor LLP, provided an update regarding this litigation, including a history of the filings, a summary of the rulings so far and a brief schedule of upcoming deadlines.

Review of 2023 Bill Introductions for the Children, Youth and Families Department (CYFD) (12:03 p.m.)

Mr. Dolan presented a summary of bills that were introduced in the 2023 legislative session that affected the CYFD.

CYFD Reforms and Programs (1:24 p.m.)

Teresa Casados, acting secretary, CYFD, and Julie A. Sakura, general counsel, CYFD, provided an update regarding the changes that Ms. Casados would like made and expressed optimism about working with the legislature.

Approval of Minutes (2:55 p.m.)

Upon a motion made and seconded, and without any objections, the committee unanimously approved the minutes of the June 5, 2023 meeting.

Legislative Finance Committee (LFC) Report 2023 and Updates (2:56 p.m.)

John Campbell, program evaluator, LFC, and Micaela Fischer, program evaluation manager, LFC, summarized the recent LFC report on juvenile justice and juvenile facilities, including progress made, changes from the last report, CYFD caseloads and recommendations for further improvement. The presentation can be found here:

www.nmlegis.gov/handouts/CCJ%20071723%20Item%202%20Progress%20Report%20Juvenile%20Justice%20Facilities.pdf.

CYFD in Collaboration with the New Mexico Courts (3:24 p.m.)

Beth Gillia, executive director, Office of Family Representation and Advocacy (OFRA), provided an overview of the OFRA, contracts with attorneys for children, advocacy for foster children and work that the OFRA hopes to do.

Kevin S. Settlement: History and Performance Measures (4:14 p.m.)

Gary D. Housepian, chief executive officer, Disability Rights New Mexico, and Bette Fleishman, executive director, Pegasus Legal Services for Children, summarized the *Kevin S.* settlement agreement, reviewed a new agreement reached with the state on a corrective action plan and answered questions from committee members. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=7/17/2023&ItemNumber=7>.

Recess

The meeting recessed at 5:13 p.m.

Tuesday, July 18

Reconvene

Senator Cervantes reconvened the meeting at 8:48 a.m.

Federal Courts' Jurisprudence on Second Amendment in 2023 (8:53 a.m.)

Senator Ivey-Soto and Brandon Cummings, 2023 legislative analyst, Senate Judiciary Committee, presented an overview of New Mexico and federal gun rights and a summary of *New York State Rifle and Pistol Assoc. v. Bruen* and related firearms cases. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20071723%20Item%208%20Federal%20Courts%20Jurisprudence%20on%20Second%20Amendment%20in%202023.pdf>.

Proposed Laws Related to Firearms (10:57 a.m.)

Jason R. Bowie, secretary, Department of Public Safety; Senator Ivey-Soto; Mr. Cummings; Mr. Dolan; and David Pucino, deputy chief counsel, Giffords Law Center, provided an overview of specific kinds of firearms, legislation introduced during the 2023 session, assault

weapons, age restrictions on firearms purchases, waiting periods for firearm purchases, background checks on firearm sales and federal law immunity for manufacturers and sellers. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20071723%20Item%209%20Proposed%20Laws%20Related%20to%20Firearms.pdf>.

Adjournment

There being no further business before the committee, the meeting adjourned at 2:36 p.m.

Revised: August 21, 2023

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**August 22-24, 2023
New Mexico Farm and Ranch Heritage Museum
4100 Dripping Springs Road
Las Cruces**

Tuesday, August 22

- 9:30 a.m. **Call to Order and Introductions**
—Senator Joseph Cervantes, Chair
—Representative Christine Chandler, Vice Chair
- 9:45 a.m. (1) **At the Front — Cannabis on the Texas/Mexico Border**
—Javier Perea, Mayor, City of Sunland Park
- 10:30 a.m. (2) **Holding Juveniles in New Mexico — J. Paul Taylor Juvenile Detention Center**
—Justin Bulger, Deputy Superintendent, J. Paul Taylor Juvenile Detention Center
- 11:00 a.m. **Tour of the J. Paul Taylor Juvenile Detention Center**
The tour is for committee members and staff only.
- 12:30 p.m. **Lunch — Farm and Ranch Heritage Museum**
- 1:30 p.m. (3) **County Immigration Facilities Dignity Not Detention Act: No Detention for Civil Immigration Violations — Senate Bill 172 (2023 Legislative Session)**
—Sean Dolan, Staff Attorney, Legislative Council Service (LCS)
—Sophia Genovese, Managing Attorney, New Mexico Immigrant Law Center
—Jovanny Sebastian Hernandez, Community Organizer (Chaparral), New Mexico Dream Team
—Ian Philabaum, Co-Director, Anticarceral Legal Organizing Program, Innovation Law Lab
—R.B. Nichols, County Attorney, Otero County
—Janice Y. Barela, County Manager, Torrance County
—Kate Fletcher, County Manager, Cibola County

- 3:30 p.m. (4) [New Mexico Corrections from the Outside](#)
—Hugh Dangler, LCS
- 4:30 p.m. **Committee Discussion — Corrections and Border Topics**
- 5:00 p.m. **Recess**

Wednesday, August 23

- 9:00 a.m. **Reconvene**
- 9:05 a.m. (5) [Overview of the Cannabis Regulation Act](#)
—Sean Dolan, Staff Attorney, LCS
—Senator Katy M. Duhigg
- 9:30 a.m. (6) [Overview of Cannabis Legislation Introduced in the 2023 Legislative Session](#)
—Sean Dolan, Staff Attorney, LCS
—Senator Katy M. Duhigg
- 10:00 a.m. (7) [Automatic Expungement of Cannabis Case Records](#)
—Celina Jones, General Counsel, Administrative Office of the Courts
- 10:30 a.m. (8) [Cannabis Control Division](#)
—Linda Trujillo, Superintendent, Regulation and Licensing Department
—Robert Sachs, Legal Counsel, Cannabis Control Division, Regulation and Licensing Department
- 12:00 noon **Lunch**
- 1:00 p.m. (9) [Current Cannabis Market Conditions](#)
—Senator Katy M. Duhigg
- 2:00 p.m. (10) [Cannabis Industry Panel Discussion](#)
—Senator Katy M. Duhigg
—Ben J. Lewinger, Executive Director, New Mexico Cannabis Chamber of Commerce
—Dan Pabon, Chief Policy and Regulatory Affairs Officer, Schwazze New Mexico, LLC
—Robert Duran, Head Space Distribution, LLC
—Alisa Tafoya, Desert Flower Growers, LLC
—Robbie Tafoya, Desert Flower Growers, LLC
- 4:00 p.m. (11) [Legislative Recommendations for the Upcoming Legislative Session](#)
—Senator Katy M. Duhigg
—Courts, Corrections and Justice Committee Members

5:00 p.m. **Recess**

Thursday, August 24

9:00 a.m. **Reconvene**

9:05 a.m. (12) **Border Security Update — Narcotic and Human Trafficking Trends**
—Rob Drager, Director, Intel Support Center, High Intensity Drug
 Trafficking Area Program
—Jason Stevens, Special Agent, Homeland Security Investigations, United
 States Department of Homeland Security
—W. Troy Weisler, Chief, New Mexico State Police

10:30 a.m. (13) **Corrections Department Update**
—Alisha Tafoya Lucero, Secretary, Corrections Department

12:00 noon **Adjourn**

**MINUTES
of the
THIRD MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**August 22-24, 2023
New Mexico Farm and Ranch Heritage Museum
4100 Dripping Springs Road
Las Cruces**

The third meeting of the Courts, Corrections and Justice Committee was called to order by Senator Joseph Cervantes, chair, on August 22, 2023 at 9:45 a.m. at the New Mexico Farm and Ranch Heritage Museum in Las Cruces.

Present

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair (8/22)
Rep. Eliseo Lee Alcon (8/23, 8/24)
Rep. Janelle Anyanonu (8/22, 8/23)
Sen. Gregory A. Baca (8/22)
Rep. Alan T. Martinez
Rep. Andrea Reeb
Rep. Andrea Romero (8/23, 8/24)
Rep. Angelica Rubio (8/22, 8/23)
Sen. Antoinette Sedillo Lopez

Absent

Rep. Gail Chasey
Sen. Antonio Maestas
Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle
Rep. William "Bill" R. Rehm

Advisory Members

Rep. John Block
Rep. Micaela Lara Cadena
Sen. Katy M. Duhigg (8/22, 8/23)
Sen. Daniel A. Ivey-Soto (8/22, 8/23)
Rep. Willie D. Madrid
Sen. Mimi Stewart (8/22, 8/23)

Rep. Cynthia Borrego
Rep. Ambrose Castellano
Rep. D. Wonda Johnson
Sen. Linda M. Lopez
Rep. Stefani Lord
Rep. Tara L. Lujan
Rep. Reena Szczepanski
Sen. Peter Wirth

Guest Legislators

Sen. Harold Pope
Rep. Joanne J. Ferrary (8/23, 8/24)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Nancy Martinez, Researcher, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS
Domenica Nieto, Assistant Librarian, LCS
Yessica Marquina, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

References to Webcast

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at www.nmlegis.gov, under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

Tuesday, August 22

At the Front — Cannabis on the Texas/Mexico Border (9:55 a.m.)

Javier Perea, mayor, City of Sunland Park, provided an overview of issues in southern New Mexico, including cannabis, human trafficking, crime and other related border issues.

Tour of the J. Paul Taylor Juvenile Detention Center (11:07 a.m.)

Committee members toured the J. Paul Taylor Juvenile Detention Center.

County Immigration Facilities Dignity Not Detention Act: No Detention for Civil Immigration Violations — Senate Bill 172 (2023 Legislative Session) (1:33 p.m.)

Mr. Dolan presented a summary of Senate Bill 172 (2023) and the legislative actions taken. Sophia Genovese, managing attorney, New Mexico Immigrant Law Center; Jovanny Sebastian Hernandez, community organizer (Chaparral), New Mexico Dream Team; Ian Philabaum, co-director, Anticarceral Legal Organizing Program, Innovation Law Lab; R.B. Nichols, county attorney, Otero County; Janice Y. Barela, county manager, Torrance County; and Kate Fletcher, county manager, Cibola County, presented opposing views regarding this bill, including the legal and financial impacts of Senate Bill 172 (2023) or any similar legislation. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=8/22/2023&ItemNumber=3>.

Third Judicial District Overview (3:32 p.m.)

The Honorable Conrad F. Perea, chief judge, Third Judicial District, provided the court's perspective on detention centers and the court's ability to hear cases quickly.

New Mexico Corrections from the Outside (4:02 p.m.)

Hugh Dangler, contract attorney, LCS, provided a summary of the research and reports he has compiled, including his recommendations. Mr. Dangler answered committee members' questions regarding his research. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20082223%20Item%204%20New%20Mexico%20Corrections%20from%20the%20Outside.pdf>.

Recess

The meeting recessed at 4:53 p.m.

Wednesday, August 23**Reconvene**

Senator Cervantes reconvened the meeting at 9:25 a.m.

Overview of the Cannabis Regulation Act (9:30 a.m.)

Mr. Dolan and Senator Duhigg presented a summary of legislation regarding cannabis introduced during the 2023 regular session and a comprehensive overview of the Cannabis Regulation Act. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20082223%20Item%205%20Overview%20of%20the%20Cannabis%20Regulation%20Act.pdf>.

Automatic Expungement of Cannabis Case Records and Cannabis Control Division (10:45 a.m.)

Celina Jones, general counsel, Administrative Office of the Courts; Linda Trujillo, superintendent, Regulation and Licensing Department (RLD); Todd Stevens, director, Cannabis Control Division, RLD; and Robert Sachs, legal counsel, Cannabis Control Division, RLD, presented an overview of the work of the Cannabis Control Division, including license types and enforcement procedures, and a review of changes to the cannabis record expungement system. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20082223%20Item%208%20RLD%20Cannabis%20Udate.pdf>.

Current Cannabis Market Conditions (1:22 p.m.)

Senator Duhigg presented a summary of the condition of the cannabis market in New Mexico, including sale rates, competition and market saturation. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20082223%20Item%209%20The%20Data%20Heard%20State%20of%20NM%20Market%20July%202023.pdf>.

Approval of Minutes (2:19 p.m.)

The committee unanimously approved the minutes of the July 17-18, 2023 meeting.

Cannabis Industry Panel Discussion (2:20 p.m.)

Senator Duhigg; Ben J. Lewinger, executive director, New Mexico Cannabis Chamber of Commerce; Dan Pabon, chief policy and regulatory affairs officer, Schwazze New Mexico, LLC; Robert Duran, Head Space Distribution, LLC; Alisa Tafoya, Desert Flower Growers, LLC; and Robbie Tafoya, Desert Flower Growers, LLC, discussed the state of the cannabis industry in New Mexico, including their individual perspectives and stories regarding the industry and potential changes to the law. The panelists also answered questions from committee members.

Legislative Recommendations for the Upcoming Legislative Session (3:43 p.m.)

Senator Duhigg led an open committee discussion reviewing the information presented during the panels and ideas for potential legislation to propose in 2024.

Recess

The meeting recessed at 4:14 p.m.

Thursday, August 24**Reconvene**

Senator Cervantes reconvened the meeting at 9:20 a.m.

Border Security Update — Narcotic and Human Trafficking Trends (9:21 a.m.)

Rob Drager, director, Intel Support Center, High Intensity Drug Trafficking Area Program; Jason Stevens, special agent, Homeland Security Investigations, United States Department of Homeland Security; and W. Troy Weisler, chief, New Mexico State Police, presented information regarding issues their respective agencies are seeing along the border, potential legislative fixes and areas for cooperation and improvement. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=8/22/2023&ItemNumber=12>.

Corrections Department Update (11:08 a.m.)

Alisha Tafoya Lucero, secretary, Corrections Department; Melanie Martinez, deputy secretary, Corrections Department; Carlos Lazarin, deputy warden, Southern New Mexico Correctional Facility; and Gary Maciel, director, Adult Prisons Division, Corrections Department, answered committee members' questions regarding the status of the Corrections Department.

Adjournment

There being no further business before the committee, the meeting adjourned at 12:06 p.m.

Revised: September 25, 2023

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 27-29, 2023
Continuing Education Building
University of New Mexico
1634 University Boulevard NE
Albuquerque**

Wednesday, September 27

- 9:15 a.m. **Call to Order and Introductions**
—Representative Christine Chandler, Vice Chair
- 9:30 a.m. (1) [**Artificial Intelligence \(R\)evolution: How Did We Get Here, and Where Are We Going?**](#)
—Melanie Moses, Ph.D., Professor, Department of Computer Science, University of New Mexico (UNM); External Faculty, Santa Fe Institute (SFI)
- 10:45 a.m. (2) [**Predictive Policing**](#)
—Sarah Brayne, Ph.D., Associate Professor, Department of Sociology, University of Texas-Austin
- 12:15 p.m. **Working Lunch**
- 1:00 p.m. (3) [**Transparency and Fairness in Criminal Justice and Housing**](#)
—Christopher Moore, Ph.D., Professor, SFI; Member, Interdisciplinary Working Group on Algorithmic Justice
- 2:15 p.m. (4) [**The Politics of Algorithmic Justice**](#)
—Kathy L. Powers, Ph.D., Associate Professor, UNM
- 3:15 p.m. (5) [**Implications of Artificial Intelligence as Applied to the Legal Profession**](#)
—Sonia M. Gipson Rankin, J.D., Esq., Professor, School of Law, UNM
- 4:30 p.m. **Committee Discussion**
- 5:00 p.m. **Recess**

Thursday, September 28

8:30 a.m. **Reconvene**

8:35 a.m. (6) **The New Superintendent's Vision, Priorities and Emerging Policy Initiatives**
—Alice T. Kane, Superintendent of Insurance, Office of Superintendent of Insurance

9:45 a.m. (7) **Probation and Parole: A National Perspective**
—Maura McNamara, Policy Manager, Crime and Justice Institute
—Jessie Halladay, Senior Policy Specialist, Crime and Justice Institute

11:15 a.m. (8) **Probation and Parole Bills Introduced in the 2023 Legislative Session**
—Sean Dolan, Staff Attorney, Legislative Council Service

11:30 a.m. (9) **Panel Discussion — Technical Violations Bill (Senate Bill 84 (2023))**
—Timothy L. Rose, District Attorney, Tenth Judicial District
—Kim Chavez-Cook, Appellate Defender, Public Defender Department
—Douglas Carver, Deputy Director, New Mexico Sentencing Commission
—Alisha Tafoya Lucero, Secretary, Corrections Department
—Melanie Martinez, Deputy Secretary, Corrections Department

12:45 p.m. **Working Lunch**

1:30 p.m. (10) **Understanding the Role of the Parole Board in the Reentry Process**
—Sheila Lewis, J.D., Former Chair, Parole Board; Retired Appellate Defender, Public Defender Department

2:15 p.m. (11) **What Reentry Looks Like from an Inmate's Perspective**
—Reilly Johnson, Life Sentence Parolee

3:00 p.m. (12) **Bringing the Miami Model to New Mexico: Using Diversion Treatment and Prevention to Deter Crime and Jail and Emergency Room Overcrowding and Ultimately Find Better Court-Supported Behavioral Health Solutions**
—Connie Elizabeth Vigil, Behavioral Health Master Plan Coordinator, Bernalillo County Behavioral Health Committee; President, Greater Albuquerque Business Alliance
—Laura Carlisle, O.T./L., Board Member, National Alliance on Mental Illness; Behavioral Health Specialist, Bernalillo County Behavioral Health Committee
—Eric Olivas, Commissioner, District 5, Bernalillo County Board of County Commissioners

4:00 p.m. **Committee Discussion**

4:30 p.m. **Recess**

Friday, September 29

9:00 a.m. **Reconvene**

9:05 a.m. (13) **The Cannabis Tax Distribution Act and the Creation of a Cannabis Equity Fund, a Community Reinvestment Grant Fund and a Substance Use Disorder Prevention and Treatment Fund**

—Representative Andrea Romero

—Emily Kaltenbach, Senior Director, State Advocacy and Criminal Legal Reform, Drug Policy Alliance

10:15 a.m. (14) **Implementation of Senate Bill 64 (2023)**

—Denali Wilson, Staff Attorney, American Civil Liberties Union of New Mexico

—Stephen Taylor, Executive Director, (De)Serving Life

—Mark Lovato, General Counsel, Corrections Department

—Melanie Martinez, Deputy Secretary, Corrections Department

—Gary Maciel, Director, Adult Prisons Division, Corrections Department

12:00 noon **Adjourn**

**MINUTES
of the
FOURTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**September 27-29, 2023
Continuing Education Building
University of New Mexico
1634 University Boulevard NE
Albuquerque**

The fourth meeting of the Courts, Corrections and Justice Committee was called to order by Representative Christine Chandler, vice chair, on September 27, 2023 at 9:17 a.m. in the Continuing Education Building at the University of New Mexico (UNM).

Present

Rep. Christine Chandler, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu
Sen. Gregory A. Baca (9/27, 9/29)
Rep. Gail Chasey
Sen. Antonio Maestas (9/28, 9/29)
Rep. Alan T. Martinez (9/27)
Sen. Bill B. O'Neill (9/28, 9/29)
Rep. Andrea Reeb
Rep. William "Bill" R. Rehm
Rep. Andrea Romero (9/27, 9/29)
Sen. Antoinette Sedillo Lopez

Absent

Sen. Joseph Cervantes, Chair
Sen. Cliff R. Pirtle
Rep. Angelica Rubio

Advisory Members

Rep. John Block
Rep. Cynthia Borrego
Rep. Micaela Lara Cadena
Rep. Ambrose Castellano (9/28)
Sen. Daniel A. Ivey-Soto
Sen. Linda M. Lopez
Rep. Stefani Lord
Rep. Tara L. Lujan (9/28)
Rep. Willie D. Madrid
Sen. Mimi Stewart (9/27, 9/28)
Sen. Peter Wirth

Sen. Katy M. Duhigg
Rep. D. Wonda Johnson
Rep. Reena Szczepanski

Guest Legislators

Rep. Marian Matthews (9/28)
Sen. Shannon D. Pinto (9/28)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Nancy Martinez, Bill Drafter, Legislative Council Service (LCS)

Sean Dolan, Staff Attorney, LCS

Domenica Nieto, Assistant Librarian, LCS

Yessica Marquina, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

References to Webcast

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Wednesday, September 27

Artificial Intelligence (R)evolution: How Did We Get Here, and Where Are We Going? (9:21 a.m.)

Melanie Moses, Ph.D., professor, Department of Computer Science, UNM, and external faculty, Santa Fe Institute (SFI), presented an overview of the history of artificial intelligence and an explanation of where that technology might lead. The presentation can be found here:

[https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%201%20AI%20\(R\)evolution %20How%20did%20we%20get%20here%20and%20where%20are%20we%20going.pdf](https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%201%20AI%20(R)evolution%20How%20did%20we%20get%20here%20and%20where%20are%20we%20going.pdf).

Predictive Policing (10:52 a.m.)

Sarah Brayne, Ph.D., associate professor, Department of Sociology, University of Texas-Austin, presented information regarding how data is collected and used for predictive policing, a summary of how the process works and ideas for improvement. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%202%20Predictive%20Policing.pdf>.

Welcoming Remarks (12:34 p.m.)

Camille Carey, dean, UNM School of Law, welcomed the committee to UNM and discussed what is new at the law school.

Transparency and Fairness in Criminal Justice and Housing (1:12 p.m.)

Cristopher Moore, Ph.D., professor, SFI, and member, Interdisciplinary Working Group on Algorithmic Justice, explained how algorithms work, how weighing algorithms can change outcomes and accuracy and how to properly understand the results of algorithms in the right context. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%203%20Transperancy%20and%20Fairness%20in%20Criminal%20Justice%20and%20Housing.pdf>.

The Politics of Algorithmic Justice (2:41 p.m.)

Kathy L. Powers, Ph.D., associate professor, UNM, presented on the uses and purposes of algorithms, how these systems affect different people and how the systems are developed. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%204%20Powers%20politics%20of%20algorithmic%20justice.pdf>.

Implications of Artificial Intelligence as Applied to the Legal Profession (3:29 p.m.)

Sonia M. Gipson Rankin, J.D., Esq., professor, School of Law, UNM, presented information regarding the implementation of artificial intelligence in the legal profession, including ways artificial intelligence has already been used and where the field may be going. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%205%20Implications%20of%20Artificial%20Intelligence%20as%20Applied%20to%20the%20Legal%20Profession.pdf>.

Recess

The meeting recessed at 4:09 p.m.

Thursday, September 28

Reconvene

Representative Chandler reconvened the meeting at 8:44 a.m.

The New Superintendent's Vision, Priorities and Emerging Policy Initiatives (8:46 a.m.)

Alice T. Kane, superintendent of insurance, Office of Superintendent of Insurance, summarized her past experiences and gave a roadmap of how the superintendent views the agency.

Probation and Parole: A National Perspective (9:46 a.m.)

Maura McNamara, policy manager, Crime and Justice Institute, and Jessie Halladay, senior policy specialist, Crime and Justice Institute, provided a national perspective on

community supervision, evidence-based practices and state examples of probation and parole systems. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%207%20Probation%20and%20Parole-%20A%20National%20Perspective.pdf>.

Probation and Parole Bills Introduced in the 2023 Legislative Session (11:13 a.m.)

Mr. Dolan presented a summary of bills related to probation and parole that were introduced during the 2023 legislative session.

Panel Discussion — Technical Violations Bill (Senate Bill 84 (2023)) (11:25 a.m.)

Timothy L. Rose, district attorney, Tenth Judicial District; Kim Chavez-Cook, appellate defender, Public Defender Department; Douglas Carver, deputy director, New Mexico Sentencing Commission; Alisha Tafoya Lucero, secretary, Corrections Department; and Melanie Martinez, deputy secretary, Corrections Department, led a committee discussion about various issues regarding how Senate Bill 84 (2023) was developed, including what had been proposed and cut.

Understanding the Role of the Parole Board in the Reentry Process (1:31 p.m.)

Sheila Lewis, J.D., former chair, Parole Board, and retired appellate defender, Public Defender Department, discussed the differences between parole and probation, gave a history of model inmates who had succeeded on parole or probation and how the Parole Board makes decisions regarding parole. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20092723%20Item%2010%20Understanding%20the%20Role%20of%20the%20Parole%20Board%20in%20the%20Reentry%20Process.pdf>.

What Reentry Looks Like from an Inmate's Perspective (1:46 p.m.)

Reilly Johnson, life sentence parolee, was asked a series of questions from Ms. Lewis regarding his time in prison, the difficulties in being granted parole and how he succeeded in and out of prison.

Bringing the Miami Model to New Mexico: Using Diversion Treatment and Prevention to Deter Crime and Jail and Emergency Room Overcrowding and Ultimately Find Better Court-Supported Behavioral Health Solutions (3:02 p.m.)

Connie Elizabeth Vigil, behavioral health master plan coordinator, Bernalillo County Behavioral Health Committee, and president, Greater Albuquerque Business Alliance; Laura Carlisle, O.T./L., board member, National Alliance on Mental Illness, and behavioral health specialist, Bernalillo County Behavioral Health Committee; and Eric Olivas, commissioner, District 5, Bernalillo County Board of County Commissioners, provided information on the steps

taken by the Miami Model to treat and prevent substance use and how that might work in New Mexico. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=9/27/2023&ItemNumber=12>.

Recess

The meeting recessed at 4:35 p.m.

Friday, September 27

Reconvene

Representative Chandler reconvened the meeting at 9:07 a.m.

Approval of Minutes (9:08 a.m.)

The committee unanimously approved the minutes of the August 22-24, 2023 meeting.

Approval for Sending Letter (9:09 a.m.)

The committee unanimously approved the drafting of a letter to executive agencies regarding their use of artificial intelligence, if any.

The Cannabis Tax Distribution Act and the Creation of a Cannabis Equity Fund, a Community Reinvestment Grant Fund and a Substance Use Disorder Prevention and Treatment Fund (9:12 a.m.)

Representative Romero and Emily Kaltenbach, senior director, State Advocacy and Criminal Legal Reform, Drug Policy Alliance, discussed pros and cons of cannabis tax going straight to the General Fund, as opposed to many other states who earmark cannabis taxes for various purposes.

Implementation of Senate Bill 64 (2023) (10:25 a.m.)

Denali Wilson, staff attorney, American Civil Liberties Union of New Mexico; Stephen Taylor, executive director, (De)Serving Life; Mark Lovato, general counsel, Corrections Department; Melanie Martinez; and Gary Maciel, director, Adult Prisons Division, Corrections Department, discussed what is and is not working in implementing parole for juveniles previously given a life sentence without the possibility of parole.

Adjournment

There being no further business before the committee, the meeting adjourned at 12:05 p.m.

Revised: October 24, 2023

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**October 25-27, 2023
Student Union Ballroom
New Mexico Highlands University
800 National Avenue
Las Vegas**

Wednesday, October 25

- 8:30 a.m. **Call to Order and Introductions**
—Senator Joseph Cervantes, Chair
- 8:45 a.m. (1) **Welcoming Remarks — New Mexico Highlands University (NMHU)**
—Sam Minner, Ph.D., President, NMHU
- 9:00 a.m. (2) **Crime in San Miguel and Torrance Counties**
—Chris Lopez, Sheriff, San Miguel County
—Tom Clayton, District Attorney, Fourth Judicial District
—Michael A. Aragon, Judge, Fourth Judicial District
—Cindy Garza, Magistrate Judge, Fourth Judicial District
- 9:30 a.m. (3) **Administrative Office of the Courts (AOC) — Legislative Priorities and Budget**
—The Honorable C. Shannon Bacon, Chief Justice, New Mexico Supreme Court
—Arthur W. Pepin, Director, AOC
- 10:30 a.m. (4) **Pretrial Assessment from the Bench**
—The Honorable C. Shannon Bacon, Chief Justice, New Mexico Supreme Court
—Arthur W. Pepin, Director, AOC
- 12:30 p.m. **Working Lunch**
- 1:30 p.m. (5) **Pretrial Assessment, Detention and Release — Retooling the Tool**
—Jonathan Ibarra, Assistant Public Defender, Public Defender Department (PDD)
—Tom Clayton, District Attorney, Fourth Judicial District
—TBD, Executive Branch Initiatives (invited)

2:30 p.m. (6) [District Attorney and Public Defender Workloads — Buried? Budget Proposals](#)

—Tom Clayton, District Attorney, Fourth Judicial District
—Bennett J. Baur, Chief Public Defender, PDD

3:30 p.m. (7) [Roundup! Warrant Sweeps](#)

—Cynthia Pacheco, Statewide Program Manager, AOC
—Tom Clayton, District Attorney, Fourth Judicial District
—Dale Wagoner, Deputy Chief, New Mexico State Police
—Harold Medina, Police Chief, Albuquerque Police Department
—Sam Bregman, District Attorney, Second Judicial District
—TBD, Executive Branch Initiatives (invited)

4:30 p.m. **Committee Discussion**

5:00 p.m. **Recess**

Thursday, October 26

9:00 a.m. **Reconvene**

9:05 a.m. (8) [DWI — First Judicial District — Case Studies](#)

—Mary Carmack-Altwise, District Attorney, First Judicial District
—Julie Gallardo, Deputy District Attorney, First Judicial District

11:00 a.m. (9) [Testing the Second Amendment — Firearms Rulings on Magazines and Assault Weapons — Waiting Periods — Age Restrictions](#)

—Senator Daniel A. Ivey-Soto
—TBD, Executive Branch Initiatives (invited)

12:30 p.m. **Working Lunch**

1:30 p.m. (10) [Executive Orders and Separation of Powers](#)

—Sean Dolan, Staff Attorney, Legislative Council Service
—Former State Senator Jacob Candelaria, District 26

3:00 p.m. (11) [Secret Settlements — Who is Accountable?](#)

—Micaela Fischer, Program Evaluation Manager, Legislative Finance Committee
—Robert E. Doucette, Jr., Secretary, General Services Department (invited)
—F. Michael Hart, Attorney, Martinez, Hart, Sanchez & Romero, P.C.

4:30 p.m. **Committee Discussion**

5:00 p.m. **Recess**

Friday, October 27

9:00 a.m. **Reconvene**

9:05 a.m. (12) **Marijuana Non-Enforcement — Right Under Our Nose**
—Linda Trujillo, Superintendent, Regulation and Licensing Department
—W. Troy Weisler, Chief, New Mexico State Police
—James Grayson, Chief Deputy Attorney General, Office of the Attorney
General (invited)

11:30 a.m. **Committee Discussion**

12:00 noon **Adjourn**

**MINUTES
of the
FIFTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**October 25-27, 2023
Student Union Ballroom
New Mexico Highlands University
800 National Avenue
Las Vegas**

The fifth meeting of the Courts, Corrections and Justice Committee was called to order by Senator Joseph Cervantes, chair, on October 25, 2023 at 8:53 a.m. in the Student Union Ballroom at New Mexico Highlands University in Las Vegas.

Present

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair (10/25)
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu
Sen. Gregory A. Baca (10/27)
Rep. Gail Chasey (10/25)
Sen. Antonio Maestas (10/25)
Sen. Cliff R. Pirtle (10/27)
Rep. Andrea Reeb
Rep. William "Bill" R. Rehm
Sen. Antoinette Sedillo Lopez (10/25)

Absent

Rep. Alan T. Martinez
Sen. Bill B. O'Neill
Rep. Andrea Romero
Rep. Angelica Rubio

Advisory Members

Rep. John Block
Rep. Cynthia Borrego (10/26, 10/27)
Rep. Micaela Lara Cadena
Rep. Ambrose Castellano (10/25, 10/26)
Sen. Daniel A. Ivey-Soto (10/25, 10/26)
Sen. Linda M. Lopez (10/25, 10/26)
Rep. Stefani Lord (10/25, 10/26)
Rep. Tara L. Lujan (10/26)
Sen. Mimi Stewart (10/25, 10/26)
Sen. Peter Wirth (10/25)

Sen. Katy M. Duhigg
Rep. D. Wonda Johnson
Rep. Willie D. Madrid
Rep. Reena Szczepanski

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Nancy Martinez, Bill Drafter, Legislative Council Service (LCS)

Sean Dolan, Staff Attorney, LCS

Domenica Nieto, Assistant Librarian, LCS

Yessica Marquina, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

References to Webcast

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Wednesday, October 25**Welcoming Remarks — New Mexico Highlands University (NMHU) (8:54 a.m.)**

Sam Minner, Ph.D., president, NMHU, welcomed the committee to NMHU and discussed issues and successes of the university.

Crime in San Miguel and Torrance Counties (9:19 a.m.)

Chris Lopez, sheriff, San Miguel County; Tom Clayton, district attorney, Fourth Judicial District; Michael A. Aragon, judge, Fourth Judicial District; and Cindy Garza, magistrate judge, Fourth Judicial District, provided an overview of issues related to crime and drug abuse in San Miguel and Torrance counties, discussed resources available in the court system and answered questions from committee members.

Administrative Office of the Courts (AOC) — Legislative Priorities and Budget (10:05 a.m.)

The Honorable C. Shannon Bacon, chief justice, New Mexico Supreme Court, and Arthur W. Pepin, director, AOC, presented an overview of issues concerning the judiciary, including recruitment and retention, salaries, retirement and the judicial election process.

Approval of Minutes (1:27 p.m.)

On a motion duly made and seconded, the committee unanimously approved the minutes of the September 27-29, 2023 meeting.

Pretrial Assessment from the Bench, Detention and Release — Retooling the Tool (1:28 p.m.)

Chief Justice Bacon; Mr. Pepin; Jonathan Ibarra, assistant public defender, Public Defender Department (PDD); and Tom Clayton, district attorney, Fourth Judicial District, presented statistics and information regarding what is and is not working well with pretrial release, discussed possibilities for improvement and collaboration and answered committee members' questions regarding specifics of the presentation. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=10/25/2023&ItemNumber=4>.

District Attorney and Public Defender Workloads — Buried? Budget Proposals (3:53 p.m.)

Mr. Clayton and Bennett J. Baur, chief public defender, PDD, summarized the difficulties their respective offices have had with hiring and retaining staff, discussed staff work loads and provided updates on upcoming budget requests.

Roundup! Warrant Sweeps (4:24 p.m.)

Cynthia Pacheco, statewide program manager, AOC; Mr. Clayton; Dale Wagoner, deputy chief, New Mexico State Police; Harold Medina, police chief, Albuquerque Police Department; and Sam Bregman, district attorney, Second Judicial District, provided an overview of what each district is doing to apprehend people with outstanding warrants and data regarding progress that has been made in that respect.

Recess

The meeting recessed at 5:25 p.m.

Thursday, October 26

Reconvene

Senator Cervantes reconvened the meeting at 9:22 a.m.

DWI — First Judicial District — Case Studies (9:30 a.m.)

Mary Carmack-Altwise, district attorney, First Judicial District, and Julie Gallardo, deputy district attorney, First Judicial District, presented an overview of the First Judicial District's unique approach to DWI cases and how that approach has increased conviction rates and lowered the rate of cases being dismissed.

Testing the Second Amendment — Firearms Rulings on Magazines and Assault Weapons — Waiting Periods — Age Restrictions (11:11 a.m.)

Senator Ivey-Soto provided an update on recent New Mexico and federal cases regarding firearms restrictions, including what has and has not been found to be constitutional. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20102523%20Item%209%202A%20Law%20Presentation%202.pdf>.

Executive Orders and Separation of Powers (1:40 p.m.)

Mr. Dolan and Jacob Candelaria, former state senator, District 26, presented a review of bills introduced during the 2023 legislative session regarding executive orders of the governor and a recent Supreme Court decision involving Mr. Candelaria. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=10/25/2023&ItemNumber=10>.

Secret Settlements — Who is Accountable? (3:00 p.m.)

Micaela Fischer, program evaluation manager, Legislative Finance Committee (LFC); Robert E. Doucette, Jr., secretary, General Services Department; Jacob Maule, general counsel, General Services Department; and F. Michael Hart, attorney, Martinez, Hart, Sanchez & Romero, P.C., discussed a recent LFC report regarding the major risk funds of the Risk Management Division of the General Services Department, legislative proposals, settlements not posted to the New Mexico Sunshine Portal and developments within the General Services Department. The presentation can be found here:

<https://www.nmlegis.gov/handouts/CCJ%20102523%20Item%2011%20FINAL%20RMD%20EVAL%209.26.23.pdf>.

Recess

The meeting recessed at 4:00 p.m.

Friday, October 27

Reconvene

Senator Cervantes reconvened the meeting at 9:17 a.m.

Marijuana Non-Enforcement — Right Under Our Nose (9:22 a.m.)

Linda Trujillo, superintendent, Regulation and Licensing Department; W. Troy Weisler, chief, New Mexico State Police; and James Grayson, chief deputy attorney general, Office of the Attorney General, presented on issues regarding cannabis enforcement, both failures and successes, and answered committee members' questions.

Adjournment

There being no further business before the committee, the meeting adjourned at 11:44 a.m.

Revised: November 17, 2023

**TENTATIVE AGENDA
for the
SIXTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE**

**November 20-21, 2023
State Capitol, Room 307
Santa Fe**

Monday, November 20 - Tuesday, November 21

- 9:00 a.m. **Call to Order and Introductions**
—Senator Joseph Cervantes, Chair
- 9:15 a.m. (1) **County Detention Facilities and Legislative Priorities**
—Grace Philips, General Counsel, New Mexico Association of Counties
—Katherine Crociata, Government Relations, New Mexico Association of
 Counties
- [TBD] (2) **Consideration of Legislation for Endorsement**
—TBD
- [TBD] **Adjourn**

MINUTES
of the
SIXTH MEETING
of the
COURTS, CORRECTIONS AND JUSTICE COMMITTEE

November 20, 2023
State Capitol, Room 307
Santa Fe

December 12, 2023
State Capitol, Room 317
Santa Fe

The sixth meeting of the Courts, Corrections and Justice Committee was called to order by Representative Christine Chandler, vice chair, on November 20, 2023 at 9:23 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Sen. Joseph Cervantes, Chair
Rep. Christine Chandler, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Janelle Anyanonu (12/12)
Sen. Gregory A. Baca (11/20)
Rep. Gail Chasey
Sen. Antonio Maestas
Rep. Alan T. Martinez
Sen. Bill B. O'Neill
Rep. Andrea Reeb
Rep. William "Bill" R. Rehm
Rep. Andrea Romero (12/12)
Sen. Antoinette Sedillo Lopez (11/20)

Absent

Sen. Cliff R. Pirtle
Rep. Angelica Rubio

Advisory Members

Rep. John Block
Rep. Cynthia Borrego
Rep. Micaela Lara Cadena (12/12)
Rep. Ambrose Castellano (11/20)
Sen. Katy M. Duhigg
Sen. Daniel A. Ivey-Soto
Sen. Linda M. López
Rep. Stefani Lord (11/20)
Rep. Tara L. Lujan (11/20)
Sen. Mimi Stewart (12/12)
Rep. Reena Szczepanski (11/20)
Sen. Peter Wirth

Rep. D. Wonda Johnson
Rep. Willie D. Madrid

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Nancy Martinez, Bill Drafter, Legislative Council Service (LCS)

Sean Dolan, Staff Attorney, LCS

Domenica Nieto, Assistant Librarian, LCS

Yessica Marquina, Intern, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

References to Webcast

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at www.nmlegis.gov, under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

Monday, November 20 — State Capitol, Room 307

County Detention Facilities and Legislative Priorities (9:28 a.m.)

Grace Philips, general counsel, New Mexico Association of Counties, and Katherine Crociata, government relations, New Mexico Association of Counties, presented a review of the status of correctional facilities in New Mexico counties, rates of employment vacancies in the counties, insurance issues and legislative priorities for the upcoming session. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=CCJ&Date=11/20/2023&ItemNumber=1>.

Approval of Minutes (10:45 a.m.)

The committee unanimously approved the minutes of the October 25-27, 2023 meeting.

Recess

The meeting recessed at 10:59 a.m.

Tuesday, December 12 — State Capitol, Room 317

Reconvene

Senator Cervantes reconvened the meeting at 10:10 a.m.

Consideration of Legislation for Endorsement (10:25 a.m.)

Committee members discussed legislation for endorsement. The endorsed legislation can be found here:

https://www.nmlegis.gov/Committee/endorsed_legislation?CommitteeCode=CCJ&Year=2023.

Adjournment

There being no further business before the committee, the meeting adjourned at 3:21 p.m.

ENDORSED LEGISLATION

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIME; CLARIFYING THAT EMBEZZLEMENT INCLUDES
EMBEZZLING FOR ANOTHER'S USE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-16-8 NMSA 1978 (being Laws 1963,
Chapter 303, Section 16-7, as amended) is amended to read:

"30-16-8. EMBEZZLEMENT.--

A. Embezzlement consists of a person embezzling or
converting to the person's own or another's use anything of
value, with which the person has been entrusted, with
fraudulent intent to deprive the owner thereof.

B. Whoever commits embezzlement when the value of
the thing embezzled or converted is two hundred fifty dollars
(\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits embezzlement when the value of

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1 the thing embezzled or converted is over two hundred fifty
2 dollars (\$250) but not more than five hundred dollars (\$500)
3 is guilty of a misdemeanor.

4 D. Whoever commits embezzlement when the value of
5 the thing embezzled or converted is over five hundred dollars
6 (\$500) but not more than two thousand five hundred dollars
7 (\$2,500) is guilty of a fourth degree felony.

8 E. Whoever commits embezzlement when the value of
9 the thing embezzled or converted is over two thousand five
10 hundred dollars (\$2,500) but not more than twenty thousand
11 dollars (\$20,000) is guilty of a third degree felony.

12 F. Whoever commits embezzlement when the value of
13 the thing embezzled or converted exceeds twenty thousand
14 dollars (\$20,000) is guilty of a second degree felony."

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HOUSE MEMORIAL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

A MEMORIAL

REQUESTING THE SECRETARY OF CHILDREN, YOUTH AND FAMILIES TO
CONVENE A TASK FORCE TO ADDRESS THE ONGOING PROBLEM OF CHILDREN
RUNNING AWAY FROM FOSTER HOME PLACEMENT.

WHEREAS, throughout the United States, an estimated fifty-
five children will disappear today from the foster care system;
and

WHEREAS, in the past twenty years, more than one hundred
thousand cases involving missing foster children in the United
States were closed before the children were located; and

WHEREAS, according to the children, youth and families
department, as of January 1, 2023, there were thirty children
missing after placement by the department's protective services
division; and

WHEREAS, in New Mexico, according to the children, youth

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1 and families department, in 2022, nine children in foster care
2 turned eighteen years of age while on runaway status, thus
3 aging out of foster care and losing the safety and protection
4 of the department charged with protecting them; and

5 WHEREAS, state agencies were not required to report
6 missing foster children to law enforcement until 2014, and
7 since that time, reports of children missing from foster care
8 have more than doubled; and

9 WHEREAS, human traffickers know that children without
10 stable families are easy prey, and research overwhelmingly
11 shows that most sexually trafficked children are from foster
12 care; and

13 WHEREAS, children in foster care and out-of-home placement
14 constitute most of the sexually trafficked children in the
15 United States; and

16 WHEREAS, children removed from sex trafficking report that
17 they are given a quota of up to fifteen buyers per night,
18 perhaps resulting in sex-trafficking victims being raped
19 thousands of times a year; and

20 WHEREAS, missing foster children often remain missing and
21 potentially sexually trafficked because there are no involved
22 families to lead a search and law enforcement authorities are
23 hindered by laws that prevent transparency about the details of
24 a missing child's identity; and

25 WHEREAS, there are no state or nationwide protocols for

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1 preventing the disappearance of foster children or for the
2 search and recovery of missing foster children; and

3 WHEREAS, the purpose of child protective services is to
4 prevent reoccurring child abuse and the traumatization of
5 children in New Mexico; and

6 WHEREAS, many children within the foster care system have
7 specific needs that are unaddressed; and

8 WHEREAS, New Mexico should make every effort to keep
9 foster children safe and spare no effort to locate a child
10 missing from foster care;

11 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
12 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the secretary
13 of children, youth and families be requested to convene a child
14 protective services task force to make recommendations to the
15 children, youth and families department on how to prevent
16 children from running away from foster care and develop an
17 effective strategy to recover children missing from foster
18 care; and

19 BE IT FURTHER RESOLVED that the child protective services
20 task force be requested to:

21 A. analyze data related to children who have run
22 away from foster care;

23 B. analyze the root causes of why children run away
24 from foster care;

25 C. identify and analyze behaviors that contribute

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1 to children running away from foster care;

2 D. analyze the likelihood that children who have
3 run away from foster care will become victims of crime;

4 E. analyze best practices, state laws and rules and
5 foster home protocols and practices related to children running
6 away from foster care;

7 F. develop a consistent, prompt and effective
8 response to recover missing children; and

9 G. address the safety and well-being of a child who
10 has run away upon the child's return to a foster home; and

11 BE IT FURTHER RESOLVED that the secretary of children,
12 youth and families be requested to include the following as
13 members of the child protective services task force:

14 A. a representative of the office of the attorney
15 general;

16 B. a representative of the federal bureau of
17 investigation;

18 C. a representative of the homeland security and
19 emergency management department;

20 D. a representative of the university of New Mexico
21 office for community health;

22 E. two individuals with experience living in foster
23 care;

24 F. an individual with experience living in a youth
25 homeless shelter;

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- 1 G. an expert in the area of human trafficking;
- 2 H. an expert in the area of protective services for
- 3 children;
- 4 I. a licensed behavioral health care expert;
- 5 J. a representative of law enforcement; and
- 6 K. a social worker; and

7 BE IT FURTHER RESOLVED that the secretary of children,
8 youth and families be requested to invite the following as
9 appropriate to participate in discussions of the child
10 protective services task force:

- 11 A. an expert from a nonprofit children's advocacy
- 12 organization;
- 13 B. an expert in behavioral health care services;
- 14 C. a representative of a sexual minority community;
- 15 D. a representative of a gender minority community;
- 16 E. an expert on the federal Indian Child Welfare
- 17 Act of 1978; and
- 18 F. other stakeholders whose expertise the secretary
- 19 of children, youth and families deems necessary to the work of
- 20 the child protective services task force; and

21 BE IT FURTHER RESOLVED that the child protective services
22 task force be requested to enter into an agreement with an
23 institution of higher education to perform research that
24 supports the task force's work and conduct focus groups with
25 children in foster homes, young adults who have aged out of the

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1 child protection system and foster home providers; and

2 BE IT FURTHER RESOLVED that findings and recommendations
3 of the child protective services task force be presented to the
4 interim legislative health and human services committee by
5 October 1, 2025; and

6 BE IT FURTHER RESOLVED that the report include the child
7 protective services task force's findings and recommendations
8 to reduce the number of children who run away from foster
9 homes; and

10 BE IT FURTHER RESOLVED that copies of this memorial be
11 transmitted to the governor, the attorney general, the chair of
12 the interim legislative health and human services committee,
13 the co-chairs of the legislative interim committee that
14 addresses courts, corrections and justice issues, the director
15 of the legislative finance committee, the secretary of
16 children, youth and families, the co-chairs of the children's
17 court improvement commission, the director of the protective
18 services division of the children, youth and families
19 department and the chair of the children's cabinet.

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIME; ADDING THE EXPOSURE TO THE USE OF FENTANYL
AS EVIDENCE OF ABUSE OF A CHILD; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-6-1 NMSA 1978 (being Laws 1973,
Chapter 360, Section 10, as amended) is amended to read:

"30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

A. As used in this section:

(1) "child" means a person who is less than
eighteen years of age;

(2) "neglect" means that a child is without
proper parental care and control of subsistence, education,
medical or other care or control necessary for the child's
well-being because of the faults or habits of the child's
parents, guardian or custodian or their neglect or refusal,

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1 when able to do so, to provide them; and

2 (3) "negligently" refers to criminal
3 negligence and means that a person knew or should have known of
4 the danger involved and acted with a reckless disregard for the
5 safety or health of the child.

6 B. Abandonment of a child consists of the parent,
7 guardian or custodian of a child intentionally leaving or
8 abandoning the child under circumstances whereby the child may
9 or does suffer neglect. A person who commits abandonment of a
10 child is guilty of a misdemeanor, unless the abandonment
11 results in the child's death or great bodily harm, in which
12 case the person is guilty of a second degree felony.

13 C. A parent, guardian or custodian who leaves an
14 infant less than ninety days old in compliance with the Safe
15 Haven for Infants Act shall not be prosecuted for abandonment
16 of a child.

17 D. Abuse of a child consists of a person knowingly,
18 intentionally or negligently, and without justifiable cause,
19 causing or permitting a child to be:

20 (1) placed in a situation that may endanger
21 the child's life or health;

22 (2) tortured, cruelly confined or cruelly
23 punished; or

24 (3) exposed to the inclemency of the weather.

25 E. A person who commits abuse of a child that does

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1 not result in the child's death or great bodily harm is, for a
2 first offense, guilty of a third degree felony and for second
3 and subsequent offenses is guilty of a second degree felony.
4 If the abuse results in great bodily harm to the child, the
5 person is guilty of a first degree felony.

6 F. A person who commits negligent abuse of a child
7 that results in the death of the child is guilty of a first
8 degree felony.

9 G. A person who commits intentional abuse of a
10 child twelve to eighteen years of age that results in the death
11 of the child is guilty of a first degree felony.

12 H. A person who commits intentional abuse of a
13 child less than twelve years of age that results in the death
14 of the child is guilty of a first degree felony resulting in
15 the death of a child.

16 I. Evidence that demonstrates that a child has been
17 knowingly, intentionally or negligently allowed to enter or
18 remain in a motor vehicle, building or any other premises that
19 contains chemicals and equipment used or intended for use in
20 the manufacture of a controlled substance shall be deemed prima
21 facie evidence of abuse of the child.

22 J. Evidence that demonstrates that a child has been
23 knowingly and intentionally exposed to the use of
24 methamphetamine or fentanyl shall be deemed prima facie
25 evidence of abuse of the child.

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1 K. A person who leaves an infant less than ninety
2 days old at a hospital may be prosecuted for abuse of the
3 infant for actions of the person occurring before the infant
4 was left at the hospital."

5 SECTION 2. APPROPRIATION.--Five hundred thousand dollars
6 (\$500,000) is appropriated from the general fund to the
7 department of public safety for expenditure in fiscal year 2025
8 to expand its investigation of child abuse and neglect cases to
9 include those cases involving fentanyl. Any unexpended or
10 unencumbered balance remaining at the end of fiscal year 2025
11 shall revert to the general fund.

12 SECTION 3. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2024.

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL LAW; CREATING THE CRIME OF UNLAWFUL
CARRYING OF A FIREARM WHILE TRAFFICKING A CONTROLLED SUBSTANCE;
PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 30, Article 7 NMSA
1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL CARRYING OF A FIREARM WHILE
TRAFFICKING A CONTROLLED SUBSTANCE.--Unlawful carrying of a
firearm while trafficking a controlled substance consists of
carrying a firearm while violating the provisions of Section
30-31-20 NMSA 1978. Whoever commits unlawful carrying of a
firearm while trafficking a controlled substance is guilty of a
third degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978. As used in this

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1 section, "firearm" means any weapon that will or is designed to
2 or may readily be converted to expel a projectile by the action
3 of an explosion or the frame or receiver of any such weapon."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2024.

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO ELECTIONS; PROHIBITING THE CARRYING OF A FIREARM
WITHIN ONE HUNDRED FEET OF A POLLING PLACE DURING AN ELECTION
WITH AN EXCEPTION FOR PEACE OFFICERS; PROVIDING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 1, Article 20 NMSA
1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL CARRYING OF A FIREARM AT A
POLLING PLACE.--

A. Unlawful carrying of a firearm at a polling
place consists of carrying a loaded or unloaded firearm within
one hundred feet of a polling place on election day or while
early voting is in progress.

B. This section shall not apply to:

- (1) a peace officer or other security

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1 personnel with written authorization of the appropriate
2 municipal or county election official to be stationed within
3 one hundred feet of the polling place; or

4 (2) a peace officer who carries a firearm in
5 the performance of the officer's official duties.

6 C. A person who commits unlawful carrying of a
7 firearm at a polling place is guilty of a petty misdemeanor and
8 shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

9 D. For the purposes of this section, "firearm"
10 means a weapon that will or is designed to or may readily be
11 converted to expel a projectile by the action of an explosion;
12 the frame or receiver of any such weapon; or any firearm
13 muffler or firearm silencer."

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING THE NEW MEXICO STATE POLICE DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY WITH FOUR HUNDRED THOUSAND DOLLARS (\$400,000) TO PURCHASE TOOLS DESIGNED TO ENGRAVE NUMBERS ONTO CATALYTIC CONVERTERS AND TO LOAN THESE TOOLS TO LAW ENFORCEMENT AGENCIES OR MOTOR VEHICLE REPAIR OR SERVICE SHOPS IN EXCHANGE FOR THE AGENCIES OR SHOPS PROVIDING AT NO COST TO RESIDENTS THE SERVICE OF ENGRAVING THE VEHICLE IDENTIFICATION NUMBER ONTO A MOTOR VEHICLE'S CATALYTIC CONVERTER; PROVIDING LOAN REQUIREMENTS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] CATALYTIC CONVERTER ENGRAVING.--

A. The New Mexico state police division of the

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1 department of public safety shall purchase four hundred
2 thousand dollars' (\$400,000) worth of tools designed to engrave
3 numbers onto catalytic converters and subsequently enter into
4 agreements with law enforcement agencies or motor vehicle
5 repair or service shops to loan these engraving tools to the
6 law enforcement agencies or motor vehicle repair or service
7 shops in exchange for the law enforcement agencies or motor
8 vehicle repair or service shops providing at no cost to New
9 Mexico residents the service of engraving the vehicle
10 identification number of a motor vehicle onto its catalytic
11 converter; provided that the division shall not loan more than
12 one engraving tool to each individual motor vehicle repair or
13 service shop.

14 B. The loans made pursuant to this section shall:

15 (1) be for terms of no longer than twenty-four
16 months; provided that the loans may be renewed for subsequent
17 terms;

18 (2) maintain the New Mexico state police
19 division as the owner of the engraving tools; and

20 (3) contain any other requirements or
21 conditions that the New Mexico state police division deems
22 necessary.

23 SECTION 2. APPROPRIATION.--Four hundred thousand dollars
24 (\$400,000) is appropriated from the general fund to the New
25 Mexico state police division of the department of public safety

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1 for expenditure in fiscal year 2025 and subsequent fiscal years
2 for the purchase of tools designed to engrave numbers onto
3 catalytic converters to carry out the provisions of Section 1
4 of this act. Any unexpended or unencumbered balance remaining
5 at the end of a fiscal year shall not revert to the general
6 fund.

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_____ BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE JUDICIAL RETIREMENT FUND; ADJUSTING AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT; INCREASING CERTAIN SERVICE CREDIT MULTIPLIERS PROVIDED IN THE JUDICIAL RETIREMENT ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "judicial retirement fund". The fund [~~is comprised~~] consists of appropriations, money received from docket and jury fees of metropolitan courts, district courts, the court of appeals and

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1 the supreme court, employer and employee contributions and
2 ~~[any]~~ all income derived from the investment earnings ~~[on fees~~
3 ~~and contributions]~~ of the fund. The board is the trustee of
4 the fund and shall administer and invest the fund. Investment
5 of the fund shall be conducted pursuant to the provisions of
6 the Public Employees Retirement Act. The provisions of the
7 Judicial Retirement Act shall be administered by the board.
8 The board is authorized to promulgate rules. Expenses related
9 to the investment of the fund and administration of the
10 Judicial Retirement Act shall be paid from the fund.

11 B. For purposes of this section, the accounting
12 funds shall be known as the "member contribution fund",
13 "employer's accumulation fund", "retirement reserve fund" and
14 "income fund". The maintenance of separate accounting funds
15 shall not require the actual segregation of the assets of the
16 fund.

17 C. The accounting funds provided for in this
18 section are trust funds and shall be used only for the purposes
19 provided for in the Judicial Retirement Act.

20 D. The member contribution fund is the accounting
21 fund in which shall be accumulated contributions of members and
22 from which shall be made refunds and transfers of accumulated
23 member contributions as provided in the Judicial Retirement
24 Act. The member's court shall cause member contributions to be
25 deducted from the salary of the member and shall remit the

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1 deducted member contributions to the association in accordance
2 with procedures and schedules established by the association.
3 The association may assess an interest charge and a penalty
4 charge on any late remittance. Each member shall be deemed to
5 consent and agree to the deductions made and provided for in
6 this section. Contributions by members shall be credited to
7 the members' individual accounts in the member contribution
8 fund. A member's accumulated member contributions shall be
9 transferred to the retirement reserve fund when a pension
10 becomes payable.

11 E. The employer's accumulation fund is the
12 accounting fund in which shall be accumulated the contributions
13 paid by the state through the member's court. The state,
14 through the member's court, shall remit its contributions to
15 the association in accordance with procedures and schedules
16 established by the association. The board may assess an
17 interest charge and a penalty charge on any late remittance.

18 F. The retirement reserve fund is the accounting
19 fund from which shall be paid all pensions to retired members
20 and survivor beneficiaries and all residual refunds to refund
21 beneficiaries of retired members and survivor beneficiaries.

22 G. Each year, following receipt of the report of
23 the annual actuarial valuation, the excess, if any, of the
24 reported actuarial present value of pensions being paid and
25 likely to be paid to retired members and survivor beneficiaries

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1 and residual refunds likely to be paid to refund beneficiaries
2 of retired members and survivor beneficiaries over the balance
3 in the retirement reserve fund shall be transferred to the
4 retirement reserve fund from the employer's accumulation fund.

5 H. The income fund is the accounting fund to which
6 shall be credited all interest, dividends, rents and other
7 income from investments of the fund, all gifts and bequests,
8 all unclaimed member contributions and all other money the
9 disposition of which is not specifically provided for in the
10 Judicial Retirement Act. Expenses related to the
11 administration of the Judicial Retirement Act shall be paid for
12 from the income fund.

13 I. The association shall at least annually
14 distribute all or a portion of the balance in the income fund
15 to the member contribution fund, the retirement reserve fund
16 and the employer's accumulation fund. Distribution rates shall
17 be determined by the board and may vary for the respective
18 accounting funds."

19 SECTION 2. Section 10-12B-8 NMSA 1978 (being Laws 1992,
20 Chapter 111, Section 8, as amended) is amended to read:

21 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
22 RETIREMENT.--

23 A. For an individual who initially became a member
24 prior to July 1, 2005, the age and service credit requirements
25 for retirement provided for in the Judicial Retirement Act are:

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1 (1) age sixty-five years or older and five or
2 more years of service credit; or

3 (2) age sixty years or older and fifteen or
4 more years of service credit.

5 B. For an individual who initially became a member
6 after June 30, 2005 but on or before June 30, 2014, the age and
7 service credit requirements for retirement provided for in the
8 Judicial Retirement Act are:

9 (1) age sixty-five years or older and five or
10 more years of service credit; or

11 (2) age fifty-five years or older and sixteen
12 or more years of service credit.

13 C. For an individual who initially became a member
14 on or after July 1, 2014, the age and service requirements
15 provided for in the Judicial Retirement Act are:

16 (1) age sixty-five years and [~~eight~~] five or
17 more years of service credit; or

18 (2) age sixty years and fifteen or more years
19 of service credit.

20 D. Except for a member who is retired under any
21 state system or the educational retirement system, if a member
22 leaves office for any reason, other than removal pursuant to
23 Article 6, Section 32 of the constitution of New Mexico, before
24 meeting the age and service credit requirements for retirement
25 pursuant to the provisions of this section and if that member

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1 leaves the member contributions on deposit in the fund, that
2 member may apply for retirement when that member meets the age
3 and service credit requirements for retirement pursuant to the
4 provisions of the Judicial Retirement Act or provisions of the
5 Public Employees Retirement Reciprocity Act.

6 E. No member shall be eligible to receive a pension
7 pursuant to the provisions of the Judicial Retirement Act while
8 still in office."

9 SECTION 3. Section 10-12B-9 NMSA 1978 (being Laws 1992,
10 Chapter 111, Section 9, as amended) is amended to read:

11 "10-12B-9. AMOUNT OF PENSION.--

12 A. For a judge or justice who occupied such an
13 office prior to July 1, 1980, but who had ceased to hold such
14 an office prior to that date and who elected to be excluded
15 from the provisions of the Judicial Retirement Act; or a judge
16 or justice who occupied such an office on July 1, 1980, but who
17 elected to be covered under the provisions of the retirement
18 plan in effect at that time, the amount of monthly pension is
19 an amount equal to one-twelfth of:

20 seventy-five percent
21 of salary received X number of years of
22 during last year in service, not exceeding
23 office prior to ten years, divided
24 retirement by ten.

25 B. For a judge or justice who initially became a

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1 member before July 1, 2005 and who initially occupied such an
2 office after July 1, 1980; or a judge or justice who occupied
3 such an office on or before July 1, 1980 and who has elected to
4 be covered pursuant to the provisions of the Judicial
5 Retirement Act, the amount of monthly pension is an amount
6 equal to the sum of:

7 (1) for service credit earned on or before
8 June 30, 2014, an amount equal to one-twelfth of:

9 seventy-five (number of years of
10 percent of salary service not
11 received during X .05 X exceeding fifteen
12 last year in office years, plus five
13 prior to retirement years); and

14 (2) for service credit earned on and after
15 July 1, 2014, an amount equal to one-sixtieth of the greatest
16 aggregate amount of salary received for sixty consecutive, but
17 not necessarily continuous, months in office multiplied by the
18 product of three and one-half percent times the number of years
19 of service credit.

20 C. For a judge or justice who initially became a
21 member after June 30, 2005 but on or before June 30, 2014, the
22 amount of monthly pension is an amount equal to the sum of:

23 (1) for service credit earned on or before
24 June 30, 2014, an amount equal to one-twelfth of the salary
25 received during the last year in office prior to retirement

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1 multiplied by the product of three and seventy-five hundredths
2 percent times the sum of the number of years of service; ~~and~~

3 (2) for service credit earned on and after
4 July 1, 2014 but on or before June 30, 2024, an amount equal to
5 one-sixtieth of the greatest aggregate amount of salary
6 received for sixty consecutive, but not necessarily continuous,
7 months in office multiplied by the product of three and one-
8 half percent times the number of years of service credit; and

9 (3) for service credit earned on or after
10 July 1, 2024, an amount equal to one-sixtieth of the greatest
11 aggregate amount of salary received for sixty consecutive, but
12 not necessarily continuous, months in office multiplied by the
13 product of the number of years of service credit times:

14 (a) four percent for ten years of the
15 judge or justice's service credit; and

16 (b) three and one-half percent for years
17 of the judge or justice's service credit exceeding ten years.

18 D. For a judge or justice who initially became a
19 member on or after July 1, 2014 but on or before June 30, 2024,
20 the amount of monthly pension under form of payment A is an
21 amount equal to the sum of:

22 (1) for service credit earned on or after July
23 1, 2014 but on or before June 30, 2024, one-sixtieth of the
24 greatest aggregate amount of salary received for sixty
25 consecutive, but not necessarily continuous, months in office

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1 multiplied by the product of three and one-fourth percent times
2 the number of years of service; and

3 (2) for service credit earned on or after July
4 1, 2024, an amount equal to one-sixtieth of the greatest
5 aggregate amount of salary for sixty consecutive, but not
6 necessarily continuous, months in office multiplied by the
7 product of the number of years of service credit times:

8 (a) four percent for ten years of the
9 judge or justice's service credit; and

10 (b) three and one-half percent for years
11 of the judge or justice's service credit exceeding ten years.

12 E. The amount of pension under form of payment A
13 for a pension calculated pursuant to Subsection D of this
14 section shall not exceed [~~eighty-five~~] one hundred percent of
15 one-sixtieth of the greatest aggregate amount of salary
16 received for sixty consecutive, but not necessarily continuous,
17 months prior to the member leaving office.

18 F. The amount of pension payable for a pension
19 calculated pursuant to Subsection A, B or C of this section
20 shall not exceed eighty-five percent of one-sixtieth of the
21 greatest aggregate amount of salary received for sixty
22 consecutive, but not necessarily continuous, months prior to
23 the member leaving office. A pension benefit determined
24 pursuant to this subsection shall not be less than the benefit
25 earned as of June 30, 2014."

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1 SECTION 4. Section 10-12B-10 NMSA 1978 (being Laws 1992,
2 Chapter 111, Section 10, as amended) is amended to read:

3 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

4 A. On and after July 1, 2014 but on or before June
5 30, 2024, members, while in office, shall contribute ten and
6 one-half percent of salary to the member contribution fund.

7 B. On and after July 1, 2024, members, while in
8 office, shall contribute twelve and one-half percent of salary
9 to the member contribution fund.

10 ~~[B-]~~ C. Upon implementation, the state, acting as
11 employer of members covered pursuant to the provisions of the
12 Judicial Retirement Act, shall, solely for the purpose of
13 compliance with Section 414(h) of the Internal Revenue Code of
14 1986, pick up, for the purposes specified in that section,
15 member contributions required by this section for all annual
16 salary earned by the member. Member contributions picked up
17 pursuant to the provisions of this section shall be treated as
18 employer contributions for purposes of determining income tax
19 obligations under the Internal Revenue Code of 1986; however,
20 such picked-up member contributions shall be included in the
21 determination of the member's gross annual salary for all other
22 purposes under federal and state laws. Member contributions
23 picked up pursuant to the provisions of this section shall
24 continue to be designated member contributions for all purposes
25 of the Judicial Retirement Act and shall be considered as part

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1 of the member's annual salary for purposes of determining the
2 amount of the member's contribution. The provisions of this
3 section are mandatory, and the member shall have no option
4 concerning the pickup or concerning the receipt of the
5 contributed amounts directly instead of having the amounts paid
6 by the employer to the retirement system. Implementation
7 occurs upon authorization by the board. In no event may
8 implementation occur other than at the beginning of a pay
9 period applicable to the member."

10 SECTION 5. Section 10-12B-11 NMSA 1978 (being Laws 1992,
11 Chapter 111, Section 11, as amended) is amended to read:

12 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

13 A. The member's court shall contribute [~~fifteen~~]
14 twenty-one and one-half percent of salary to the fund for each
15 member in office.

16 B. Thirty-eight dollars (\$38.00) from each civil
17 case docket fee paid in the district court, twenty-five dollars
18 (\$25.00) from each civil docket fee paid in metropolitan court
19 and ten dollars (\$10.00) from each jury fee paid in
20 metropolitan court shall be paid by the court clerk to the
21 employer's accumulation fund."

22 SECTION 6. APPROPRIATION.--Three million one hundred
23 fifty thousand three hundred sixty-four dollars (\$3,150,364) is
24 appropriated from the general fund to the department of finance
25 and administration for expenditure in fiscal year 2025 and

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underscoring material = new
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1 subsequent fiscal years for distribution to the supreme court,
2 the court of appeals, district courts and the Bernalillo county
3 metropolitan court to pay increased employer retirement
4 contributions. Any unexpended or unencumbered balance
5 remaining at the end of a fiscal year shall not revert to the
6 general fund.

7 SECTION 7. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2024.

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO MAGISTRATE RETIREMENT; ALLOWING FOR THE
APPROPRIATION OF MONEY INTO THE MAGISTRATE RETIREMENT FUND;
INCREASING THE SERVICE CREDIT MULTIPLIERS PROVIDED IN THE
MAGISTRATE RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12C-3 NMSA 1978 (being Laws 1992,
Chapter 118, Section 3, as amended) is amended to read:

"10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the
"magistrate retirement fund". The fund [~~is comprised~~] consists
of appropriations, money received from docket fees of
magistrate courts, employer and member contributions and [~~any~~]
all income derived from the investment [~~earnings on fees and~~

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1 ~~contributions]~~ of the fund. The board is the trustee of the
2 fund and shall administer and invest the fund. Investment of
3 the fund shall be conducted pursuant to the provisions of the
4 Public Employees Retirement Act. The provisions of the
5 Magistrate Retirement Act shall be administered by the board.
6 The board is authorized to promulgate rules. Expenses related
7 to the investment of the fund and administration of the
8 Magistrate Retirement Act shall be paid from the fund.

9 B. For purposes of this section, the accounting
10 funds shall be known as the "member contribution fund",
11 "employer's accumulation fund", "retirement reserve fund" and
12 "income fund". The maintenance of separate accounting funds
13 shall not require the actual segregation of the assets of the
14 fund.

15 C. The accounting funds provided for in this
16 section are trust funds and shall be used only for the purposes
17 provided for in the Magistrate Retirement Act.

18 D. The member contribution fund is the accounting
19 fund in which shall be accumulated contributions of members and
20 from which shall be made refunds and transfers of accumulated
21 member contributions as provided in the Magistrate Retirement
22 Act. The member's court shall cause member contributions to be
23 deducted from the salary of the member and shall remit the
24 deducted member contributions to the association in accordance
25 with procedures and schedules established by the association.

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1 The association may assess an interest charge and a penalty
2 charge on any late remittance. Each member shall be deemed to
3 consent and agree to the deductions made and provided for in
4 this section. Contributions by members shall be credited to
5 the members' individual accounts in the member contribution
6 fund. A member's accumulated member contributions shall be
7 transferred to the retirement reserve fund when a pension
8 becomes payable.

9 E. The employer's accumulation fund is the
10 accounting fund in which shall be accumulated the contributions
11 paid by the state through the administrative office of the
12 courts. The state, through the administrative office of the
13 courts, shall remit its contributions to the association in
14 accordance with procedures and schedules established by the
15 association. The board may assess an interest charge and a
16 penalty charge on any late remittance.

17 F. The retirement reserve fund is the accounting
18 fund from which shall be paid all pensions to retired members
19 and survivor beneficiaries and all residual refunds to refund
20 beneficiaries of retired members and survivor beneficiaries.

21 G. Each year, following receipt of the report of
22 the annual actuarial valuation, the excess, if any, of the
23 reported actuarial present value of pensions being paid and
24 likely to be paid to retired members and survivor beneficiaries
25 and residual refunds likely to be paid to refund beneficiaries

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underscoring material = new
~~[bracketed material] = delete~~

1 of retired members and survivor beneficiaries over the balance
2 in the retirement reserve fund shall be transferred to the
3 retirement reserve fund from the employer's accumulation fund.

4 H. The income fund is the accounting fund to which
5 shall be credited all interest, dividends, rents and other
6 income from investments of the fund, all gifts and bequests,
7 all unclaimed member contributions and all other money the
8 disposition of which is not specifically provided for in the
9 Magistrate Retirement Act. Expenses related to the
10 administration of the Magistrate Retirement Act shall be paid
11 for from the income fund.

12 I. The association shall at least annually
13 distribute all or a portion of the balance in the income fund
14 to the member contribution fund, the retirement reserve fund
15 and the employer's accumulation fund. Distribution rates shall
16 be determined by the board and may vary for the respective
17 accounting funds."

18 SECTION 2. Section 10-12C-9 NMSA 1978 (being Laws 1992,
19 Chapter 118, Section 9, as amended by Laws 2014, Chapter 39,
20 Section 6 and by Laws 2014, Chapter 43, Section 6) is amended
21 to read:

22 "10-12C-9. AMOUNT OF PENSION.--

23 A. For a magistrate who was a member on June 30,
24 2014, the monthly pension is an amount equal to the sum of:

25 (1) for service credit earned on or before

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1 June 30, 2014, the amount is equal to one-twelfth of:
2 seventy-five percent
3 of salary received (number of years of
4 during last year in X .05 X service, not exceeding
5 office prior to fifteen years,
6 retirement plus five years); and
7 (2) for service credit earned on and after
8 July 1, 2014, an amount equal to one-sixtieth of the greatest
9 aggregate amount of salary received for sixty consecutive, but
10 not necessarily continuous, months in office multiplied by the
11 product of three and one-half percent times the sum of the
12 number of years of service.

13 B. For a magistrate who initially became a member
14 on or after July 1, 2014, the amount of monthly pension is
15 equal to one-sixtieth of the greatest aggregate amount of
16 salary received for sixty consecutive, but not necessarily
17 continuous, months in office multiplied by the product of three
18 percent times the sum of the number of years of service.

19 C. The amount of monthly pension under form of
20 payment A for a pension calculated pursuant to Subsection B of
21 this section shall not exceed [~~eighty-five~~] one hundred percent
22 of one-sixtieth of the greatest aggregate amount of salary
23 received for sixty consecutive, but not necessarily continuous,
24 months prior to the member leaving office.

25 D. The amount of monthly pension payable for a
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1 pension calculated pursuant to Subsection A of this section
2 shall not exceed [~~eighty-five~~] one hundred percent of one-
3 sixtieth of the greatest aggregate amount of salary received
4 for sixty consecutive, but not necessarily continuous, months
5 prior to the member leaving office. A pension benefit
6 determined pursuant to this subsection shall not be less than
7 the benefit earned as of June 30, 2014."

8 SECTION 3. Section 10-12C-10 NMSA 1978 (being Laws 1992,
9 Chapter 118, Section 10, as amended by Laws 2014, Chapter 39,
10 Section 7 and by Laws 2014, Chapter 43, Section 7) is amended
11 to read:

12 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

13 A. [~~On and after~~] From July 1, 2014 through June
14 30, 2024, members, while in office, shall contribute ten and
15 one-half percent of salary to the member contribution fund.

16 B. On and after July 1, 2024, members, while in
17 office, shall contribute twelve and one-half percent of
18 salary to the member contribution fund.

19 [~~B-~~] C. Upon implementation, the state, acting as
20 employer of members covered pursuant to the provisions of the
21 Magistrate Retirement Act, shall, solely for the purpose of
22 compliance with Section 414(h) of the Internal Revenue Code of
23 1986, pick up, for the purposes specified in that section,
24 member contributions required by this section for all annual
25 salary earned by the member. Member contributions picked up

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1 pursuant to the provisions of this section shall be treated as
2 employer contributions for purposes of determining income tax
3 obligations under the Internal Revenue Code of 1986; however,
4 such picked-up member contributions shall be included in the
5 determination of the member's gross annual salary for all other
6 purposes under federal and state laws. Member contributions
7 picked up pursuant to the provisions of this section shall
8 continue to be designated member contributions for all purposes
9 of the Magistrate Retirement Act and shall be considered as
10 part of the member's annual salary for purposes of determining
11 the amount of the member's contribution. The provisions of
12 this section are mandatory, and the member shall have no option
13 concerning the pick up or concerning the receipt of the
14 contributed amounts directly instead of having the amounts paid
15 by the employer to the retirement system. Implementation
16 occurs upon authorization by the board. In no event may
17 implementation occur other than at the beginning of a pay
18 period applicable to the member."

19 SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws 1992,
20 Chapter 118, Section 11, as amended by Laws 2014, Chapter 39,
21 Section 8 and by Laws 2014, Chapter 43, Section 8) is amended
22 to read:

23 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

24 A. The state, through the administrative office of
25 the courts, shall contribute to the fund fifteen percent of

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1 salary for each member in office, except that, from July 1,
2 2014 through June 30, 2015, the state contribution rate shall
3 be eleven percent of salary for each member in office and
4 except that, on or after July 1, 2024, the state contribution
5 rate shall be twenty-one and one-half percent of salary for
6 each member in office.

7 B. Twenty-five dollars (\$25.00) from each civil
8 case docket fee paid in magistrate court and ten dollars
9 (\$10.00) from each civil jury fee paid in magistrate court
10 shall be paid by the court clerk to the employer's accumulation
11 fund."

12 SECTION 5. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2024.

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_____ BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO JUDICIAL SALARIES; PROVIDING THAT JUSTICES OF THE STATE SUPREME COURT SHALL RECEIVE A SALARY INCREASE; PROVIDING THAT AN ANNUAL PAY INCREASE BE AT THE ANNUAL RATE OF INFLATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 34-1-9 NMSA 1978 (being Laws 1993, Chapter 278, Section 1, as amended) is amended to read:

"34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

A. Justices of the supreme court shall each receive an annual salary ~~[as provided by the legislature]~~ of two hundred thirty-two thousand six hundred dollars (\$232,600) beginning July 1, 2024, and salaries thereafter shall increase annually at the rate of inflation as measured by the consumer price index. The chief justice of the supreme court shall

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1 receive an annual salary that is two thousand dollars (\$2,000)
2 more than the annual salary of a justice of the supreme court.

3 B. The chief judge of:

4 (1) the court of appeals shall receive an
5 annual salary that is ninety-five percent of the annual salary
6 of the chief justice of the supreme court;

7 (2) a district court shall receive an annual
8 salary that is ninety-five percent of the annual salary of the
9 chief judge of the court of appeals; and

10 (3) a metropolitan court shall receive an
11 annual salary that is ninety-five percent of the annual salary
12 of the chief judge of a district court.

13 C. The presiding magistrate of a magistrate
14 district where three or more divisions operate as a single
15 court shall receive an annual salary that is seventy-five
16 percent of the annual salary of the chief judge of a
17 metropolitan court.

18 D. Notwithstanding any other provision of law or
19 any other provision of this section, the annual salaries of the
20 following judges and magistrates shall be established as
21 follows:

22 (1) a judge of the court of appeals shall
23 receive an annual salary that is ninety-five percent of the
24 annual salary of a justice of the supreme court;

25 (2) a district court judge shall receive an

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1 annual salary that is ninety-five percent of the annual salary
2 of a judge of the court of appeals;

3 (3) a metropolitan court judge shall receive
4 an annual salary that is ninety-five percent of the annual
5 salary of a district court judge;

6 (4) a full-time magistrate shall receive an
7 annual salary that is seventy-five percent of the annual salary
8 of a metropolitan court judge;

9 (5) a half-time magistrate shall receive an
10 annual salary that is fifty percent of the annual salary of a
11 full-time magistrate; and

12 (6) a quarter-time magistrate shall receive an
13 annual salary that is twenty-five percent of the annual salary
14 of a full-time magistrate.

15 E. For fiscal year 1995 and all subsequent fiscal
16 years, the annual salary for justices of the supreme court,
17 judges of the court of appeals, district court judges,
18 metropolitan court judges and magistrates shall be
19 [~~established~~] provided by the legislature in an appropriations
20 act.

21 F. No additional salaries shall be paid to
22 justices, judges or magistrates on account of services rendered
23 the state. Justices of the supreme court, judges of the court
24 of appeals, district court judges, metropolitan court judges
25 and magistrates shall receive per diem and mileage for

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CHILDREN; ENACTING THE OFFICE OF CHILD ADVOCATE ACT; PROVIDING FOR THE STATE CHILD ADVOCATE; CREATING THE OFFICE OF CHILD ADVOCATE AND ESTABLISHING THE POWERS AND DUTIES OF THAT OFFICE; PROVIDING FOR THE ESTABLISHMENT OF THE STATE CHILD ADVOCATE SELECTION COMMITTEE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Office of Child Advocate Act"."

SECTION 2. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Office of

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1 Child Advocate Act:

2 A. "committee" means the state child advocate
3 selection committee;

4 B. "near fatality" means an injury or condition
5 caused by abuse or neglect that results in a child:

6 (1) being placed in serious or critical
7 condition, as certified by a licensed physician; and

8 (2) receiving critical care for at least
9 twenty-four hours following the child's admission to a critical
10 care unit; and

11 C. "office" means the office of child advocate."

12 SECTION 3. A new section of the Children's Code is
13 enacted to read:

14 "[NEW MATERIAL] OFFICE OF CHILD ADVOCATE--CREATED.--The
15 "office of child advocate" is created and is administratively
16 attached to the office of the attorney general pursuant to
17 Section 9-1-7 NMSA 1978. The office shall maintain autonomy
18 over the office's budget and any decisions the office may
19 take."

20 SECTION 4. A new section of the Children's Code is
21 enacted to read:

22 "[NEW MATERIAL] STATE CHILD ADVOCATE--APPOINTMENT--
23 DUTIES.--The head of the office is the "state child advocate",
24 who shall be appointed for a term of six years, except that the
25 initial term shall begin on December 1, 2024 and shall end on

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1 June 30, 2025. The state child advocate may be reappointed to
2 successive terms. An appointed state child advocate shall
3 serve and have all of the duties, responsibilities and
4 authority of that office until appointment of a new state child
5 advocate. The governor or the supreme court may remove the
6 state child advocate only for malfeasance, misfeasance or abuse
7 of office."

8 SECTION 5. A new section of the Children's Code is
9 enacted to read:

10 "[NEW MATERIAL] STATE CHILD ADVOCATE SELECTION COMMITTEE--
11 DUTIES.--

12 A. The "state child advocate selection committee"
13 is created and consists of nine members, including:

14 (1) one member who shall be selected by the
15 president pro tempore of the senate;

16 (2) one member who shall be selected by the
17 minority floor leader of the senate;

18 (3) one member who shall be selected by the
19 speaker of the house of representatives;

20 (4) one member who shall be selected by the
21 minority floor leader of the house of representatives;

22 (5) four members who shall be selected by the
23 governor:

24 (a) no more than two of whom are from
25 the same political party and have not changed political party

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1 affiliation in the last two years;

2 (b) one of whom shall have specialized
3 expertise in the federal Indian Child Welfare Act of 1978 and
4 the Indian Family Protection Act; and

5 (c) one of whom shall have extensive
6 knowledge of child protective services, juvenile justice
7 services or child welfare; and

8 (6) a committee chair, whom a majority of the
9 other eight members select and who is:

10 (a) not a candidate for the position of
11 state child advocate; and

12 (b) a person with extensive knowledge of
13 child welfare and the Children's Code.

14 B. The committee shall meet exclusively for the
15 purpose of nominating persons to fill a current or impending
16 vacancy in the position of state child advocate. The committee
17 shall actively solicit, accept and evaluate applications for
18 the position of state child advocate and may require applicants
19 to submit any information that the committee deems relevant to
20 the consideration of applications. Within ninety days before
21 the date on which the term of a state child advocate ends or no
22 later than sixty days after the occurrence of a vacancy in the
23 state child advocate position, the committee shall convene and,
24 within sixty days after convening, submit to the governor the
25 names of persons who are recommended for appointment to the

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1 position by a majority of the committee members.

2 C. After receiving nominations for the state child
3 advocate, the governor may make one request of the committee
4 for submission of additional names. The committee shall
5 promptly submit those additional names if a majority of the
6 committee members find that additional persons would be
7 qualified and recommends those persons for appointment as state
8 child advocate. The governor shall fill a vacancy or appoint a
9 successor to fill an impending vacancy in the office within
10 sixty days after receiving final nominations from the committee
11 by appointing one of the persons nominated by the committee.

12 D. The committee is administratively attached to
13 the office of the attorney general pursuant to the provisions
14 of Section 9-1-7 NMSA 1978.

15 E. After the initial meeting of the committee, the
16 governor or the chair of the committee may call subsequent
17 meetings of the committee to nominate persons to fill a current
18 or impending vacancy in the position of state child advocate.

19 F. The members of the committee shall receive per
20 diem and mileage as provided in the Per Diem and Mileage Act
21 and shall receive no other compensation, perquisite or
22 allowance."

23 SECTION 6. A new section of the Children's Code is
24 enacted to read:

25 "[NEW MATERIAL] OFFICE OF CHILD ADVOCATE--POWERS--

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1 DUTIES.--The office:

2 A. shall:

3 (1) review the department's provision of
4 services to children and families, receive complaints
5 concerning the actions of the department or of any entity that
6 provides services to children and families through funds
7 provided by the department and make appropriate referrals when
8 the state child advocate determines that a child or family may
9 be in need of assistance from the office;

10 (2) review current systems to determine the
11 extent to which the department's policies and procedures
12 protect and enhance children's personal dignity, right to
13 privacy, appropriate health care and education in accordance
14 with state and federal law;

15 (3) adopt and promulgate rules in accordance
16 with the State Rules Act as are deemed necessary to carry out
17 the provisions of the Office of Child Advocate Act;

18 (4) operate a toll-free hotline and electronic
19 communication portal to receive complaints pursuant to this
20 section;

21 (5) investigate and attempt to resolve
22 complaints made by or on behalf of children placed in the
23 custody of the department, receiving services under the
24 supervision of the department, referred to the department or
25 whose parent, guardian or custodian is under investigation by

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1 the department;

2 (6) upon investigation of a complaint, notify
3 the complainant and subjects of the complaint of the
4 investigation or, if the office declines to investigate a
5 complaint or continue an investigation, notify the complainant
6 and the subjects of the complaint that no further action will
7 be taken by the office;

8 (7) update the complainant on the progress of
9 the investigation every ninety days and notify the complainant
10 and the subjects of the complaint of the final outcome within
11 ninety days of the completion of the investigation;

12 (8) provide information about recipients'
13 rights and responsibilities related to departmental services;

14 (9) provide information concerning child and
15 family welfare to the governor, state agencies and legislators;

16 (10) compile an annual report pursuant to
17 Section 7 of the Office of Child Advocate Act;

18 (11) subpoena witnesses to provide testimony
19 in cases in which a fatality or near fatality of a child has
20 occurred while the child was in the custody of the department;

21 (12) access information or records that are
22 necessary for carrying out the provisions of the Office of
23 Child Advocate Act; and

24 (13) access and review information, records or
25 documents, including records of third parties, that the office

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1 deems necessary to conduct a thorough and independent review of
2 a complaint; provided that the department would be entitled to
3 access or receive such information, records or documents; and

4 B. may:

5 (1) hire and contract for such professional,
6 technical and support staff as needed to carry out the
7 functions of the office;

8 (2) meet or communicate with any child placed
9 in the custody of the department, receiving services under the
10 supervision of the department, referred to the department or
11 whose parent, guardian or custodian is under investigation by
12 the department in a developmentally sensitive method; and

13 (3) decide whether to investigate a complaint
14 or refer a complaint to another agency for investigation."

15 SECTION 7. A new section of the Children's Code is
16 enacted to read:

17 "[NEW MATERIAL] ANNUAL REPORT--REPORT CONTENTS--CREATION
18 AND MAINTENANCE OF WEBSITE CONTAINING REPORT INFORMATION.--

19 A. Each year, the office shall submit to the
20 legislative finance committee, the department and the governor
21 on or before September 1 a report addressing services provided
22 by the department, including:

23 (1) the quality of services provided to
24 children and families;

25 (2) the conditions of placements for New

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1 Mexico's children, including the number of out-of-state
2 placements and an assessment of each active congregate care and
3 juvenile justice facility in which children in the custody of
4 the department are placed;

5 (3) the number of children removed from a
6 residence of a parent, foster parent or guardian;

7 (4) the number of children returned to a
8 household from which they were removed;

9 (5) the number of children removed from a
10 household subsequent to being returned to a household from
11 which they were removed;

12 (6) the number of children placed in the
13 custody of a juvenile justice facility;

14 (7) the number of children placed in the
15 custody of the department who have run away from a department
16 placement, the number of children placed in the custody of the
17 department who have been found after running away and the
18 number of children placed in the custody of the department who
19 are currently missing;

20 (8) the number of cases in which families
21 subject to court-ordered treatment plans or voluntary placement
22 agreements have absconded with children placed in the custody
23 of the department;

24 (9) a review of systemic issues related to
25 services for assistance to children and families within the

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1 child protection and juvenile justice systems;

2 (10) findings and recommendations related to
3 the implementation of the federal Indian Child Welfare Act of
4 1978 and the Indian Family Protection Act;

5 (11) recommendations related to improving
6 services for children and families;

7 (12) data disaggregated by race, ethnicity,
8 gender, geographic location, sexual identity, disability status
9 and any other categories that the office deems necessary; and

10 (13) the training and certification process
11 for the state child advocate and office staff.

12 B. The office shall create and maintain a web page
13 on which the data contained in Subsection A of this section
14 shall be provided in an accessible manner and updated
15 quarterly.

16 C. Each year the annual report shall be posted to
17 the web page created pursuant to Subsection B of this section."

18 **SECTION 8.** A new section of the Children's Code is
19 enacted to read:

20 "[NEW MATERIAL] TRAINING AND CERTIFICATION.--

21 A. The state child advocate shall ensure that
22 office staff are trained in:

23 (1) federal, state, local and tribal laws,
24 regulations and policies with respect to child protection and
25 juvenile justice services in the state;

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1 (2) investigative techniques, including
2 trauma-informed care and questioning;

3 (3) the federal Indian Child Welfare Act of
4 1978, the Indian Family Protection Act, tribal culture, tribal
5 relations and sovereign nation status; and

6 (4) department policies and procedures.

7 B. The state child advocate shall develop
8 procedures for the training and certification of appropriate
9 staff.

10 C. An officer, employee or other representative of
11 the office shall not investigate any complaint filed with the
12 office unless that person is certified by the office."

13 SECTION 9. A new section of the Children's Code is
14 enacted to read:

15 "[NEW MATERIAL] CONFLICT OF INTEREST.--Persons who are
16 employees of the office or who have contracts with the office
17 shall not have a conflict of interest with the department or
18 with an entity that provides services to children and families
19 through funds provided by the department relating to the
20 performance of their responsibilities pursuant to the
21 Children's Code. For the purposes of this section, a conflict
22 of interest exists whenever the state child advocate, an
23 employee of the office or a person having a contract with the
24 office:

25 A. licenses, certifies or accredits a provider or

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1 facility delivering services to children and families pursuant
2 to the Children's Code;

3 B. has a direct ownership interest in a provider or
4 facility delivering services to children and families pursuant
5 to the Children's Code;

6 C. is employed by or participates in the management
7 of a provider or facility delivering services to children and
8 families pursuant to the Children's Code; or

9 D. receives, directly or indirectly, remuneration
10 pursuant to a compensation arrangement with a provider or
11 facility delivering services to children and families pursuant
12 to the Children's Code."

13 SECTION 10. A new section of the Children's Code is
14 enacted to read:

15 "[NEW MATERIAL] INCIDENTS, FATALITIES AND NEAR
16 FATALITIES.--

17 A. The department shall provide the office with a
18 copy of all reports related to actual physical injury to
19 children in the custody of the department within thirty days of
20 receiving the report, whether substantiated or unsubstantiated.

21 B. The department shall provide the office with a
22 written notification within seventy-two hours of:

23 (1) a fatality or near fatality of a child in
24 its custody or referred or receiving services under the
25 supervision of the department; and

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1 (2) the restraint or seclusion of a child in
2 its custody.

3 C. As used in this section:

4 (1) "restraint" means a measure or condition
5 that keeps someone or something under control or within limits.
6 "Restraint" may include mechanical or physical restraint; and

7 (2) "seclusion" means the involuntary
8 confinement of a child alone in a room from which egress is
9 prevented. "Seclusion" does not mean the use of a voluntary
10 behavior management technique, including a timeout location, as
11 part of a child's education plan, individual safety plan,
12 behavioral plan or individualized education program that
13 involves the child's separation from a larger group for
14 purposes of calming."

15 SECTION 11. A new section of the Children's Code is
16 enacted to read:

17 "[NEW MATERIAL] LAW ENFORCEMENT REPORTS.--Upon request by
18 the office, law enforcement agencies shall share with the
19 office all law enforcement reports involving children
20 identified by the agencies as having been placed in the custody
21 of the department, receiving services under the supervision of
22 the department, referred to the department or whose parent,
23 guardian or custodian is under investigation by the
24 department."

25 SECTION 12. A new section of the Children's Code is

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1 enacted to read:

2 "[NEW MATERIAL] CONFIDENTIALITY OF INFORMATION.--

3 A. The office shall maintain the confidentiality of
4 all case records, third-party records and court records, as
5 well as any information gathered in the course of
6 investigations and system monitoring duties. These records are
7 exempt from public inspection and copying pursuant to the
8 Inspection of Public Records Act and shall be kept confidential
9 unless disclosure is:

10 (1) ordered by the court;

11 (2) necessary to prevent imminent harm and the
12 imminent harm is communicated directly to the state child
13 advocate or staff of the office;

14 (3) necessary to the department in order for
15 the department to determine the appropriateness of initiating
16 an investigation regarding potential abuse or neglect or other
17 emergency circumstances; or

18 (4) necessary to the department in order for
19 the department to determine the appropriateness of initiating
20 an investigation to determine facility compliance with
21 applicable rules of licensure or certification or both.

22 B. Notwithstanding the provisions of Subsection A
23 of this section, the office may publicly report any patterns of
24 conduct or repeated incidents identified by the office in
25 carrying out the provisions of the Office of Child Advocate

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1 Act; provided that the office shall not publicly disclose
2 either of the following:

3 (1) individually identifiable information
4 about a child; and

5 (2) investigation findings when there is
6 pending law enforcement investigation or prosecution."

7 SECTION 13. A new section of the Children's Code is
8 enacted to read:

9 "[NEW MATERIAL] NOTIFICATION OF OFFICE OF CHILD
10 ADVOCATE.--The department shall notify all children placed in
11 the custody of the department, receiving services under the
12 supervision of the department, referred to the department or
13 whose parent, guardian or custodian is under investigation by
14 the department and their parents, guardians, foster parents and
15 identified fictive kin of the existence of the office, its
16 purpose and function and its toll-free hotline and electronic
17 communication portal with instructions for access."

18 SECTION 14. Section 32A-2-32 NMSA 1978 (being Laws 1993,
19 Chapter 77, Section 61, as amended) is amended to read:

20 "32A-2-32. CONFIDENTIALITY--RECORDS.--

21 A. All records pertaining to the child, including
22 all related social records, behavioral health screenings,
23 diagnostic evaluations, psychiatric reports, medical reports,
24 social studies reports, records from local detention
25 facilities, client-identifying records from facilities for the

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1 care and rehabilitation of delinquent children, pre-parole or
2 supervised release reports and supervision histories obtained
3 by the juvenile probation office, parole officers and the
4 juvenile public safety advisory board or in possession of the
5 department, are confidential and shall not be disclosed
6 directly or indirectly to the public.

7 B. The disclosure of all mental health and
8 developmental disability records shall be made pursuant to the
9 Children's Mental Health and Developmental Disabilities Act.

10 C. The records described in Subsection A of this
11 section, other than mental health and developmental disability
12 records, shall be disclosed only to any of the following;
13 provided that the agency, person or institution receiving
14 information shall not re-release the information without proper
15 consent or as otherwise provided by law:

- 16 (1) court personnel;
17 (2) the child's court appointed special
18 advocates;
19 (3) the child's attorney or guardian ad litem
20 representing the child in any matter;
21 (4) department personnel;
22 (5) corrections department personnel;
23 (6) law enforcement officials when the request
24 is related to the investigation of a crime;
25 (7) district attorneys or children's court

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1 attorneys;

2 (8) a state government social services agency
3 in any state;

4 (9) those persons or entities of a child's
5 Indian tribe specifically authorized to inspect such records
6 pursuant to the federal Indian Child Welfare Act of 1978, the
7 Indian Family Protection Act or any regulations promulgated
8 under [~~that act~~] those acts;

9 (10) tribal juvenile justice system and social
10 service representatives;

11 (11) a foster parent, if the records are those
12 of a child currently placed with that foster parent or of a
13 child being considered for placement with that foster parent,
14 when the disclosure of the information is necessary for the
15 child's treatment or care and shall include only that
16 information necessary to provide for treatment and care of the
17 child;

18 (12) school personnel involved with the child
19 if the records concern the child's educational needs, but shall
20 only include that information necessary to provide for the
21 child's educational planning and needs;

22 (13) a health care or mental health
23 professional involved in the evaluation or treatment of the
24 child, the child's parents, guardians or custodian or other
25 family members;

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1 (14) representatives of the protection and
2 advocacy system;

3 (15) the child's parent, guardian or legal
4 custodian when the disclosure of the information is necessary
5 for the child's treatment or care and shall include only that
6 information necessary to provide for the treatment or care of
7 the child;

8 (16) any other person or entity, by order of
9 the court, having a legitimate interest in the case or the work
10 of the court who agrees not to otherwise release the records;
11 [~~and~~]

12 (17) the child, if fourteen years of age or
13 older; and

14 (18) the office of child advocate and its
15 employees and contractors, pursuant to the requirements of the
16 Delinquency Act, if the records are needed for the purpose of
17 implementing the Office of Child Advocate Act.

18 D. If disclosure of otherwise confidential records
19 is made to the child or any other person or entity pursuant to
20 a valid release of information signed by the child, all victim
21 or witness identifying information shall be redacted or
22 otherwise deleted.

23 E. Whoever intentionally and unlawfully releases
24 any information or records closed to the public pursuant to
25 this section or releases or makes other unlawful use of records

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1 in violation of this section is guilty of a petty misdemeanor.

2 F. The department shall promulgate rules for
3 implementing disclosure of records pursuant to this section and
4 in compliance with state and federal law and the Children's
5 Court Rules."

6 SECTION 15. Section 32A-4-33 NMSA 1978 (being Laws 1993,
7 Chapter 77, Section 127, as amended) is amended to read:

8 "32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

9 A. All records or information concerning a party to
10 a neglect or abuse proceeding, including social records,
11 diagnostic evaluations, psychiatric or psychological reports,
12 videotapes, transcripts and audio recordings of a child's
13 statement of abuse or medical reports incident to or obtained
14 as a result of a neglect or abuse proceeding or that were
15 produced or obtained during an investigation in anticipation of
16 or incident to a neglect or abuse proceeding shall be
17 confidential and closed to the public.

18 B. The records described in Subsection A of this
19 section shall be disclosed only to the parties and:

20 (1) court personnel and persons or entities
21 authorized by contract with the court to review, inspect or
22 otherwise have access to records or information in the court's
23 possession;

24 (2) court-appointed special advocates
25 appointed to the neglect or abuse proceeding;

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1 (3) the child's guardian ad litem;
2 (4) the attorney representing the child in an
3 abuse or neglect action, a delinquency action or any other
4 action under the Children's Code;

5 (5) department personnel and persons or
6 entities authorized by contract with the department to review,
7 inspect or otherwise have access to records or information in
8 the department's possession;

9 (6) any local substitute care review board or
10 any agency contracted to implement local substitute care review
11 boards;

12 (7) law enforcement officials, except when use
13 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

14 (8) district attorneys, except when use
15 immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

16 (9) any state government or tribal government
17 social services agency in any state or when, in the opinion of
18 the department, it is in the best interest of the child, a
19 governmental social services agency of another country;

20 (10) a foster parent, if the records are those
21 of a child currently placed with that foster parent or of a
22 child being considered for placement with that foster parent
23 and the records concern the social, medical, psychological or
24 educational needs of the child;

25 (11) school personnel involved with the child

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1 if the records concern the child's social or educational needs;

2 (12) a grandparent, parent of a sibling,
3 relative or fictive kin, if the records or information pertain
4 to a child being considered for placement with that
5 grandparent, parent of a sibling, relative or fictive kin and
6 the records or information concern the social, medical,
7 psychological or educational needs of the child;

8 (13) health care or mental health
9 professionals involved in the evaluation or treatment of the
10 child or of the child's parents, guardian, custodian or other
11 family members;

12 (14) protection and advocacy representatives
13 pursuant to the federal Developmental Disabilities Assistance
14 and Bill of Rights Act and the federal Protection and Advocacy
15 for Mentally Ill Individuals Amendments Act of 1991;

16 (15) children's safehouse organizations
17 conducting investigatory interviews of children on behalf of a
18 law enforcement agency or the department;

19 (16) representatives of the federal government
20 or their contractors authorized by federal statute or
21 regulation to review, inspect, audit or otherwise have access
22 to records and information pertaining to neglect or abuse
23 proceedings;

24 (17) any person or entity attending a meeting
25 arranged by the department to discuss the safety, well-being

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1 and permanency of a child, when the parent or child, or parent
2 or legal custodian on behalf of a child younger than fourteen
3 years of age, has consented to the disclosure; ~~and~~

4 (18) any other person or entity, by order of
5 the court, having a legitimate interest in the case or the work
6 of the court; and

7 (19) the office of child advocate and its
8 employees and contractors, pursuant to the requirements of the
9 Abuse and Neglect Act, if the records are needed for the
10 purpose of implementing the Office of Child Advocate Act.

11 C. A parent, guardian or legal custodian whose
12 child has been the subject of an investigation of abuse or
13 neglect where no petition has been filed shall have the right
14 to inspect any medical report, psychological evaluation, law
15 enforcement reports or other investigative or diagnostic
16 evaluation; provided that any identifying information related
17 to the reporting party or any other party providing information
18 shall be deleted. The parent, guardian or legal custodian
19 shall also have the right to the results of the investigation
20 and the right to petition the court for full access to all
21 department records and information except those records and
22 information the department finds would be likely to endanger
23 the life or safety of any person providing information to the
24 department.

25 D. Whoever intentionally and unlawfully releases

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1 any information or records closed to the public pursuant to the
2 Abuse and Neglect Act or releases or makes other unlawful use
3 of records in violation of that act is guilty of a petty
4 misdemeanor and shall be sentenced pursuant to the provisions
5 of Section 31-19-1 NMSA 1978.

6 E. The department shall promulgate rules for
7 implementing disclosure of records pursuant to this section and
8 in compliance with state and federal law and the Children's
9 Court Rules."

10 SECTION 16. APPROPRIATION.--Five hundred fifteen thousand
11 dollars (\$515,000) is appropriated from the general fund to the
12 office of child advocate for expenditure in fiscal year 2025 to
13 establish the office, to provide for the salaries and benefits
14 for the state child advocate and four full-time staff members
15 and any necessary office equipment and supplies. Any
16 unexpended or unencumbered balance remaining at the end of
17 fiscal year 2025 shall revert to the general fund.

18 SECTION 17. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2024.

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIME; CREATING THE CRIME OF UNLAWFUL SALE OF A
FIREARM BEFORE THE REQUIRED WAITING PERIOD ENDS; REQUIRING A
FOURTEEN-DAY WAITING PERIOD WHEN CONDUCTING THE SALE OF A
FIREARM; PROVIDING EXCEPTIONS; PRESCRIBING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new Section 30-7-7.3 NMSA 1978 is enacted to
read:

"30-7-7.3. [NEW MATERIAL] UNLAWFUL SALE OF A FIREARM
BEFORE REQUIRED WAITING PERIOD ENDS.--

A. There shall be a required waiting period of
fourteen business days between the initiation of the federal
instant background check required for the sale of a firearm and
the transfer of the firearm to the buyer.

B. Unlawful sale of a firearm before the required

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1 waiting period ends consists of transferring ownership,
2 possession or physical control of the firearm from the seller
3 to the buyer before the end of the required waiting period.

4 C. The firearm shall remain in the custody of the
5 seller during the entirety of the waiting period.

6 D. Records of firearm sales shall be made available
7 by the seller for inspection upon request of a law enforcement
8 agency.

9 E. The provisions of this section do not apply to
10 the sale of a firearm:

11 (1) to a buyer who holds a valid federal
12 firearms license;

13 (2) to a buyer who holds a valid New Mexico
14 concealed carry license;

15 (3) to a law enforcement agency;

16 (4) between two law enforcement officers
17 authorized to carry a firearm and certified pursuant to federal
18 law or the Law Enforcement Training Act; or

19 (5) between immediate family members to the
20 third degree of consanguinity.

21 F. Each party to an unlawful sale of a firearm
22 before the required waiting period ends is in violation of this
23 section and may be separately charged for the same sale.

24 G. Each firearm sold contrary to the provisions of
25 this section constitutes a separate offense under Subsection B

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1 of this section.

2 H. Two or more offenses may be charged in the same
3 complaint, information or indictment and shall be punished as
4 separate offenses.

5 I. Whoever violates the provisions of this section
6 is guilty of a misdemeanor."

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CORRECTIONS; INCLUDING CANNABIS IN THE DEFINITION OF "CONTRABAND"; PROHIBITING CANNABIS IN PLACES OF IMPRISONMENT; PROVIDING EXCEPTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-22-14 NMSA 1978 (being Laws 1976, Chapter 15, Section 1, as amended) is amended to read:

"30-22-14. BRINGING CONTRABAND INTO PLACES OF IMPRISONMENT--PENALTIES--DEFINITIONS.--

A. Bringing contraband into a prison consists of knowingly and voluntarily carrying, transporting or depositing contraband onto the grounds of the penitentiary of New Mexico or any other institution designated by the corrections department for the confinement of adult prisoners. Whoever commits bringing contraband into a prison is guilty of a third

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1 degree felony.

2 B. Bringing contraband into a jail consists of
3 knowingly and voluntarily carrying contraband into the confines
4 of a county or municipal jail. Whoever commits bringing
5 contraband into a jail is guilty of a fourth degree felony.

6 C. As used in this section:

7 (1) "cannabis" means:

8 (a) all parts of the plant genus
9 Cannabis containing a delta-9-tetrahydrocannabinol
10 concentration of more than three-tenths percent on a dry weight
11 basis, whether growing or not;

12 (b) the seeds of the plant;

13 (c) the resin extracted from any part of
14 the plant; and

15 (d) every compound, manufacture, salt,
16 derivative, mixture or preparation of the plant, its seed or
17 its resin;

18 (2) "cannabis extract":

19 (a) means a product obtained by
20 separating resins, tetrahydrocannabinols or other substances
21 from cannabis by approved extraction methods; and

22 (b) does not include the weight of any
23 other ingredient combined with cannabis extract to prepare
24 topical or oral administrations, food, drink or another
25 product;

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1 (3) "cannabis product" means a product that is
2 or that contains cannabis or cannabis extract, including edible
3 or topical products that may also contain other ingredients;

4 (4) "contraband" means:

5 [~~(1)~~] (a) a deadly weapon, as defined in
6 Section 30-1-12 NMSA 1978, or an essential component part
7 thereof, including ammunition, explosive devices and explosive
8 materials, but does not include a weapon carried by a peace
9 officer in the lawful discharge of duties;

10 [~~(2)~~] (b) currency brought onto the
11 grounds of the institution for the purpose of transfer to a
12 prisoner, but does not include currency carried into areas
13 designated by the warden as areas for the deposit and receipt
14 of currency for credit to a prisoner's account before contact
15 is made with the prisoner;

16 [~~(3)~~] (c) an alcoholic beverage;

17 [~~(4)~~] (d) a controlled substance, as
18 defined in the Controlled Substances Act, but does not include
19 a controlled substance carried into a prison or jail through
20 regular prison or jail channels and pursuant to the direction
21 or prescription of a [~~regularly licensed physician; or~~] health
22 care provider;

23 (e) cannabis, cannabis extract or
24 cannabis products, but does not include cannabis, cannabis
25 extract or cannabis products if carried into a prison or jail

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1 through regular prison or jail channels and pursuant to the
2 direction or prescription of a health care provider; or

3 [~~(5)~~] (f) an electronic communication or
4 recording device brought onto the grounds of the institution
5 for the purpose of transfer to or use by a prisoner; and

6 [~~D. As used in this section~~] (5) "electronic
7 communication or recording device" means any type of
8 instrument, device, machine or equipment that is designed to
9 transmit or receive telephonic, electronic, digital, cellular,
10 satellite or radio signals or communications or that is
11 designed to have sound or image recording abilities or any part
12 or component of such instrument, device, machine or equipment.
13 "Electronic communication or recording device" does not include
14 a device that is or will be used by prison or jail personnel in
15 the regular course of business or that is otherwise authorized
16 by the warden.

17 [~~E.~~] D. Nothing in this section shall prohibit the
18 use of hearing aids, voice amplifiers or other equipment
19 necessary to aid prisoners who have documented hearing or
20 speech deficiencies or their visitors. Rules for such devices
21 shall be established by the warden or director of each jail,
22 detention center and prison."

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL JUSTICE; LIMITING INCARCERATION FOR
TECHNICAL VIOLATIONS OF PROBATION AND PAROLE; ALPHABETIZING
DEFINITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-20-5 NMSA 1978 (being Laws 1963,
Chapter 303, Section 29-17, as amended) is amended to read:

"31-20-5. PLACING DEFENDANT ON PROBATION.--

A. When a person has been convicted of a crime for
which a sentence of imprisonment is authorized and when the
magistrate, metropolitan or district court has deferred or
suspended sentence, it shall order the defendant to be placed
on probation for all or some portion of the period of deferment
or suspension if the defendant is in need of supervision,
guidance or direction that is feasible for the corrections

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1 department to furnish. Except for sex offenders as provided in
2 Section 31-20-5.2 NMSA 1978, the total period of probation for
3 district court shall not exceed five years and the total period
4 of probation for the magistrate or metropolitan courts shall be
5 no longer than the maximum allowable incarceration time for the
6 offense or as otherwise provided by law.

7 B. The court may designate specific and particular
8 conditions as conditions that warrant a standard violation
9 pursuant to Subsection B of Section 31-21-15 NMSA 1978 for a
10 defendant serving a period of probation under a suspended,
11 deferred or conditional discharge from a plea or conviction
12 that includes either a sex offense as defined in Section
13 29-11A-3 NMSA 1978 or a serious violent offense as enumerated
14 in Subparagraphs (a) through (n) of Paragraph (4) of Subsection
15 L of Section 33-2-34 NMSA 1978. The court may only order that
16 violating these conditions constitutes a standard violation if
17 it finds by clear and convincing evidence these additional
18 conditions are necessary to ensure public safety or the safety
19 of a particular individual.

20 [~~B.~~] C. If a defendant is required to serve a
21 period of probation subsequent to a period of incarceration:

22 (1) the period of probation shall be served
23 subsequent to any required period of parole, with the time
24 served on parole credited as time served on the period of
25 probation and the conditions of probation imposed by the court

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1 deemed as additional conditions of parole; and

2 (2) in the event that the defendant violates
3 any condition of that parole, the parole board shall cause
4 ~~[him]~~ the defendant to be brought before it pursuant to the
5 provisions of Section 31-21-14 NMSA 1978 and may make any
6 disposition authorized pursuant to that section and, if parole
7 is revoked, the period of parole served in the custody of a
8 correctional facility shall not be credited as time served on
9 probation."

10 SECTION 2. Section 31-21-5 NMSA 1978 (being Laws 1978,
11 Chapter 41, Section 1, as amended) is amended to read:

12 "31-21-5. DEFINITIONS.--As used in the Probation and
13 Parole Act:

14 A. "absconding" means that a person under
15 supervision willfully makes the person's whereabouts unknown or
16 willfully fails to report as ordered with a purpose to evade
17 compliance with the person's supervision obligations by making
18 the person's self unavailable for supervision, which may be
19 inferred from surrounding circumstances, and when a person's
20 failure to appear without notice for three or more consecutive
21 supervision appointments of which the person had actual notice,
22 shall provide a rebuttable presumption of that purpose;

23 B. "adult" means a person convicted of a crime by a
24 district court;

25 C. "board" means the parole board;

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1 D. "director" means the director of the adult
2 probation and parole division of the corrections department or
3 any employee designated by the director;

4 E. "geriatric inmate" means a person who:

5 (1) is serving a sentence and is confined in a
6 prison or other correctional institution under the control of
7 the corrections department;

8 (2) is fifty-five years of age or older;

9 (3) suffers from a debilitating and chronic
10 infirmity, illness or disease related to aging; and

11 (4) does not constitute a danger to the
12 person's own self or to society at the time of review;

13 F. "institution" means the state penitentiary and
14 any other similar state institution hereinafter created;

15 G. "parole" means the release to the community of
16 an inmate of an institution by decision of the board or by
17 operation of law, subject to conditions imposed by the board
18 and to its supervision;

19 H. "permanently incapacitated inmate" means a
20 person who:

21 (1) is serving a sentence and is confined in a
22 prison or other correctional institution under the control of
23 the corrections department;

24 (2) by reason of an existing medical condition
25 is permanently and irreversibly physically incapacitated; and

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1 (3) does not constitute a danger to the
2 person's own self or to society at the time of review;

3 ~~[A.]~~ I. "probation" means the procedure under which
4 an adult defendant, found guilty of a crime upon verdict or
5 plea, is released by the court without imprisonment under a
6 suspended or deferred sentence and subject to conditions;

7 ~~[B.] "parole" means the release to the community of~~
8 ~~an inmate of an institution by decision of the board or by~~
9 ~~operation of law, subject to conditions imposed by the board~~
10 ~~and to its supervision;~~

11 ~~G.] "institution" means the state penitentiary and~~
12 ~~any other similar state institution hereinafter created;~~

13 ~~D.] "board" means the parole board;~~

14 ~~E.] "director" means the director of the adult~~
15 ~~probation and parole division of the corrections department or~~
16 ~~any employee designated by the director;~~

17 ~~F.] "adult" means any person convicted of a crime by~~
18 ~~a district court;~~

19 ~~G.] "geriatric inmate" means a person who:~~

20 ~~(1) is serving a sentence and is confined in a~~
21 ~~prison or other correctional institution under the control of~~
22 ~~the corrections department;~~

23 ~~(2) is fifty-five years of age or older;~~

24 ~~(3) suffers from a debilitating and chronic~~
25 ~~infirmity, illness or disease related to aging; and~~

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1 ~~(4) does not constitute a danger to the~~
2 ~~person's own self or to society at the time of review;~~

3 H. ~~"permanently incapacitated inmate" means a~~
4 ~~person who:~~

5 ~~(1) is serving a sentence and is confined in a~~
6 ~~prison or other correctional institution under the control of~~
7 ~~the corrections department;~~

8 ~~(2) by reason of an existing medical condition~~
9 ~~is permanently and irreversibly physically incapacitated; and~~

10 ~~(3) does not constitute a danger to the~~
11 ~~person's own self or to society at the time of review; and]~~

12 J. "standard violation of probation" or "standard
13 violation of parole" means any violation:

14 (1) that violates a condition that the
15 probationer or parolee refrain from having contact with a
16 victim or witness;

17 (2) that constitutes absconding;

18 (3) that constitutes a new crime not
19 constituting a technical violation; or

20 (4) for a sex offender or serious violent
21 offender pursuant to Subsection C of Section 31-20-5 NMSA 1978,
22 any contact with the victim or any violation of a condition
23 designated by the sentencing court as a standard violation;

24 K. "technical violation of probation" or "technical
25 violation of parole" means any willful violation of conditions

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1 of probation or parole supervision that is not a standard
2 violation, including a positive chemical test for alcohol or
3 controlled substance consumption or missing a scheduled
4 supervision appointment; and

5 [F.] L. "terminally ill inmate" means a person who:
6 (1) is serving a sentence and is confined in a
7 prison or other correctional institution under the control of
8 the corrections department;
9 (2) has an incurable condition caused by
10 illness or disease that will, within reasonable medical
11 judgment, produce death within six months; and
12 (3) does not constitute a danger to the
13 person's own self or to society at the time of review."

14 SECTION 3. Section 31-21-14 NMSA 1978 (being Laws 1955,
15 Chapter 232, Section 17, as amended) is amended to read:

16 "31-21-14. RETURN OF PAROLE VIOLATOR.--

17 A. At any time during release on parole, the board
18 or the director may issue a warrant for the arrest of the
19 [~~released prisoner~~] parolee for [~~violation of any of the~~
20 ~~conditions of release~~] a standard violation of parole or issue
21 a notice to appear to answer a charge of any violation. The
22 notice shall be served personally upon the [~~prisoner~~] parolee.
23 The warrant shall authorize the [~~superintendent~~] warden of the
24 institution from which the [~~prisoner~~] parolee was released to
25 return the [~~prisoner~~] parolee to the actual custody of the

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1 institution or to any other suitable detention facility
2 designated by the board or the director. If the [prisoner]
3 parolee is out of the state, the warrant shall authorize the
4 [superintendent] warden to return [him] the parolee to the
5 state. For a technical violation of parole, the director shall
6 issue a notice to appear served personally upon the parolee
7 unless the director authorizes an arrest warrant based on a
8 flight risk or danger to the community.

9 B. The director may arrest the [prisoner] parolee
10 without a warrant or may deputize [any] an officer with power
11 of arrest to do so by giving [him] the officer a written
12 statement setting forth that the [prisoner] parolee has, in the
13 judgment of the director, [~~violated the conditions of his~~
14 ~~release~~] committed a standard violation of parole and the
15 parolee presents a flight risk or danger to the community.

16 Where an arrest is made without a warrant, the [prisoner]
17 parolee shall not be returned to the institution unless
18 authorized by the director or the board. Pending hearing as
19 provided by law upon [any] a charge of a standard violation of
20 parole, the [prisoner] parolee presenting a flight risk or
21 danger to the community shall remain incarcerated in the
22 institution.

23 C. Upon arrest and detention or service of a notice
24 to appear, the board shall cause the [prisoner] parolee to be
25 promptly brought before it for a parole revocation hearing on

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1 the parole violation charged, under rules and regulations the
2 board may adopt.

3 D. If a standard violation of parole is
4 established, the board may continue or revoke the parole,
5 impose detention for a fixed term up to ninety days, which
6 shall be counted as time served under the sentence, or enter
7 any other order as it sees fit.

8 E. Except as provided in Subsection F of this
9 section, if a technical violation of parole is established
10 before the board at a technical violation hearing, the board:

11 (1) shall not impose a sanction of more than
12 three days of community service, restrictive curfew, behavioral
13 health treatment or other non-detention sanction for a first
14 technical violation of parole;

15 (2) shall not impose a sanction of more than
16 five days of community service, restrictive curfew, behavioral
17 health treatment or other non-detention sanction for a second
18 technical violation of parole;

19 (3) shall not impose a sanction of more than
20 seven days of incarceration for a third technical violation of
21 parole; and

22 (4) may impose incarceration for a fixed term
23 up to thirty days, which shall be counted as time served under
24 the sentence, or enter any other order as it sees fit for a
25 fourth or subsequent technical violation of parole.

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1 F. The board may impose incarceration beyond the
2 terms outlined in Subsection E of this section if the board
3 finds that additional detention is necessary for the parolee's
4 rehabilitation or public safety.

5 [D-] G. A [prisoner] parolee for whose return a
6 warrant has been issued shall, if it is found that the warrant
7 cannot be served, be a fugitive from justice. If it appears
8 that [he] the parolee has violated the provisions of [his] the
9 parolee's release, the board shall determine whether the time
10 from the date of the violation to the date of [his] the
11 parolee's arrest, or any part of it, shall be counted as time
12 served under the sentence."

13 SECTION 4. Section 31-21-15 NMSA 1978 (being Laws 1963,
14 Chapter 301, Section 13, as amended by Laws 2016, Chapter 27,
15 Section 1 and by Laws 2016, Chapter 31, Section 1) is amended
16 to read:

17 "31-21-15. RETURN OF PROBATION VIOLATOR.--

18 A. At any time during probation:

19 (1) the court may issue a warrant for the
20 arrest of a probationer for [~~violation of any of the conditions~~
21 ~~of release~~] a standard violation of probation. The warrant
22 shall authorize the return of the probationer to the custody of
23 the court or to any suitable detention facility designated by
24 the court;

25 (2) the court may issue a notice to appear to

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1 answer a charge of any violation and shall issue the notice for
2 a technical violation of probation unless the court issues an
3 arrest warrant based on a flight risk or danger to the
4 community. The notice shall be personally served upon the
5 probationer; or

6 (3) the director may arrest a probationer
7 without warrant or may deputize any officer with power of
8 arrest to do so by giving the officer a written statement
9 setting forth that the probationer has, in the judgment of the
10 director, [~~violated the conditions of the probationer's~~
11 ~~release~~] committed a standard violation of probation. The
12 written statement, delivered with the probationer by the
13 arresting officer to the official in charge of a county jail or
14 other place of detention, is sufficient warrant for the
15 detention of the probationer. Upon the probationer's arrest
16 and detention, the director shall immediately notify the court
17 and submit in writing a report showing in what manner the
18 probationer has violated the conditions of release.

19 B. Following service of a notice to appear or
20 arrest pursuant to Subsection A of this section, the court
21 shall then hold a hearing, which may be informal, on the
22 violation charged. If [~~the~~] a standard violation of probation
23 is established, the court may continue the original probation
24 or revoke the probation and either order a new probation with
25 any condition provided for in Section 31-20-5 or 31-20-6 NMSA

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1 1978 or require the probationer to serve the balance of the
2 sentence imposed or any lesser sentence; provided that, except
3 as provided in Subsection C of this section, the court:

4 (1) shall not impose a sanction of more than
5 three days of community service, restrictive curfew, behavioral
6 health treatment or other non-detention sanction for a first
7 technical violation of probation;

8 (2) shall not impose a sanction of more than
9 five days of community service, restrictive curfew, behavioral
10 health treatment or other non-detention sanction for a second
11 technical violation of probation;

12 (3) shall not impose a sanction of more than
13 three days of incarceration for a third technical violation of
14 probation; and

15 (4) may continue the original probation or
16 revoke the probation and either order a new probation with any
17 condition provided for in Section 31-20-5 or 31-20-6 NMSA 1978
18 or require the probationer to serve the balance of the sentence
19 imposed or any lesser sentence for a fourth or subsequent
20 technical violation of probation.

21 C. The court may impose incarceration beyond the
22 terms outlined in Subsection B of this section if the court
23 finds that additional detention is necessary for the
24 probationer's rehabilitation or public safety.

25 D. If imposition of sentence was deferred, the

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1 court may, consistent with Subsection B of this section, impose
2 any sentence that might originally have been imposed, but
3 credit shall be given for time served on probation.

4 ~~[G-]~~ E. If it is found that a warrant for the
5 return of a probationer cannot be served, the probationer is a
6 fugitive from justice. After hearing upon return, if it
7 appears that the probationer has violated the provisions of the
8 probationer's release, the court shall determine whether the
9 time from the date of violation to the date of the
10 probationer's arrest, or any part of it, shall be counted as
11 time served on probation. For the purposes of this subsection,
12 "probationer" means a person convicted of a crime by a
13 district, metropolitan, magistrate or municipal court.

14 ~~[D-]~~ F. The board shall budget funds to cover
15 expenses of returning probationers to the court. The sheriff
16 of the county in which the probationer was convicted is the
17 court's agent in the transportation of the probationer, but the
18 director, with the consent of the court, may utilize other
19 state agencies for this purpose when it is in the best interest
20 of the state."

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO JUDICIAL SALARIES; REMOVING SALARY FORMULAS FOR
MAGISTRATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 34-1-9 NMSA 1978 (being Laws 1993,
Chapter 278, Section 1, as amended) is amended to read:

"34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

A. Justices of the supreme court shall each receive
an annual salary as provided by the legislature. The chief
justice of the supreme court shall receive an annual salary
that is two thousand dollars (\$2,000) more than the annual
salary of a justice of the supreme court.

B. The chief judge of:

(1) the court of appeals shall receive an
annual salary that is ninety-five percent of the annual salary

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1 of the chief justice of the supreme court;

2 (2) a district court shall receive an annual
3 salary that is ninety-five percent of the annual salary of the
4 chief judge of the court of appeals; and

5 (3) a metropolitan court shall receive an
6 annual salary that is ninety-five percent of the annual salary
7 of the chief judge of a district court.

8 ~~[G. The presiding magistrate of a magistrate~~
9 ~~district where three or more divisions operate as a single~~
10 ~~court shall receive an annual salary that is seventy-five~~
11 ~~percent of the annual salary of the chief judge of a~~
12 ~~metropolitan court.~~

13 ~~D.]~~ C. Notwithstanding any other provision of law
14 or any other provision of this section, the annual salaries of
15 the following judges [~~and magistrates~~] shall be established as
16 follows:

17 (1) a judge of the court of appeals shall
18 receive an annual salary that is ninety-five percent of the
19 annual salary of a justice of the supreme court;

20 (2) a district court judge shall receive an
21 annual salary that is ninety-five percent of the annual salary
22 of a judge of the court of appeals; and

23 (3) a metropolitan court judge shall receive
24 an annual salary that is ninety-five percent of the annual
25 salary of a district court judge.

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1 ~~[(4) a full-time magistrate shall receive an~~
2 ~~annual salary that is seventy-five percent of the annual salary~~
3 ~~of a metropolitan court judge;~~

4 ~~(5) a half-time magistrate shall receive an~~
5 ~~annual salary that is fifty percent of the annual salary of a~~
6 ~~full-time magistrate; and~~

7 ~~(6) a quarter-time magistrate shall receive an~~
8 ~~annual salary that is twenty-five percent of the annual salary~~
9 ~~of a full-time magistrate.~~

10 ~~E. For fiscal year 1995 and all subsequent fiscal~~
11 ~~years] D.~~ The annual salary for justices of the supreme court,
12 judges of the court of appeals, district court judges,
13 metropolitan court judges and magistrates shall be
14 [~~established~~] provided by the legislature in an appropriations
15 act.

16 ~~[F.]~~ E. No additional salaries shall be paid to
17 justices, judges or magistrates on account of services rendered
18 the state. Justices of the supreme court, judges of the court
19 of appeals, district court judges, metropolitan court judges
20 and magistrates shall receive per diem and mileage for
21 necessary travel on official business of the court as provided
22 in the Per Diem and Mileage Act."

1 SENATE JOINT RESOLUTION

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

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8 ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

9
10 A JOINT RESOLUTION

11 PROPOSING TO AMEND ARTICLE 6, SECTION 35 OF THE CONSTITUTION OF
12 NEW MEXICO BY REPLACING THE DEAN OF THE UNIVERSITY OF NEW
13 MEXICO SCHOOL OF LAW AS CHAIR OF THE APPELLATE JUDGES
14 NOMINATING COMMISSION WITH THE CHIEF JUSTICE OF THE SUPREME
15 COURT OR THE CHIEF JUSTICE'S DESIGNEE AND ADDING AN ADDITIONAL
16 MEMBER OF THE SUPREME COURT TO THE COMMISSION.

17
18 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. It is proposed to amend Article 6, Section 35
20 of the constitution of New Mexico to read:

21 "A. There is created the "appellate judges
22 nominating commission", consisting of:

23 (1) the chief justice of the supreme court or
24 the chief justice's designee, ~~[from]~~ who shall be a justice or
25 retired justice of the supreme court, shall serve as chair of

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1 the commission and shall vote only in the event of a tie vote;

2 (2) a member of the supreme court designated
3 by the chief justice;

4 (3) two judges of the court of appeals
5 appointed by the chief judge of the court of appeals;

6 (4) six members of the public, two appointed
7 by each of the governor, the speaker of the house of
8 representatives and the president pro tempore of the senate
9 ~~[shall each appoint two persons]~~, one of whom shall be an
10 attorney licensed to practice law in this state and the other
11 who shall be a citizen who is not licensed to practice law in
12 any state; ~~[the dean of the university of New Mexico school of~~
13 ~~law, who shall serve as chair of the commission and shall vote~~
14 ~~only in the event of a tie vote]~~ and

15 (5) four members of the state bar of New
16 Mexico, representing civil and criminal prosecution and
17 defense, appointed by the president of the state bar and the
18 judges on the commission.

19 B. The appointments shall be made in such manner
20 that each of the two largest major political parties, as
21 defined by the Election Code, shall be equally represented on
22 the commission. If necessary, the president of the state bar
23 and the judges on the commission shall make the minimum number
24 of additional appointments of members of the state bar as is
25 necessary to make each of the two largest major political

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1 parties be equally represented on the commission. These
2 additional members of the state bar shall be appointed such
3 that the diverse interests of the state bar are represented.
4 The [~~dean of the university of New Mexico school of law~~] chair
5 of the commission shall be the final arbiter of whether such
6 diverse interests are represented. Members of the commission
7 shall be appointed for terms as may be provided by law. If a
8 position on the commission becomes vacant for any reason, the
9 successor shall be selected by the original appointing
10 authority in the same manner as the original appointment was
11 made and shall serve for the remainder of the term vacated.

12 C. The commission shall actively solicit, accept
13 and evaluate applications from qualified lawyers for the
14 position of justice of the supreme court or judge of the court
15 of appeals and may require an applicant to submit any
16 information it deems relevant to the consideration of the
17 application.

18 D. Upon the occurrence of an actual vacancy in the
19 office of justice of the supreme court or judge of the court of
20 appeals, the commission shall meet within thirty days and
21 within that period submit to the governor the names of persons
22 qualified for the judicial office and recommended for
23 appointment to that office by a majority of the commission.

24 E. Immediately after receiving the commission
25 nominations, the governor may make one request of the

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1 commission for submission of additional names, and the
2 commission shall promptly submit such additional names if a
3 majority of the commission finds that additional persons would
4 be qualified and recommends those persons for appointment to
5 the judicial office. The governor shall fill a vacancy or
6 appoint a successor to fill an impending vacancy in the office
7 of justice of the supreme court or judge of the court of
8 appeals within thirty days after receiving final nominations
9 from the commission by appointing one of the persons nominated
10 by the commission for appointment to that office. If the
11 governor fails to make the appointment within that period or
12 from those nominations, the appointment shall be made from
13 those nominations by the chief justice or the acting chief
14 justice of the supreme court. The person appointed shall serve
15 until the first general election following one year after
16 appointment. The appointee's successor shall be chosen at such
17 election and shall hold the office until the expiration of the
18 term in effect at the time of election."

19 **SECTION 2.** The amendment proposed by this resolution
20 shall be submitted to the people for their approval or
21 rejection at the next general election or at any special
22 election prior to that date that may be called for that
23 purpose.



LEGISLATIVE COUNCIL SERVICE
SANTA FE, NEW MEXICO