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FISCAL IMPACT REPORT

SPONSOR Maestas LAST UPDATED _____
ORIGINAL DATE 2/27/25
BILL
SHORT TITLE Pretrial Release Notifications & Data NUMBER Senate Bill 309
ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	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

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorneys (AODA)

Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From

New Mexico Sentencing Commission (NMSC)

Law Offices of the Public Defender (LOPD)

SUMMARY

Synopsis of Senate Bill 309

Senate Bill 309 (SB309) enacts a new section of Chapter 31, NMSA 1978, establishing that records documenting violations of pretrial conditions of release are public records, except when they contain precise geographical coordinates or other sensitive location data. The bill also provides that law enforcement officers may access defendants' GPS data on pretrial release upon request. Additionally, SB309 specifies that, with certain exceptions, information regarding the conditions of pretrial release shall be publicly available. If enacted, SB309 would expand public access to records related to pretrial supervision and modify the availability of location data for law enforcement purposes.

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

SB309 may result in increased costs for state agencies responsible for pretrial services, court administration, and law enforcement data management. The bill requires personnel to notify courts, prosecutors, defense counsel, and victims immediately upon a defendant’s violation of pretrial conditions. The Administrative Office of the Courts (AOC) has indicated that expanded public access to pretrial supervision records and additional reporting requirements may necessitate increased personnel, training, and procedural revisions to ensure compliance.

Additionally, SB309 modifies law enforcement access to GPS data by removing existing statutory requirements for reasonable suspicion and time limitations on data requests. This may increase demand for data processing and access management, potentially requiring additional administrative oversight. While the Department of Public Safety (DPS) has reported no anticipated fiscal impact, the AOC and other entities involved in pretrial services may experience increased workload and associated costs. The bill does not include an appropriation, so any costs incurred by affected agencies would need to be absorbed within existing budgets or addressed through future legislative appropriations.

SIGNIFICANT ISSUES

SB309 expands public access to pretrial release and supervision records, but the scope of records subject to disclosure is not clearly defined. The bill provides that the records “that show or support a violation of conditions of release” are public but does not specify whether this applies only to judicial determinations of violations or also to preliminary assessments made by pretrial services personnel.

The bill also removes the existing requirement that law enforcement demonstrate reasonable suspicion before obtaining GPS data on defendants on pretrial release, instead allowing access upon request. Current law limits the use of GPS data to specific circumstances, including ongoing investigations of certain offenses. By broadening access, SB309 may have implications for defendant privacy and law enforcement procedures. Existing state and federal case law recognizes privacy interests in location data, and the bill’s changes to GPS access may interact with constitutional protections against unreasonable searches and seizures.

Additionally, SB309 requires pretrial services personnel to notify victims when a defendant violates conditions of release. The bill does not define “victim” for this purpose, and it is unclear whether this requirement applies broadly to all cases or only to offenses covered by the Victims of Crime Act. The feasibility of immediate notification may also depend on the availability of accurate victim contact information and the capacity of pretrial services personnel to provide timely updates.

PERFORMANCE IMPLICATIONS

SB309 introduces new reporting and public disclosure requirements that may affect the efficiency of pretrial services and court administration. Increased demand for record production and notifications could impact the timeliness of pretrial monitoring functions, particularly if additional personnel or resources are not allocated to manage the expanded responsibilities. The requirement for immediate notification of violations may also require adjustments to existing

case management systems to ensure accurate and timely communication among pretrial services, courts, prosecutors, defense counsel, and victims.

Additionally, changes to law enforcement access to GPS data could affect investigative procedures by eliminating the current requirement for reasonable suspicion. Removing the reasonable suspicion requirement for GPS data access may increase the number of law enforcement requests, affecting agency data management workloads. The long-term impact on pretrial supervision and law enforcement will depend on implementation and whether agencies expand administrative capacity to comply with the bill's requirements.

ADMINISTRATIVE IMPLICATIONS

SB309 may require state agencies to update internal policies and procedures to align with new disclosure and notification requirements. Pretrial services offices may need to implement new protocols for tracking and documenting violations of pretrial conditions in a manner that facilitates public access while ensuring compliance with privacy protections. This could necessitate revisions to data management systems, staff training, and potential modifications to record retention policies. The requirement for immediate victim notification introduces an additional administrative function for pretrial services personnel, who may need to establish mechanisms for verifying and maintaining up-to-date victim contact information. Courts and law enforcement agencies responsible for handling GPS data requests may also need to adjust workflows to accommodate an increased volume of records requests. Coordination among agencies will be necessary to ensure compliance with the bill's provisions without disrupting existing pretrial supervision and case management processes.

OTHER SUBSTANTIVE ISSUES

SB309 provides that pretrial release and supervision records are public unless they contain certain protected information, but it does not specify whether agencies must redact sensitive data before releasing records or if such records are entirely exempt from disclosure. The absence of clear guidance may affect how pretrial services personnel interpret and implement the public records provisions, potentially requiring further administrative or judicial clarification.

The bill also expands law enforcement access to GPS data for defendants on pretrial release but does not address whether defense counsel or other parties may obtain similar access for legal proceedings. Current law limits public disclosure of GPS data to instances where it has been introduced as evidence at trial. While the bill expands GPS data access for law enforcement, it does not specify whether defense counsel may obtain similar access, which may have implications for evidentiary procedures and due process rights.

Additionally, SB309 requires immediate notification of pretrial violations but does not establish a process for verifying the occurrence of a violation before notifications are sent. If notifications are based on preliminary assessments rather than judicial determinations, there may be implications for accuracy and procedural fairness. Agencies responsible for implementation may need to determine how to balance timely reporting with the need to ensure reliability in violation determinations.