

LFC Requester:**Scott Sanchez****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov****(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}*

Date Prepared: 02/19/2025 *Check all that apply:*
Bill Number: HB428 Original Correction
 Amendment Substitute

Sponsor: Micaela Lara Cadena **Agency Name and Code Number:** 770-NMCD
Short Title: Rule Definitions for Corrections **Person Writing:** Anisa Griego-Quintana
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SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	Moderate	Moderate	Moderate	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 428 directs the Corrections Department, prior to the adoption, amendment or repeal of rules concerning New Mexico inmates, probationers, and parolees under its supervision, to provide for public comment on proposed rules and publish notice of the proposed action.

The public is to have 45 days for comment prior to the Corrections Department adopting, amending, or repealing rules concerning inmates, probationers, or parolees. The Corrections Department is also required to publish notice of the proposed action in a newspaper or in trade, industrial, or professional publications as will reasonably give the public notice to interested people, as well as in all corrections facilities.

Makes conforming changes to the Administrative Procedures Act and the State Rules Act.

FISCAL IMPLICATIONS

Requiring the Corrections Department to follow the formal rulemaking process could increase operational costs. Preparing documentation, facilitating public comment periods, and conducting hearings would require additional staff time and resources. Funds currently allocated to rehabilitation programs, facility improvements, or staff development may need to be diverted to cover these administrative expenses.

SIGNIFICANT ISSUES

The formal rulemaking process could delay the implementation of critical policies, limiting the department's ability to respond quickly to evolving security threats, inmate management needs, or operational challenges. Additionally, exposing internal procedures through public comment could raise security concerns, potentially compromising the safety of staff, inmates, and the public. Criminals, fugitives, inmates, and other persons sentenced to probation and parole are members of the public who would have a right to review and comment on policies related to supervision and safety. This would include policies about use of force and physical security, the publication of which could reveal vulnerabilities that could be used to facilitate the planning or execution of an escape, riot, attack, or introduction of contraband into the prison system.

It is also unclear from this bill whether the Department's existing policies and procedures that were not adopted pursuant to the process in the bill would become null and void as of the effective date of the bill. The Department currently has over 100 publicly available policies and procedures on its website (<https://www.cd.nm.gov/policies/>), plus additional policies and procedures related to emergency plans and security and control that are not publicly available, and it would require a significant investment of time and resources to replace all of them through formal rulemaking. The Department also has orders applicable to posts at its individual facilities. It is unknown whether this bill is intended to require the Department to adopt these orders as rules through a formal rulemaking process. The definition of "rule" in Section 14-4-2(F) includes any "any rule,

regulation or standard” that affects “persons not members or employees of the issuing agency, including affecting persons served by the agency.” Almost all of the Department’s policies, procedures, and standards affect the population we serve of people sentenced to the Department’s custody and supervision.

PERFORMANCE IMPLICATIONS

Delays caused by the rulemaking process could hinder the department’s ability to maintain efficient operations. Rapid changes to address inmate behavior, facility safety protocols, or staffing requirements may be slowed, potentially impacting the overall safety and effectiveness of the corrections system.

ADMINISTRATIVE IMPLICATIONS

The Corrections Department would face an increased administrative burden. Managing the rulemaking process, including legal reviews, stakeholder consultations, and the preparation of formal rules, could strain existing personnel and reduce the department’s capacity to focus on its core operational responsibilities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None for the Corrections Department.

TECHNICAL ISSUES

None for the Corrections Department.

OTHER SUBSTANTIVE ISSUES

Making internal corrections policies subject to public rulemaking could lead to unintended consequences. Public input, while valuable, may not always be informed by the complexities of corrections operations. This could result in well-intentioned but impractical suggestions that slow necessary reforms or impede operational efficiency.

ALTERNATIVES

None for the Corrections Department.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the bill is not enacted, the Corrections Department will retain the flexibility to implement operational policies swiftly without being encumbered by the lengthy rulemaking process. This agility is essential for responding to emergencies, adjusting security protocols, and addressing day-to-day operational challenges without unnecessary delays or administrative burdens.

AMENDMENTS

None proposed by the Corrections Department.