

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 514 requires NMCD to shall develop and implement a system of graduated responses to be used in response to behavior while on probation and parole, including technical violations and absconding. This system shall set forth presumptive sanctions for the most common types of supervision violations and take into account various factors. The presumptive sanctions included in the system of graduated responses shall be exhausted prior to pursuing a return for revocation. NMCD is to provide ongoing training for Probation and Parole Officers on the use of graduated sanctions. NMCD shall present the system plan to the Legislature no later than January 1, 2026, and the system shall be implemented no later than July 1, 2026.

HB 514 also amends Section 31-21-5 NMSA 1978, the definitions section of the Probation and Parole Act, by adding definitions for “absconding”, “screening and assessment”, “technical violation”, “validated risk and needs assessment instrument”, and “violation response guidelines”.

HB 514 further amends Section 31-21-14, regarding the return of a parole violator, and Section 31-21-15, regarding return of a probation violator, to incorporate language around graduated responses. It also mandates a scheme of penalties for technical violations, as follows:

- 1) For the first technical violation, temporarily revoke supervision and impose a period of incarceration of up to 15 days;
- 2) for the second, temporarily revoke supervision and impose a period of incarceration of up to 30 days;
- 3) for the third technical violation, temporarily revoke supervision and impose a period of incarceration of up to 90 days; and
- 4) for the fourth and subsequent technical violations, revoke supervision and impose a period of incarceration not to exceed the remainder of the parolee's sentence.

Additionally, the board (for parole) or the court (for probation) may impose a period of incarceration beyond the periods outlined if it finds that additional detention is necessary for the parolee's rehabilitation or public safety and the basis for the extended period of incarceration is put on the record. Furthermore, the board (for parole) or the court (for probation) may issue sanctions for technical violations that are harsher than those in the graduated schedule of sanctions for an individual currently serving a period of supervision under a suspended, deferred or conditional discharge from a plea or conviction that includes a serious violent offense as enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978; provided, however, that the court may only issue said harsher sanction if it finds by clear and convincing evidence that there is a direct relationship between the individual's technical violation and the underlying serious violent offense pursuant to Section 33-2-4 NMSA 1978 for which the individual is currently on supervision.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The Sentencing Commission has found that parole-related admissions to NMCD have been relatively stable since FY 2022 – see p. 5 and p. 10 of the New Mexico Prison Population Forecast, FY 2024- FY 2034 (available here: <https://nm-sc.unm.edu/reports/2024/new-mexico-prison-population-forecast-fy-2024-fy-2034.pdf>). Returns for parole violations make up a significant proportion of new admissions.

The National Conference of State Legislatures’ “Legislative Primer Series on Community Supervision: Limiting Incarceration in Response to Technical Violations” recommends, “A clear definition in law contributes to transparency and consistency by ensuring that the individual under supervision, their supervision officer and the courts all have the same understanding of what constitutes a technical violation” (available at: <https://www.ncsl.org/civil-and-criminal-justice/community-supervision-limiting-incarceration-in-response-to-technical-violations>).

The NCSL primer also notes, “There are 34 states with statutory incarceration maximums for probation violations and 24 states with parole maximums. In most of those states, the caps are applied uniformly for all types of supervision.”

Addressing technical violations of probation and parole is also in the list of suggested reforms in Pew’s “Policy Reforms Can Strengthen Community Supervision: A framework to improve probation and parole” (available at: <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision>).

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 359 covers the same areas of law as HB 309 and HB 332.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS