

LFC Requester: \_\_\_\_\_

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

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*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

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

Check all that apply:

Original  Amendment \_\_\_\_\_  
Correction \_\_\_\_\_ Substitute \_\_\_\_\_

Date January 27, 2025

Bill No: HB 54-28

Agency Name  
and Code  
Number: 280-LOPD

Sponsor: Katy Duhigg

Short Criminal Justice Changes

Title: \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
n/a	n/a		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
n/a	n/a	n/a		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	Possibly Positive Impact	Possibly Positive Impact	Possibly Positive Impact	Possibly Positive Impact	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: **HB 4, SB 1, SB 2, SB 3**

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Despite the short title, SB 54 makes only civil law changes with the overarching goal of reducing the burden on the criminal system by reallocating behavioral health efforts and reducing recidivism.

With this overarching framework, SB 54 would make the following changes to New Mexico law:

**Section 1** is mostly language cleanup, but adds two provisions to the Secretary’s personnel/staffing duties: first, a compensation provision for NMCD employees to “includ[e] incentive and stipend programs for academy and specialty trainers”; and second, extending NMCD training programs to county detention officers.

**Section 2** amends the statute governing the NM Sentencing Commission. It clerically updates language identifying members based on current titles. It also adds two paragraphs to Subsection D, the list of the commission’s duties. First, in ¶ 14, it requires the commission to “coordinate reentry efforts” from both prisons and jails including by “foster[ing] collaboration and communication among stakeholder groups” and setting minimum standards, including for “re-release assessments, behavioral and physical health continuum of care, employment, housing, and basic needs.” The bill would also add ¶ 16, requiring a “public crime data dashboard” along with DPS, and would incorporate the “data dashboard” into existing information-technology provisions.

**Section 3** would create a new Act to better fund the forensic laboratory bureau of DPS in order to “expand operations, increase efficiency and reduce delays in evidence processing.”

**Section 4** would amend the Health Professional Loan Repayment Act to give higher priority for repaying loans to those providing “behavioral health services to people who are incarcerated, returned from incarceration or supervised by the corrections department” (thus aiding reentry).

**Section 5** would amend the Public Service Law Loan Repayment Act similarly adds preference for public defender and district attorney employees.

**Section 6** would increase Public Service Law student loan repayment maximums from \$7,200 to \$12,000 per year.

**Section 7** would amend the “Medication Assisted Treatment” program funding to refer to the “health care authority” instead of the “human services department.” It would also extend timelines and set deadlines for program development, and set data tracking and reporting requirements for facilities in implementing the program.

**Section 8** would amend the Health Service Corps Act to add licensed clinical social worker or licensed counselor to the definition of “health professional.”

**Section 9** would amend the NM Telehealth Act to add “a crisis triage center” to the list of places where a patient may receive health care by telehealth.

**Section 10** would amend the duties of DPS under the “Uniform crime reporting” statute to require the department “provide data collected and stored ... to the New Mexico sentencing commission” in furtherance of the public data dashboard created in Section 2 of the bill.

**Section 11** would add county detention officers to the Law Enforcement Training Act definitions.

**Section 12** would add new material to the LETA to ensure availability of Academy training for county detention officers.

**Section 13** would then amend the LETA’s training requirements for interacting with people in a behavioral health crisis, by amending the phrase from “persons with mental impairments,” to “persons in crisis.”

**Section 14** would amend the definitions of the Criminal Procedure Act to define “mental illness”; “substance use disorder”; “person in crisis”; “behavioral health crisis”; “law enforcement deflection program”; “treatment”; “mental health professional” and “validated risk and needs assessment.”

**Section 15** would then create Law enforcement “deflection programs” for first responders “in partnership with” licensed providers of behavior health or substance use disorder treatment services, to include a community-based treatment program developed by any law enforcement agency, first responder entity, or local government.

**Section 16** would authorize “resolv[ing] the intervention without charges on a voluntary basis” when a law enforcement officer or mental health professional has “probable cause” that a person is in crisis that requires nonmedical intervention. It would require every agency to establish a policy and procedure for interacting with persons in crisis, including their transfer to treatment and accessing wraparound care. It would require DPS to develop a training program to assist in implementation.

**Section 17** would modify statutory guidelines for pre-prosecution diversion programs, removing the requirement that a defendant have no prior violent felonies to participate. It would instead provide seven “factors” to consider for eligibility, to be considered by the district attorney.

**Section 18** would authorize creation of “treatment court diversion” in each judicial district, to include drug court, mental health court, or other treatment-based court diversion programs, and outline the process therefor.

**Section 19** would amend the existing statute for placing defendants on probation to identify “standard conditions” by statute (currently identified by the Probation & Parole Division of NMCD). It would also authorize the court to impose “special conditions” based on a validated risk and needs assessment (currently non-customized when imposed by PPD).

**Section 20** would amend Section 31-20-6, the optional conditions for suspending or deferring a sentence, to allow for participation in an alternative program, including treatment court.

**Section 21** would amend the conditional discharge statute to allow for a CD if a person has a prior DWI, so long as it has been more than five years since the DWI conviction.

**Section 22** would add metropolitan courts (apparently omitted by oversight) to the statute regarding presentence and prerelease investigations, and requires such reports to contain evaluation or risk assessment results, to inform decisions regarding treatment.

**Section 23** would clarify that probation supervision following release from prison may be “dual supervision” (presumably with parole) and authorizes the parole board to impose a “special condition necessary to the successful rehabilitation” and authorizes them to use a risk and needs assessment.

**Section 24** amends the Violence Intervention Program Act to authorize “crime mapping” and crime data to target violence prevention, and to requires violence intervention programs to partner with the crime victims reparation commission to better support victims, and require reporting from such programs.

**Section 25** would also amend the VIPA to extend grantee reporting requirements from 2027 to 2030.

**Section 26** to require judicial training to address substance use disorders, mental health conditions, and co-occurring disorders.

**Sections 27 and 28** would create new material to fund “jail reentry” and “clinical supervision” both for purposes of health care.

**Section 29** would enact a temporary provision for creating a “statewide system of community-based treatment” under the "administration" of the behavioral health services division of the health care authority operating under the health care authority. SB 84 would require the director of the administration to establish a statewide plan for providing programs and services as alternatives to inpatient residential care, and setting minimum requirements for that plan. This section would require the director to submit the plan to the legislature’s interim committees on health and human services and legislative finance by June 30, 2026.

## **FISCAL IMPLICATIONS**

SB 54 establishes three new funds, the Forensic Laboratory Bureau Fund, the Jail Reentry Fund and the Clinical Supervision Fund; however, there does not seem to be any appropriation amounts included nor references to contingent appropriations to support these new funds. Meaningful and continuous funding for these new funds could have a positive impact for

LOPD. The Forensic Lab Fund could expedite trials by helping to more quickly deliver needed analysis and discovery and help better meet speedy trial rights of clients as well as save significant time and resource for all criminal justice system partners. The Jail reentry fund could help reduce recidivism, as well as LOPD's caseloads due to violations of probation or parole. Support for the Clinical Supervision Fund – and thereby access to more social work services – could also reduce caseloads.

Meaningful reductions in new criminal cases and those resulting from recidivism, including by assisting our clients who suffer from mental health and substance abuse issues, would have a positive net effect on LOPD. The FY24 average cost per case (found by dividing LOPD's FY24 Total Case Assignments by LOPD's FY24 Operating Budget) was \$842.45. Even just a 1% reduction in LOPD's FY24 caseload - 857 fewer cases – could have freed up more than \$700 thousand in base budget that could have been used to better support clients and attorneys in the court room and reduced attorney workloads.

Section 6 of the bill proposes much needed updates to the Public Service Law Loan Repayment Program, including establishing award preferences specifically prioritizing public defenders and district attorneys. The bill also proposes to raise the award cap from \$7,200 per year to \$12,000 per year. LOPD believes, if the bill passes, this would be the first increase to the award amount cap since the bill first passed 20 years ago. The American Bar Association (ABA) data shows full-time, in-state resident tuition costs (not including fees and housing) in 2024 were \$46,386 per semester (source: <https://www.abarequireddisclosures.org/requiredDisclosure>, 509 Required Disclosures, Compilation - All Schools Data), a notable 44% increase from 2011 (last year available) average costs of \$32,227 per semester. The same data shows in-state resident tuition was \$14,532 per semester in 2011 and is now \$19,297 in 2024, a 33% increase.

Nearly all of LOPD's more than 200 attorneys, are eligible for this program, although awards are much smaller due to the criteria listed in 21-22F-6 and other factors. LOPD believes interest from public attorneys in the program is limited for a number of reasons 1) awards are paid on a quarterly basis, which interferes with the monthly timing of federal awards, 2) many federal loan servicers will not apply quarterly payments evenly across months, and 3) the award amount is too small to be worth applying for and trying to make sure it applies to monthly payments evenly. A strong loan repayment program, especially given the unknown status of federal-level programs going forward, would be a very strong recruitment tool for LOPD and the DAs.

LOPD is aware of 24 applications being made this year with 9 awards made last year, meaning that only about \$65,000 was awarded in total, typical of an average year in the program. However, the Higher Education Department's 2023 audit shows the Public Service Law Loan Repayment Fund had a \$1 million fund balance.

LOPD advocates on behalf of the Higher Education Department that the Legislature support the cost of any needed additional staff needed to ensure that award payments are posted to lender accounts monthly and to enable more awards to be made.

## **SIGNIFICANT ISSUES**

As the primary provider of criminal defense representation in the state, LOPD knows well that the criminal legal system is ill-equipped to address defendants' mental health issues. The competency requirement – as a bare minimum for standing trial – is also not a test for

whether someone is well or is appropriately charged with conduct that may well be a symptom of their illness. Because the criminal system not the best place to address a public health problem we need a *civil* Behavioral Health solution that provides **voluntary** access to treatment services on a much larger scale and at a much younger age of access. It is crucial to have these voluntary services in addition to involuntary treatment, which should be a last resort.

One of the enormous burdens on the criminal legal system is the fact that there is nothing in place to serve as an outpatient alternative, much less regional infrastructure to provide meaningful long-term treatment. This bill is a huge step in the direction of creating a community-based infrastructure for Behavioral Health that someday will not require criminal system involvement to access.

Public safety is best served when policies are rooted in principles of equality of opportunity, equitable distribution of wealth, and public responsibility for those unable to avail themselves of the minimal provisions for a good life. Elevating quality of life with supportive services reduces crime and thus protects and promotes the economic and social well-being of all New Mexicans.

This bill combines a crucial combination of approaches, none of which can be impactful on its own. The crucial puzzle pieces are (1) law enforcement training and treatment diversion to avoid criminal charges in the first place; (2) prosecutorial diversion through a mental health court process that replaces punishment with treatment; (3) better treatment during post-conviction supervised release in the probation and parole context; and (4) mandates on corrections and jails at the reentry stage. In the process of creating these treatment options in scenarios that currently lead to prosecution and prison sentences, SB 54 would also [perhaps most crucially] fill the infrastructure gap that is currently the greatest barrier to addressing the intersectionality of behavioral health and public safety.

LOPD notes that Sections 17 and 18, in enabling development of “treatment court diversion” in each judicial district, appears to give prosecutors and judges sole authority to identify eligible defendants and approve them for participation. LOPD attorneys interact with and engage with clients one-on-one and, when appropriate, are often engaging social worker case managers to help develop treatment plans for our clients and are arguably in the *best* possible position to identify eligible defendants. SB 54 could benefit from involving defense counsel’s input in the diversion eligibility assessment process.

Section 6 also affects LOPD as an employer. The ABA Journal in November 2024 stated the following: “expectations for employment after law school graduation remained consistent over the past two decades. About half of all students surveyed this year expect to join private law firms, and about *6% plan to work in public-interest law*, echoing earlier surveys. Meanwhile, those planning to work in government increased slightly, from 26% in 2004 to 28% in 2024.” (<http://tiny.cc/qzh7001>)

Given the low number of new graduates entering public interest law jobs, LOPD proposes that even greater priority should be given to those attorneys who serve in rural or underserved areas in particular. Many University of New Mexico School of Law graduates do not go on to serve in rural or underserved communities, but stay in metro areas. Given the pressing needs in our rural counties and districts, as well as the difficulty in recruiting to these areas, preference should be given accordingly.

## **PERFORMANCE IMPLICATIONS**

*See* Fiscal Implications.

## **ADMINISTRATIVE IMPLICATIONS**

None noted.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None noted.

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

None noted.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

## **AMENDMENTS**

None noted.