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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Sen. Duhigg/Rep. Anyanonu</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>2/16/25</u>
<b>SHORT TITLE</b> <u>Criminal Justice Changers</u>	<b>BILL NUMBER</b> <u>Senate Bill 54</u>
	<b>ANALYST</b> <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
DPS	No fiscal impact	At least \$1,840.2	At least \$404.7	At least \$2,449.9	Recurring	General Fund
NMCD	No fiscal impact	Up to \$12,400.0	Up to \$12,400.0	Up to \$24,800.0	Recurring	General Fund
Courts	No fiscal impact	\$7,500.0 to \$11,250.0	\$7,500.0 to \$11,250.0	Up to \$22,500.0	Recurring	General Fund
District Attorneys	No fiscal impact	\$10,350.0 to \$19,100.0	\$10,350.0 to \$19,100.0	Up to \$38,200.0	Recurring	General Fund
LOPD	No fiscal impact	\$4,000.0 to \$5,250.0	\$4,000.0 to \$5,250.0	Up to \$10,500.0	Recurring	General Fund
<b>Total</b>	<b>No fiscal impact</b>	<b>Up to \$49,840.2</b>	<b>Up to \$48,404.7</b>	<b>Up to \$98,449.9</b>	<b>Recurring</b>	<b>General Fund</b>

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

### Sources of Information

LFC Files

#### Agency Analysis Received From

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Law Offices of the Public Defender (LOPD)
- Office of the Attorney General (NMAG)
- New Mexico Sentencing Commission (NMSC)
- Healthcare Authority (HCA)
- Department of Health (DOH)
- Children, Youth and Families Department (CYFD)
- Corrections Department (NMCD)
- Department of Public Safety (DPS)

## SUMMARY

### Synopsis of Senate Bill 54

Senate Bill 54 (SB54) proposes multiple statutory changes related to criminal justice, behavioral health services, law enforcement training, data collection, pretrial diversion, probation, and

reentry programs. The bill amends several existing statutes and introduces new provisions addressing various aspects of public safety and correctional system operations.

SB54 amends Section 9-3-5 NMSA 1978 to expand the duties of the secretary of Corrections. It authorizes the implementation of incentive and stipend programs for academy and specialty trainers. The bill also requires the Corrections Department (NMCD) to provide training for county detention officers and enforce Health Care Authority (HCA) rules related to behavioral health services within correctional facilities.

The bill revises Section 9-3-10 NMSA 1978, expanding the role of the New Mexico Sentencing Commission (NMSC) to include coordinating reentry efforts, facilitating collaboration among stakeholder groups, and setting minimum standards for reentry programs. Additionally, the bill directs NMSC, in coordination with the Department of Public Safety (DPS), to create a public crime data dashboard to collect and display statewide crime data.

SB54 establishes a forensic laboratory bureau fund within DPS under Section 3, intended to support crime laboratories by funding operations, improving efficiency, and addressing evidence-processing backlogs.

The bill also modifies provisions related to behavioral health services within correctional facilities by amending Section 24-1-5.11 NMSA 1978. It makes language changes to clarify the oversight of the medication-assisted treatment (MAT) for the incarcerated program fund has moved from the Human Services Department to HCA. It sets deadlines for implementing MAT programs in correctional facilities. By December 31, 2026, all correctional facilities would be required to provide FDA-approved MAT for substance use disorders. Facilities would also be required to track and report MAT utilization data to HCA.

SB54 makes changes to workforce recruitment and retention programs by amending the Health Professional Loan Repayment Act (Section 21-22D-6 NMSA 1978) to include behavioral health providers serving incarcerated individuals and those under the supervision of NMCD as a priority for loan repayment. Similarly, the Public Service Law Loan Repayment Act (Section 21-22F-5 NMSA 1978) would extend loan repayment preferences to attorneys working in public defender and district attorney offices.

The bill modifies law enforcement training requirements under the Law Enforcement Training Act (Section 29-7-7 NMSA 1978) by adding county detention officers to the list of those eligible for training. It also expands crisis intervention training, replacing the existing “interaction with persons with mental impairments” requirement with “interaction with persons in crisis,” which would include training on autism spectrum disorder, substance use disorder, youth in crisis, and traumatic brain injuries.

SB54 introduces a Law Enforcement Deflection Program under Section 15. This program would allow law enforcement agencies, first responders, and local governments to establish community-based intervention programs in partnership with behavioral health providers. The program would be designed to divert individuals experiencing a behavioral health crisis from the criminal justice system to treatment and support services.

Several amendments to the Criminal Procedure Act redefine key terms, including “mental illness,” “substance use disorder,” and “validated risk and needs assessment.” Under Section 16,

law enforcement officers or mental health professionals encountering a person in crisis would be authorized to resolve the situation without filing charges and instead transfer the individual to an appropriate treatment facility.

SB54 modifies pre-prosecution diversion programs under Section 31-16A-4 NMSA 1978, allowing individuals with certain prior felony convictions to be considered for participation. The bill outlines specific factors for district attorneys to consider when determining eligibility.

The bill authorizes Treatment Court Diversion Programs under Section 18, permitting judicial districts to establish alternative courts that focus on substance use and mental health treatment. It also standardizes probation conditions under Section 31-20-5 NMSA 1978, requiring courts to impose conditions informed by validated risk and needs assessments.

SB54 creates the jail reentry fund to assist formerly incarcerated individuals with housing, employment, and treatment needs after their release. Additionally, it establishes the clinical supervision fund to support behavioral health providers working in correctional settings.

The bill also directs HCA to develop a statewide plan for community-based crisis intervention by June 30, 2026, with the stated intent of improving coordination between law enforcement, behavioral health providers, and community support programs.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

SB54 would create new statutory requirements for multiple state agencies, with fiscal implications for NMCD, DPS, HCA, NMSC, courts, district attorneys, and the Law Offices of the Public Defender (LOPD). The bill does not include direct appropriations but establishes several new programs and requirements that may require additional funding, staffing, and infrastructure investments.

The bill directs DPS and NMSC to develop a public crime data dashboard to collect and display statewide crime data. DPS estimates an initial cost of approximately \$1.5 million to upgrade its National Incident-Based Reporting System (NIBRS), which would include reengineering its database, developing data-sharing interfaces, and ensuring system interoperability. Additionally, the department projects recurring costs of \$340.2 thousand annually for personnel and system maintenance, with three additional full-time employees needed to oversee data integration, reporting, and technical support.

SB54 also requires NMCD to implement medication-assisted treatment (MAT) programs across all correctional facilities by 2026. While no direct appropriation is provided, HCA reports that similar programs have annual costs ranging between \$250 thousand and \$500 thousand per facility, with a statewide cost projection of up to \$12.4 million annually. The bill further mandates that NMCD provide training for county detention officers, which may require additional instructional staff and curriculum development beyond existing agency resources.

The judiciary could experience increased operational costs related to the establishment of treatment court diversion programs in each judicial district. The bill does not specify funding for

these programs, but costs may arise from additional court personnel, case management, and behavioral health support services. Similarly, modifications to pre-prosecution diversion eligibility and probation conditions could require additional resources for probation officers, supervision programs, and contracted behavioral health providers.

SB54 also affects law enforcement agencies by expanding training requirements, including crisis intervention and de-escalation techniques. Law enforcement agencies would need to develop policies for handling individuals in crisis and participate in new deflection and diversion programs, which could lead to increased training and administrative costs.

The bill establishes several new funds, including the jail reentry fund, the clinical supervision fund, and the forensic laboratory bureau fund. However, SB54 does not identify dedicated revenue sources for their ongoing operation. These funds would require appropriations or external funding sources to sustain their intended functions.

SB54 is expected to have fiscal implications for the courts, district attorneys, and LOPD due to expanded pre-prosecution diversion programs, new treatment court diversion programs, and changes to probation supervision requirements. While none of these agencies provided a specific cost estimate for implementation, estimating these costs is necessary to provide a comprehensive picture of the potential fiscal impact. Based on available data from similar programs, caseload projections, and staffing needs, the recurring costs for these agencies could range from \$21.85 million to \$35.6 million annually.

The courts will likely incur increased costs due to the bill's requirement that each judicial district establish treatment court diversion programs. Drug and mental health courts in New Mexico currently cost between \$500 thousand and \$750 thousand per program annually. If all 13 judicial districts implement at least one new treatment court, the estimated recurring cost would range from \$6.5 million to \$9.75 million per year. Additionally, SB54's expansion of pre-prosecution diversion programs and standardized probation conditions may increase judicial workloads, necessitating additional hearings and compliance monitoring. Historical cost data from the Administrative Office of the Courts (AOC) suggest at least 10 to 15 new staff members could be required across the state to manage the increased caseload, adding between \$1 million and \$1.5 million in recurring costs.

For district attorneys, the expanded eligibility for pre-prosecution diversion is expected to increase the number of cases requiring prosecutorial review, case management, and compliance monitoring. Existing diversion programs in New Mexico cost between \$3,500 and \$5,000 per participant. If SB54 results in an additional 2,500 to 3,500 individuals participating in diversion annually, total program costs could range from \$8.75 million to \$17.5 million per year. Additionally, to manage the increased caseload, district attorneys' offices may require at least one additional prosecutor per judicial district, with salary and benefits averaging \$125 thousand per position. Hiring 13 additional prosecutors statewide would cost approximately \$1.6 million per year.

LOPD will also experience increased costs due to SB54's expansion of diversion programs and additional probation-related proceedings. Public defenders are responsible for representing clients in pre-prosecution diversion programs, treatment courts, and probation hearings, all of which are expected to increase under the bill. Based on historical caseloads, LOPD may require at least 15 additional public defenders statewide to manage the increased volume at an estimated

cost of \$2 million annually in salary and benefits. Additional administrative and case support staff may add another \$500 thousand to \$750 thousand annually.

Probation compliance hearings are also expected to increase under SB54, mainly due to standardized probation conditions and new assessment requirements. If probation-related hearings increase by 15 to 20 percent statewide, LOPD will likely require additional legal resources for probation revocation hearings, compliance reviews, and appeals. The cost of additional legal support could total between \$1.5 million and \$2.5 million annually.

This analysis estimates annual recurring costs for the courts from \$7.5 million to \$11.25 million, for district attorneys from \$10.35 million to \$19.1 million, and for LOPD from \$4 million to \$5.25 million. The statewide total estimated recurring cost for these agencies is between \$21.85 million and \$35.6 million per year. These estimates are based on known costs of similar programs and projected increases in caseloads, staffing needs, and operational requirements.

These estimates assume that all 13 judicial districts establish at least one treatment court and that diversion eligibility expansions lead to at least 2,500 new program participants per year. Costs could vary depending on actual participation rates, implementation timelines, and how agencies allocate existing resources to meet new requirements. Additionally, while some courts already operate treatment courts, the cost of expanding them to additional districts and increasing participation remains uncertain.

District attorneys' costs could fluctuate based on the number of additional prosecutors needed to handle increased diversion caseloads and whether existing resources can be redirected to cover these functions. Similarly, LOPD's costs depend on the number of new diversion and probation cases that require legal representation and the complexity of those cases.

The overall fiscal impact of SB54 will depend on future funding allocations, agency implementation strategies, and the availability of external funding sources. Agencies may need to assess whether existing resources are sufficient to comply with the bill's mandates without affecting ongoing operations.

## **SIGNIFICANT ISSUES**

SB54 makes wide-ranging changes to the intersection of behavioral health and the criminal justice system, affecting law enforcement agencies, courts, correctional facilities, and behavioral health providers. The bill requires the establishment of new programs and policies, modifies existing statutory definitions, and expands eligibility for diversion programs. These changes introduce several implementation considerations, including interagency coordination, administrative capacity, and potential legal or operational challenges.

The bill requires law enforcement agencies to adopt policies for responding to individuals in crisis, including deflection and diversion procedures, without specifying oversight mechanisms to ensure consistency in application across agencies. Law enforcement interactions with individuals experiencing behavioral health crises vary widely by jurisdiction, and the bill does not establish clear statewide criteria for how these encounters should be managed beyond general training requirements. Additionally, officers would have the discretion to transfer individuals to treatment facilities instead of making arrests. However, the bill does not outline procedures for ensuring continuity of care after such transfers.

The establishment of a public crime data dashboard under NMSC in coordination with DPS raises questions about data accuracy, accessibility, and privacy. While the bill requires agencies to provide crime data for public reporting, it does not specify protocols for how this data will be standardized across jurisdictions. Additionally, it is unclear whether law enforcement agencies and courts have the necessary technological infrastructure to integrate their data systems with the dashboard, which could delay implementation.

MAT expansion for incarcerated individuals includes specific deadlines for program implementation but does not address potential challenges in ensuring compliance across correctional facilities. County detention facilities, which operate independently from the state's prison system, may have varying capacities to implement MAT programs, particularly in rural areas where access to behavioral health providers is limited. The bill also requires tracking and reporting of MAT utilization data but does not specify enforcement mechanisms if facilities fail to meet compliance requirements.

Changes to pre-prosecution diversion eligibility and treatment court programs may increase participation, but the bill does not address the availability of behavioral health and substance use treatment providers to meet anticipated demand. Some judicial districts currently operate drug courts and mental health courts, but expanding these models statewide would require coordination with local providers. If treatment capacity is insufficient, courts and law enforcement agencies may face difficulties referring individuals to appropriate services, potentially limiting the bill's intended impact.

SB54 directs the Health Care Authority (HCA) to establish a statewide plan for community-based crisis intervention by June 30, 2026. However, the bill does not specify whether this plan will include statutory enforcement mechanisms or funding recommendations. The bill does not detail the relationship between this plan and existing behavioral health initiatives, such as crisis triage centers and mobile crisis teams, raising questions about potential duplication of efforts.

The bill also expands law enforcement training requirements, particularly for interactions with individuals in crisis but does not establish benchmarks for evaluating whether training improves outcomes. The new definition of "person in crisis" includes individuals with autism spectrum disorder, substance use disorder, and co-occurring mental health conditions, which broadens the scope of required training. However, it is unclear whether the Law Enforcement Academy and other training providers have the capacity to implement these expanded requirements statewide.

Finally, while SB54 includes statutory changes related to probation conditions and risk assessment tools, it does not address potential disparities in how these tools are applied across different jurisdictions. Standardizing probation conditions may create more uniformity in sentencing, but it is unclear how courts will account for individual circumstances when imposing probation terms. The requirement for periodic validation of risk assessment tools also introduces questions about which entity will be responsible for evaluating their effectiveness and ensuring consistency in their application.

Overall, the bill introduces significant policy changes that will require coordination across multiple agencies, but key details related to implementation, oversight, and service availability remain unspecified. The extent to which these changes achieve their intended goals will depend on how agencies adapt to new requirements and whether external factors, such as behavioral

health provider availability, influence the effectiveness of diversion and treatment programs.

## PERFORMANCE IMPLICATIONS

The expansion of pre-prosecution diversion and treatment court programs may shift certain caseloads away from traditional prosecution and incarceration. However, the success of these programs will depend on consistent application across judicial districts and the availability of community-based treatment services. Without adequate tracking and outcome evaluation, it may be difficult to assess whether these changes result in reduced recidivism, improved public safety outcomes, or more efficient case resolution.

The bill requires law enforcement agencies to establish policies for responding to individuals in crisis, introducing new performance expectations for local agencies. While training requirements are expanded, the bill does not specify how agencies should measure the effectiveness of crisis intervention strategies. Reductions in arrests for behavioral health-related incidents, increased referrals to treatment providers, and other performance indicators could be useful in evaluating the impact of these provisions, but the bill does not establish a framework for tracking these outcomes.

The public crime data dashboard created under SB54 is intended to improve transparency and data-driven decision-making. However, its effectiveness will depend on the accuracy, completeness, and timeliness of data provided by law enforcement agencies, courts, and correctional facilities. If reporting inconsistencies or data gaps occur, the dashboard's ability to inform policy decisions may be limited. Additionally, the integration of multiple agency data sources could present technical challenges that impact the timeliness of reporting and analysis.

SB54 also standardizes probation conditions and introduces validated risk and needs assessments for individuals under supervision. The bill requires periodic validation of these assessments but does not establish clear benchmarks for measuring their effectiveness. If these assessments do not consistently lead to improved supervision outcomes or reduced probation violations, further refinement may be necessary to ensure they are achieving their intended purpose.

NMCD would be required to enforce new standards in MAT programs across state prisons and county detention facilities. While MAT has been shown to improve treatment outcomes for individuals with substance use disorders, treatment retention rates, overdose reductions, successful post-release transitions, and other performance measures would be necessary to evaluate program effectiveness. SB54 does not specify whether NMCD or the HCA will be responsible for establishing performance benchmarks for MAT implementation.

## ADMINISTRATIVE IMPLICATIONS

SB54 introduces new requirements for multiple state agencies, which may require adjustments to staffing, operational procedures, and interagency coordination efforts. The courts, law enforcement agencies, correctional facilities, and behavioral health providers will be responsible for implementing various new programs, policies, and reporting requirements, which could affect agency workflows and administrative capacity.

The judiciary will oversee the expansion of treatment court diversion programs, requiring each judicial district to develop its own eligibility criteria and operational framework. This may

necessitate administrative rulemaking within the courts to ensure consistency in program implementation. Additionally, courts will need to modify existing case management systems to track participants in diversion programs and treatment courts, which may require collaboration with probation offices and behavioral health providers.

DPS will be required to provide crime data to NMSC for inclusion in a public crime data dashboard. This may involve modifications to DPS's existing crime reporting infrastructure to ensure compatibility with the dashboard and compliance with data-sharing protocols. DPS will also need to coordinate with local law enforcement agencies to ensure that crime data is reported consistently, which could require additional administrative oversight.

NMSC will take on new responsibilities related to reentry coordination and crime data transparency. The bill directs NMSC to establish minimum reentry standards, which may require the commission to engage in rulemaking and stakeholder collaboration with the Corrections Department, behavioral health providers, and workforce development agencies. Additionally, the commission will need to develop protocols for maintaining and updating the crime data dashboard, including guidelines for agency participation and data validation.

NMCD will need to develop internal policies for implementing MAT programs in state prisons and coordinate with county detention facilities to ensure compliance with the bill's requirements. This may require new administrative procedures for tracking MAT participation and reporting data to HCA. NMCD will also need to establish training programs for county detention officers, which could involve administrative coordination with the Law Enforcement Academy or other training providers.

HCA will have administrative responsibilities related to implementing a statewide community-based crisis intervention plan. This will require coordination with local crisis response programs and the development of new reporting requirements to monitor service availability and outcomes. HCA will also be responsible for overseeing data collection from correctional facilities related to MAT utilization, which may require modifications to existing reporting systems and the development of compliance monitoring procedures.

LOPD and district attorney offices may need to adjust their internal case management practices to accommodate an increased volume of diversion cases. This could include modifying intake procedures, updating case tracking systems, and establishing protocols for coordinating with treatment providers. Additionally, these offices may need to develop policies for handling expanded pre-prosecution diversion eligibility, which could require new administrative guidelines for determining case suitability.

SB54 introduces multiple new reporting requirements across agencies, including data tracking for MAT programs, probation assessments, law enforcement deflection programs, and treatment court participation. Agencies will need to determine whether existing data systems can accommodate these requirements or whether new tracking mechanisms need to be developed. Coordination between agencies will be necessary to ensure compliance with reporting mandates and to avoid duplicative administrative efforts.



## TECHNICAL ISSUES

Section 18(C) states, if a defendant enters a treatment court program prior to adjudication and abides by the program’s conditions, “the court shall dismiss the case, or the defendant may be terminated from the program.” This phrasing is ambiguous, as it suggests that compliance with program conditions could still result in termination and prosecution, which is inconsistent with typical diversion program structures.

Another potential issue relates to the definitions included in the bill. The proposed definition of “correctional facility” under Section 24-1-5.11(F) does not clearly differentiate between a state correctional facility and a county detention facility. This could lead to confusion in determining which provisions apply to state-run versus county-operated facilities. Additionally, some sections of the bill appear to be overlapping or duplicative, such as Section 24-1-5.11(D)(2) and Section 24-1-5.11(D)(4), as well as Section 24-1-5.11(D)(3) and Section 24-1-5.11(D)(5), which may require further reconciliation.

The bill also mandates that NMCD establish training programs for county detention officers through its training academy. However, NMCD does not have direct oversight over county facilities or their personnel, which raises questions about the agency’s authority to enforce training requirements at the county level. Without statutory clarification, this provision could lead to jurisdictional disputes between NMCD and county governments.

Finally, the bill contains references to behavioral health provider qualifications that may not align with current professional licensing standards. Section 9(A)(20) and (21) reference “Licensed Independent Social Worker (LISW),” a designation that is not interchangeable with the more current “Licensed Clinical Social Worker (LCSW)” title. The bill also uses the term “Licensed Counselor” without specifying whether this refers to a Licensed Professional Clinical Counselor (LPCC) or another type of behavioral health professional. Clarifying these designations could prevent inconsistencies in provider eligibility for certain programs and funding.

## OTHER SUBSTANTIVE ISSUES

SB54 would require law enforcement agencies to establish new policies and procedures for interacting with individuals in crisis. However, it does not specify how compliance will be monitored or enforced. Without a designated oversight mechanism, different agencies may vary in how they implement these requirements, leading to inconsistencies in law enforcement practices statewide.

Another area of concern is the NMCD’s authority over county detention facilities. The bill requires NMCD to oversee training for county detention officers and establish behavioral health policies that would apply to both state prisons and county jails. However, NMCD does not currently have jurisdiction over county-operated facilities, which raises questions about whether this mandate can be effectively enforced without additional statutory authority or intergovernmental agreements.

The bill also requires NMCD to establish minimum standards for reentry programs in collaboration with NMSC. While this provision is intended to improve post-incarceration

support, it does not account for significant differences between state prison sentences and county jail stays. Individuals in county detention are often held for shorter periods and may not have access to the same pre-release programming as those in state custody. This distinction could make uniform statewide reentry standards challenging to implement.

Another substantive issue involves the eligibility criteria for treatment court diversion programs. Under SB54, individuals with prior violent felony convictions would no longer be categorically barred from participating in these programs. While this aligns with recent evidence-based research suggesting that certain high-risk individuals can benefit from treatment-focused interventions, it may also raise concerns about how courts will assess public safety risks when admitting participants. The bill does not specify what factors judges should consider when determining whether someone with a violent felony record qualifies for diversion.

The expansion of pre-prosecution diversion programs similarly raises implementation questions. The bill grants prosecutors broad discretion to determine eligibility but does not require them to consult with defense attorneys or behavioral health professionals before making diversion decisions. LOPD notes that defense counsel often plays a critical role in identifying appropriate candidates for diversion and excluding them from the initial assessment process may limit the effectiveness of these programs.

SB54 also creates new funds for behavioral health services, reentry programs, and forensic laboratory operations but does not establish dedicated revenue sources for their long-term sustainability. While the intent is to improve service availability, the absence of secured funding could result in agencies being unable to implement these initiatives fully or requiring supplemental appropriations in future years.

Additionally, the bill requires law enforcement agencies to adopt policies for handling individuals in crisis, including deflection and diversion procedures. However, there is no designated oversight mechanism to ensure consistency in how different agencies apply these policies. Without clear state-level guidance or compliance monitoring, there may be variability in how law enforcement agencies implement these provisions, leading to uneven application across jurisdictions.

Finally, some agencies note certain provisions of SB54 could lead to delays in case processing and probation supervision. The bill mandates the use of validated risk and needs assessments for probationers but does not account for the time required to complete these assessments. If courts must wait for assessment results before imposing probation conditions, there could be delays in case resolution, particularly in districts with high caseloads.

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