

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 amends Section 9-3-5 – “Secretary [of Corrections] – Duties and General Powers”

The section is changed throughout to delete references to “his/he/him” and replace with “secretary[‘s]”.

The section is changed throughout to change “regulations” to “rules.”

Subsection (B)(4) is changed to add to the duties to “employ and fix the compensation of those persons necessary to discharge the duties” the following phrase – “including incentives and stipend programs for academy and specialty trainers”

Subsection (B)(7) is changed to include “a county detention officer” as one of the persons the secretary shall provide courses of instruction and practical training for.

Subsection F is changed to include the language that “The corrections department shall enforce health care authority orders and rules pertaining to behavioral health in corrections.”

Section 2 amends Section 9-3-10 – “New Mexico Sentencing Commission – Creation – Membership – Duties”

Subsection B – which provides the membership of the commission – adds to (B)(11) from “a representative from the behavioral health services division of the human services department” to “a representative from the behavioral health services division of the health care authority.”

Subsection D – which lists the duties of the commission – adds a subsection 14 for the commission to “coordinate reentry efforts for persons released from prison and detention centers, foster collaboration and communications among stakeholder groups working on reentry issues and establish minimum standards for reentry, including pre-release assessments, behavioral and physical health continuum of care, employment, housing and basic needs.”

It also adds a subsection 16 mandating the commission to “create a public crime data dashboard in conjunction with the department of public safety pursuant to Section 29-3-11 NMSA 1978 (“Uniform crime reporting system established; duties of department [of public safety], to be hosted on the website of the New Mexico sentencing commission.” Subsection (D)(18) is amended to add the requirement that the commission promulgate rules governing the data dashboard.

Section 3 is new material to be added to the Department of Public Safety Act entitled “Forensic Laboratory Bureau Fund” which created the fund as a nonreverting fund in the state treasury to consist of appropriations, gift, grants and donations.

The department of public safety shall administer the fund and appropriate it to the department’s forensic laboratory bureau to “expand operations, increase efficiency and reduce delays in evidence processing.”

Section 4 amends Section 21-22D-6(B)(4) entitled “Award Criteria – Contract Terms – Payment” of Health Professional Loan Repayment Act to include “practices that provide behavioral health services to people who are incarcerated, returned from incarceration or

supervised by the corrections department” as participants who are given “highest priority” in receiving the award.

Section 5 amends Section 21-22F-5(D)(e) entitled “Loan Repayment Program – Participant Eligibility – Award Criteria” of the Public Service Law Loan Repayment Act to include persons who “work for a public defender’s office or district attorney’s office in the state” as persons who receive preference in receiving the award.

Section 6 amends Section 21-22F-6 entitled “Loan Repayment Contract Terms – Payment” of the Public Service Law Loan Repayment Act provides that a participating attorney shall serve a complete year in order to receive credit for that year. The minimum credit is set by the department and the maximum credit for the year is increased from \$7,200 to \$12,000.

The section is also amended to replace “commission” with “department.”

Section 7 amends Section 24-1-5.11 entitled “Medication-Assisted Treatment for the Incarcerated Program Fund – Created” of the Public Health Act to change all references to “human services department” to “health care authority.”

Subsection B enlarges the due date for the health care authority to promulgate rules for the operation of such programs from December 1, 2023 to December 1, 2025.

Subsection D adds seven new subsections providing that the corrections department shall (4) by December 31, 2026, establish an operate a medication-assisted treatment program to continue medication-assisted treatment for incarcerated people who are booked into a correctional facility; (5) by end of fiscal year 2027, offer medication-assisted treatment to all incarcerated people who are in need of such treatment; (6) by December 31, 2025 for state correctional facilities and by December 31, 2026 for county detention facilities, develop, implement and publish a policy on medication-assisted treatment; (7) by December 21, 2025 for state correctional facilities and by December 31, 2026 for county detention facilities, provide all medications approved by the federal food and drug administration for the treatment of substance use disorder and withdrawal management to ensure that each program participant receives the needed medication; (8) by December 31, 2026, ensure a continuum of behavioral health care between county detention facilities and the corrections department, including the continuum of any medication-assisted treatment medications.

A new Subsection E is added to require each correctional facility to “track and report data on medication-assisted treatment to the health care authority” and lists six specific types of data that must be reported.

A new Subsection F is added to provide that a correctional facility that is not in compliance with the health care authority rules for the operation of medication-assisted treatment programs pursuant to Subsection D, shall submit a report to the interim committee describing the barriers to offering the services and what resources are needed to provide the treatment.

Subsection G (formerly Subsection E) is amended to change definition of “correctional facility” from “prison or other detention facility” to “county detention facility or state prison.”

Section 8 amends Section 24-1D-2(C) entitled “Definitions” of the Health Service Corps Act” to add “licensed clinical social worker or licensed counselor” to the definition of “health professional.”

Section 9 amends Section 24-25-3(A) entitled “Definitions” of the New Mexico Telehealth Act to change the inclusion of “podiatrist” as a “health care provider” to “podiatric

physician.”

Subsection B which is the definition of “originating site” is amended to include a “crisis triage center” as a place where a patient may receive health care via telehealth.

Section 10 amends Section 29-3-11(B) entitled “Uniform Crime Reporting System Established – Duties of Department” to provide that the department shall “provide data collected and stored in the central repository to the New Mexico sentencing commission to populate a publicly accessible statewide data dashboard pursuant to Section 9-3-10 NMSA 1978 (“New Mexico sentencing commission; creation; membership; duties.”).

Section 11 amends Section 29-7-7 entitled “Definitions” in the Law Enforcement Training Act to add a new subsection F – “‘county detention officer’ means an employee of a local jail who has inmate custodial responsibilities.”

Section 12 is new material entitled “County Detention Officer – Training Requirements” to be added to the Law Enforcement Training Act

Subsection A requires the director to create a training program for a county detention officer in collaboration with the corrections department subject to review and approval by the jail administrator;

Subsection B provides that a county detention officer is eligible to attend the academy and receive certification upon successful completion of the program;

Subsection C allows for per diem, mileage and tuition expenses;

Subsection D defines “jail administrator” as used in Subsection A.

Section 13 amends Section 29-7-7.5 currently entitled “Interaction with Persons with Mental Impairments – Training” of the Law Enforcement Training Act to change the title to “Interaction with Persons in Crisis – Training.” This change from “persons to mental impairments” to “persons in crisis” is repeated throughout the section.

Subsection B increases the minimum from two hours to eight hours for crisis management training “as a component of in-service law enforcement training” pursuant to Section 29-7-7.1 (“In-service law enforcement training; requirements”). Subsection A is not changed and requires a minimum of 40 hours of such training as part of the curriculum of each basic law enforcement training class.

Subsection D is amended to broaden the definition of “crisis” to include “spectrum disorder, substance use disorder . . . or a co-occurring disorder.”

Section 14 amends Section 31-1-2 entitled “Definitions” of the Criminal Procedure Act to add subsection M to define “mental illness” as a “clinically significant disorder of thought, mood, perception, orientation, memory or behavior that limits the capacity of a person to function in the primary aspects of daily living . . . it does not include other mental disorders that result in diminished capacity including epilepsy, intellectual disability, dementia, delirium, brief periods of intoxication caused by alcohol or other substances or dependence upon alcohol or other substances.”

A new subsection N is added to define “substance use disorder” as “a spectrum of persistent and recurring problematic behaviors that encompasses various classes of drugs, alcohol or other unknown substances leading to clinically significant disorder or distress;

A new subsection O is added to define a “person in crisis” as one with “mental illness or substance use disorder who is experiencing a behavioral health crisis”;

A new subsection P is added to define “behavioral health crisis”;

A new subsection Q is added to define “law enforcement deflection program” as a

collaborative program between law enforcement agencies and behavioral health entities that assists individuals who may have a mental illness, substance use disorder, another behavioral health disorder or co-occurring disorders to create community-based pathways to treatment, recovery support services, housing, case management or other services in lieu of arrest[.]

A new subsection R is added to define “treatment”;

A new subsection S is added to define “mental health professional”;

A new subsection T is added to define a “‘validated risk and needs assessment’ means an actuarial tool scientifically proven to determine a person’s risk to reoffended and criminal risk factors[.]”

Section 15 is new material entitled “Law Enforcement Deflection Program – Authority and Program Requirements” to be added to the Criminal Procedure Act

Subsection A provides that any law enforcement agency, first responder entity or local government may establish a law enforcement deflection program, under this section, in partnership with one or more licensed providers or behavioral health services or substance use disorder services. The program shall be funded by state and federal grants.

Subsection B provides what the “partnership” should entail – at a minimum, a law enforcement agency, a community based treatment program, and a behavioral health agency.

Subsection C sets out four requirements for such programs, including training for law enforcement, first responders, and treatment providers.

Subsection D requires the program to track and report data and sets out seven categories of such data.

Section 16 is new material entitled “Encounter of a Person in Crisis” to be added to the Criminal Procedure Act.

Subsection A provides that if a law enforcement officer or mental health professional has probable cause to believe a person is experiencing a behavioral health crisis and requires non-medical intervention, the officer may resolve the intervention without charges by transferring the individual to (1) various treatment providers or hospital services (2) a crisis intervention team certified law enforcement officer or member of a mobile crisis team (3) a public or private community service.

Subsection B provides that each law enforcement agency in the state shall establish a policy for interacting with a person in crisis, including policies for transfer for the person.

Subsection C provides that the department of public safety, in collaboration with the law enforcement academy, shall establish guidelines and a training program to assist law enforcement.

Subsection D provides a definition for “non-medical intervention” as used in Subsection A.

Section 17 amends Section 31-16-4 entitled “Eligibility” of the Criminal Procedure Act

Subsection A sets out the criteria for a defendant to be eligible for a preprosecution diversion. The amendment deletes the requirement that the defendant have no prior felony convictions for a violent crime.

A subsection B is added to direct the district attorney to consider seven factors to determine eligibility for preprosecution diversion, including the nature of the defendant’s offense, whether the defendant will benefit from the program, and whether the state has sufficient evidence for a conviction.

Section 18 is new material entitled “Treatment Court Diversion” to be added to the Criminal Procedure Act.

Subsection A provides that each district court “may” establish a treatment court program, including a drug court, mental health court, or other treatment-based court diversion program in accordance with the administrative office of the courts. Each district court will establish its own eligibility criteria and guidelines.

Subsection B provides that the district attorney or presiding judge may request participation prior to adjudication or following adjudication by a suspended or deferred sentence.

Subsection C provides that if participation in the program occurs prior to adjudication and the defendant abides by the conditions of the program, the court shall dismiss the case or the defendant may be terminated from the program. If the latter option, the case will be placed back on the calendar and the statute of limitations will be tolled for the period the defendant was on the program.

Subsection D provides that if participation in the program occurs after adjudication, and the participant abides by all the conditions, the court may dismiss the case and seal the file, reduce the conviction to a lesser or included charge; or terminate probation.

Subsection E provides that if the participation in the program occurs after adjudication but the participant does not abide by all the conditions, the defendant shall be subject to a violation of probation and shall reappear in front of the sentencing judge.

Section 19 amends Section 31-20-5 entitled “Placing Defendant on Probation” of the Criminal Procedure Act

Subsection B is new material mandating that the court impose standard probation conditions on the defendant to (1) refrain from unlawful conduct; (2) not possess, buy, sell or own a firearm, ammunition or other dangerous weapon; (3) report to the probation officer as required and (4) permit the officer to visit the home of the defendant; and remain in the jurisdiction.

Subsection C is new material that provides a court may impose “any special conditions necessary to the successful rehabilitation of the defendant on supervision pursuant to the results of a validated risk and needs assessment[.]” After the assessment is administered, it is the probation officer’s responsibility to notify the court of a “necessary special condition” in the assessment and the court “shall modify” the conditions in accordance with that assessment.

Subsection D is new material that provides the risk and needs assessment shall undergo periodic validation studies and the corrections department shall establish quality assurance procedures for it.

Section 20 amends Section 31-20-6 entitled “Conditions of Order Deferring or Suspending Sentence” of the Criminal Procedure Act

Subsection F is new material adding that the court may require the defendant to participate in and complete “an alternative program . . . including a treatment court program[.]”

Section 21 amends Section 31-20-13 entitled “Conditional Discharge Order” of the Criminal Procedure Act

Subsection C is amended to allow for a conditional discharge for a DWI conviction if more than five years have elapsed since the date of conviction.

Section 22 amends Section 31-21-9 entitled “Presentence and Prerelease Investigation” of the Criminal Procedure Act

Subsection D is new material that provides that upon the order of the court, the director

shall prepare a presentence or prerelease report containing the results of an evaluation or assessment using a validated risk and needs assessment.

Section 23 amends Section 31-21-21 entitled “Conditions of Probation” to change the title to “Conditions of Probation – Dual Supervision”

Subsection A is amended to include the language “If a person has a term of probation following the release from prison” the board “in consultation with the director” shall adopt rules concerning conditions of probation that apply in absence of specific conditions imposed by the court.

Subsection B is new material that provides that the board, in consultation with the director, may impose a special condition and “may follow the validated risk and needs assessment.”

Section 24 amends Section 31-30-4 entitled “Violence Intervention Program Requirements” and adds three requirements to the program.

Subsection F is new material and requires the program to use crime mapping to utilize crime data to interrupt and deter violence by identifying and targeting a person, group and locations where violence is concentrated.

Subsection G is new material and requires the program to partner with the crime victims reparations commission to identify opportunities to better serve victims.

Subsection H is new material and requires the program to comply with all reporting requirements.

Section 25 amends Section 31-30-9 entitled “Reports” in the Criminal Procedure Act to extend the requirement for reports to the legislature regarding the award and outcomes of each grantee from 2027 to 2030.

Section 26 amends Section 34-13-2 entitled “Court Education Services Division – Purpose” to include language that the required training “shall include continuing education on substance use disorders, mental health conditions and co-occurring disorders[.]”

Section 27 is new material entitled “Jail Reentry Fund” which establishes the fund as a nonreverting fun in the state treasury to consist of appropriations, gifts, grants and donations. The health care authority will administer it to assist counties that operate correctional facilities to support successful reentry for persons released from jail.

Section 28 is new material entitled “Clinical Supervision Fund” which establishes the fund as a nonreverting fun in the state treasury to consist of appropriations, gifts, grants and donations. The regulation and licensing department shall administer the fund to subsidize the cost of clinical supervision provided by behavioral health providers.

Section 29 is new material entitled “Temporary Provision – Creation of a Statewide System of Community-Based Treatment” which requires the director to establish a statewide plan for a community-based crises treatment system and sets out the requirements and elements for the system. The director is required to submit a plan and associated rules to the interim legislature health and human services committee and legislative finance committee by June 30, 2026.

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.

The bill requires a significant increase in duties and trainings for the courts, law enforcement, the behavioral health services division, the sentencing commission, and the corrections department. Funding for these increased duties and programs will need to be considered. Training, staff, and IT resources will all be affected.

SIGNIFICANT ISSUES

The bill also introduces increased reliance on a needs and risk assessment tool, particularly in the realm of probation conditions.

PERFORMANCE IMPLICATIONS

n/a

ADMINISTRATIVE IMPLICATIONS

The bill requires the creation of treatment-based courts as well as a statewide system of community-based treatment has administrative implications for the administrative office of the courts, the corrections department, probation and parole, law enforcement, and behavioral health services.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a