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FISCAL IMPACT REPORT

SPONSOR <u>Cadena</u>	LAST UPDATED <u>3/9/25</u>	ORIGINAL DATE <u>2/25/25</u>
SHORT TITLE <u>Rules Definitions for Corrections</u>	BILL NUMBER <u>House Bill 428/aHJC</u>	
	ANALYST <u>Sanchez</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
NMCD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Department of Public Safety (DPS)
 Corrections Department (NMCD)
 Office of the Attorney General (NMAG)
 Commission of Public Records

SUMMARY

Synopsis of House Judiciary Committee Amendments to House Bill 428

The House Judiciary Committee amendments to House Bill 428 (HB428) modify the bill by specifying that internal security procedures are not considered "rules" subject to the bill's rulemaking requirements. The amendments define internal security procedures to include policies related to inmate escape, hostage and riot response, emergency response teams, security intelligence, facility design, perimeter security, and various operational controls within correctional facilities. Additionally, the amendments reduce the required public comment period for proposed rule changes from 45 days to 30 days.

Synopsis of House Bill 428

House Bill 428 (HB428) seeks to amend several sections of the NMSA 1978 concerning rulemaking authority, particularly in relation to the management and release of inmates, probationers, and parolees under the supervision of the Corrections Department (NMCD). Specifically, the bill amends Section 12-8-2 NMSA 1978 (Administrative Procedures Act) to clarify the definition of "rule" and ensure that rules governing the release of inmates are subject to the same procedural requirements as other agency rulemaking. Additionally, it amends Section 14-4-2 NMSA 1978 of the State Rules Act, redefining the term "rule" to include those related to

the confinement, discipline, or release of individuals under state correctional supervision. The bill further amends Section 33-2-1 NMSA 1978, requiring NMCD to provide at least forty-five days for public comment before adopting, amending, or repealing any rules affecting inmates, probationers, or parolees. It also mandates that notices of such rule changes be published in newspapers or professional publications to ensure public awareness.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

HB428 may result in increased administrative costs for NMCD due to new requirements for formal rulemaking procedures. The bill mandates a 45-day public comment period and public notice obligations before the department may adopt, amend, or repeal rules concerning inmates, probationers, and parolees. Compliance with these requirements could require additional staff time and resources, potentially impacting the department's operational budget on a recurring basis. While the exact fiscal impact has not been quantified, the department notes that funds currently allocated to rehabilitation programs, facility improvements, or staff development may need to be redirected to support the rulemaking process.

The bill could also affect the department's ability to respond quickly to emerging security threats, inmate management issues, or operational challenges. The additional procedural steps may delay the implementation of new policies, which could have implications for facility operations.

Other agencies, including the Department of Public Safety and the Office of the Attorney General (NMAG), have indicated that the bill is not expected to have a fiscal impact on their operations.

SIGNIFICANT ISSUES

HB428 would subject NMCD's rulemaking to the requirements of Section 12-8-4(A) NMSA 1978 (Administrative Procedures Act) and Section 14-4-5.2 NMSA 1978 (State Rules Act), removing existing exemptions for rules related to the confinement, discipline, and release of inmates, probationers, and parolees. By requiring a public comment period and notice of proposed rule changes, the bill increases transparency and public participation in the rulemaking process.

The bill's provisions could introduce procedural challenges for NMCD. Some department policies govern security protocols, facility management, and inmate conduct, which could raise concerns about making certain internal procedures subject to public review. The extent to which existing policies would need to be revised or formally readopted under the bill is unclear, which could have implications for the department's ongoing operations.

PERFORMANCE IMPLICATIONS

Requiring NMCD to adopt a formal rulemaking process for policies governing inmates, probationers, and parolees could affect the department's ability to implement operational changes efficiently. The bill's requirements could also shift departmental focus toward

regulatory compliance, potentially diverting staff time and resources from other core functions, including inmate supervision, rehabilitation programming, and facility oversight.

Additionally, implementing a public comment process may require staff to review, summarize, and respond to stakeholder input, adding to administrative workload and potentially extending the timeline for finalizing critical policies. The extent of these performance impacts will depend on how frequently the department must modify or adopt rules under the new framework and whether additional staff or resources are allocated to support compliance.

ADMINISTRATIVE IMPLICATIONS

Implementing HB428 would require NMCD to establish internal processes for managing the formal rulemaking requirements outlined in the bill. This includes coordinating legal reviews, compiling public comments, and ensuring compliance with procedural requirements under the Administrative Procedures Act and the State Rules Act. The department may need to develop tracking systems for rule changes and designate personnel to oversee rule development, publication, and stakeholder engagement.

The department would need to establish consistent procedures for coordinating with external publications and tracking compliance with public notification requirements, which could require additional administrative oversight. Additionally, if existing internal policies must be re-adopted through the formal rulemaking process, the department may experience a temporary increase in administrative workload as it works to align current practices with the new regulatory framework. The long-term impact on administrative functions will depend on the frequency of rule changes and whether additional resources are allocated to support these new responsibilities.

TECHNICAL ISSUES

The New Mexico Attorney General notes a technical issue regarding the bill's notice requirements. While HB428 mandates a 45-day public comment period before NMCD may adopt, amend, or repeal rules, it does not specify when the required notice must be published. Existing law under Section 12-8-4(A), NMSA 1978 (Administrative Procedures Act), and Section 14-4-5.2 NMSA 1978 (State Rules Act) require a 30-day notice period, which could create inconsistencies in the timing of public notice and comment deadlines.

OTHER SUBSTANTIVE ISSUES

The expanded rulemaking authority granted to NMCD under HB428 could result in overlapping or conflicting regulations with the Parole Board, which has separate statutory authority to adopt rules under Section 31-21-25, NMSA 1978. The extent of this potential conflict is unclear and may require clarification.

NMCD's analysis questioned whether existing policies and procedures not previously subject to formal rulemaking would become void upon the bill's effective date. If these policies must be re-adopted through the new rulemaking process, the department could face a significant administrative burden.