

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(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: 28 January 2025 *Check all that apply:*
Bill Number: SB 54 Original Correction
 Amendment Substitute

Sponsor: Duhigg **Agency Name and Code** NM Sentencing Commission -- 354
Short Title: Criminal Justice Changes **Number:** _____
Title: _____ **Person Writing** Douglas Carver
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(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:

SB 54 makes a variety of changes to different parts of the law impacting the criminal justice system, as follows:

Section 1: This section amends Section 9-3-5 NMSA 1978, regarding duties and general powers of the Secretary of Corrections, so that the Secretary is responsible for providing courses and training for a county detention officer. Additionally, NMCD shall enforce health care authority orders and rules pertaining to behavioral health in corrections.

Section 2: This section amends Section 9-3-10 NMSA 1978, regarding the creation, membership, and duties of the New Mexico Sentencing Commission, adding two new duties to the list of NMSC duties: 1) 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; and 2) to create a public crime data dashboard in conjunction with the department of public safety to be hosted on the NMSC website.

Section 3: This section creates a new section of the Department of Public Safety Act that creates the “forensic laboratory bureau fund” as a nonreverting fund. The fund is to expand operations, increase efficiencies, and reduce delays in evidence processing for the DPS forensic laboratory bureau.

Section 4: This section amends Section 21-22D-6 NMSA 1978, the part of the Health Professional Loan Repayment Act which concerns award criteria, by adding “practices that provide behavioral health services to people who are incarcerated, returned from incarceration or supervised by the corrections department” to the list of highest priority areas for awards.

Section 5: This section amends Section 21-22F-5 NMSA 1978, the part of the Public Service Law Loan Repayment Act which concerns award criteria, to add “work for a public defender’s office or district attorney’s office” to the list of areas of preference for making awards.

Section 6: This section amends Section 21-22F-6 NMSA 1978, the part of the Public Service Law Loan Repayment Act which concerns loan repayment contract terms, by increasing the maximum amount of credit to \$12,000 (up from the present \$7,200).

Section 7: This section amends Section 24-1-5.11 NMSA 1978, the part of the Public Health Act which concerns the medicated assisted treatment for the incarcerated program fund, to add additional duties to NMCD, as follows:

1) There is a deadline of December 31, 2026 for NMCD to operate a MAT program to continue MAT for incarcerated people with a prescription who are booked into a correctional

facility;

2) By the end of FY27, offer MAT to all people who are incarcerated by NMCD and in need of MAT;

3) Develop, implement, and publish a policy that describes the provision of MAT for state correctional facilities by December 31, 2025, and for county detention facilities by December 31, 2026;

4) Provide all medications approved by the federal Food and Drug Administration for the treatment of a substance use disorder and withdrawal management to ensure that each program participant receives the medication identified to be the most effective at treating and meeting individual needs for state correctional facilities by December 31, 2025, and for county detention facilities by December 31, 2026;

5) By December 31, 2026, ensure a continuum of behavioral health care between county detention facilities and NMCD, including the continuation of any MAT medications;

Additionally, each correctional facility is to track and report certain specified data on MAT utilization to the Health Care Authority.

Finally, the definition of “correctional facility” in this section of law is expanded to include county detention facilities as well as NMCD facilities.

Section 8: This section amends Section 24-1D-2 NMSA 1978, the definitions section of the Health Service Corps Act, to add “licensed clinical social worker or licensed counselor” to the definition of a “health professional”.

Section 9: This section amends Section 24-25-3 NMSA 1978, the definitions section of the Telehealth Act, to add crisis triage centers to the list of “originating site” (a place where a patient may receive health care via telehealth).

Section 10: This section amends Section 29-3-11 NMSA 1978, regarding the duties of DPS as related to the uniform crime reporting system, to require DPS to provide data collected and stored in the central repository of crime incident and arrest reports to NMSC to populate the data dashboard.

Sections 11, 12 & 13: These sections amend certain provisions of the Law Enforcement Training Act.

Section 11 amends Section 29-7-7 NMSA 1978, the definitions section of the Act, to include a definition of “county detention officer” in the Act, defined as “an employee of a local jail who has inmate custodial responsibilities.”

Section 12 then adds a new section of law concerning county detention officer training requirements into the Act. These new requirements include that the director of the Law Enforcement Training Academy, in conjunction with the Training Academy Division of NMCD, shall create a training program for a county detention officer.

Section 13 amends Section 29-7-7.5 NMSA, regarding training for interaction with people suffering mental impairments, to change the term “mental impairments” to “in crisis” throughout the section, to increase the hours of required training for these situations from two to eight, and to expand the definition of “in crisis” to include substance use disorder and co-occurring disorders.

Section 14, 15 & 16: These three sections enact amendments to the Criminal Procedure Act.

Section 14 amends Section 31-1-2 NMSA 1978, the definitions section of the Act, to include definitions for “mental illness”, “substance use disorder”, “person in crisis”, behavioral health crisis”, “law enforcement deflection program”, “treatment”, mental health professional”, and “validated risk and needs assessment”.

Section 15 then adds a new section of law into the Act, to allow any law enforcement agency, first responder entity or local government to establish a law enforcement deflection program, in partnership with one or more licensed providers of behavioral health services or substance use disorder treatment services. These programs shall be required to participant screening and assessment, case management and treatment facilitation, participant follow up, and training for first responders and treatment providers. The programs also have requirements for the data that they should collect.

Section 16 adds a further new section of law to the Act under which when a law enforcement officer or qualified mental health professional has probable cause to believe that an individual is experiencing a behavioral health crisis and requires nonmedical intervention, the law enforcement officer may resolve the intervention without charges on a voluntary basis by transferring the individual to one of a variety of treatment or support options. This new section also requires each law enforcement agency in the state to establish a policy and procedure for interacting with a person in crisis.

Section 17: This section amends Section 31-16A-4 NMSA 1978, the part of the Preprosecution Diversion Act regarding eligibility, by removing the restriction that a defendant shall have no prior convictions for a violent crime. Additionally, a list of factors is added to the statute that the district attorney shall consider to determine eligibility for a preprosecution diversion program.

Section 18: This section creates a new section of Chapter 31, Article 20, the Article that concerns Sentencing, to allowing each District Court to establish a treatment court. The section outlines the parameters of participation in a treatment court program, provides for dispositions upon successful completion of a program, and consequences of failing to abide by program conditions.

Section 19: This section amends Section 31-20-5 NMSA 1978, regarding placing a defendant on probation. The additions to this section create standard conditions of probation that shall be imposed by the magistrate, metropolitan or district court. These standard conditions are refraining from unlawful conduct; not to possess, buy, sell or own a firearm, ammunition or other dangerous weapon; to report to a probation officer as required and permit the officer to visit the home of the defendant; and to remain in the jurisdiction of the magistrate, metropolitan or district court, unless with the permission of the probation officer. The 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. The validated risk and needs assessment is required to undergo periodic validation studies.

Section 20: This section amends Section 31-20-6 NMSA 1978, regarding the conditions of an order deferring or suspending a sentence, by adding a further condition as an option for the court – to participate and complete to the satisfaction of the court an alternative program, treatment or activity deemed appropriate by the court, including a treatment court program.

Section 21: This section amends Section 31-20-13 NMSA 1978, regarding exceptions to conditional discharge orders, by adding to the provision in this section that the court shall not enter a conditional discharge order for a person found guilty of driving a motor vehicle while under the influence of intoxicating liquor or drugs, “unless five years or more have elapsed since the date of conviction for driving a motor vehicle while under the influence of intoxicating liquor or a drug offense.”

Section 22: This section amends part of the Probation and Parole Act, Section 31-21-9 NMSA 1978, regarding presentence and prerelease investigations, by adding that on the order of the court, the Director of the NMCD Adult Probation and Parole Division shall prepare a presentence or prerelease report containing the results of an evaluation or assessment conducted pursuant to the Probation and Parole Act or a validated risk and needs assessment used to make decisions regarding treatment, program eligibility, facility placement or level of supervision.

Section 23: This section amends Section 31-22-21 NMSA 1978, regarding conditions of probation, by adding that the Parole Board may impose a special condition necessary to the successful rehabilitation of the person and may follow the validated risk and needs assessment procedure.

Section 24: This section amends part of the Violence Intervention Program Act, Section 31-30-4 NMSA 1978, regarding VIP requirements, to add to the list of requirements for a VIP that it shall 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; partner with the Crime Victims Reparation Commission to identify opportunities to better support victims of violence and ensure the privacy of victims and survivors; and comply with all reporting requirements for the public crime data dashboard.

Section 25: This section amends part of the Violence Intervention Program Act, Section 31-30-9 NMSA 1978, regarding reports, extending the date from 2027 to 2030 for reporting outcomes of the VIP program to the Legislature.

Section 26: This section amends Section 34-13-2 NMSA 1978, regarding the Court Education Services Division, to require judicial education training to include training on continuing education on substance use disorders, mental health conditions and cooccurring disorders upon assuming office or employment and quadrennially thereafter.

Section 27: This section creates the “jail reentry fund” as a nonreverting fund to be administered by the Health Care Authority “to assist all counties that operate correctional facilities to access the reach, intervene, support and engage program to support successful reentry for a person released from jail.”

Section 28: This section creates the “clinical supervision fund” as a nonreverting fund to be administered by the Regulation and Licensing Department “to subsidize the cost of clinical supervision provided by behavioral health providers.”

Section 28: This section is a temporary provision that requires the Director of BHSD to establish a statewide plan for a community-based crisis treatment system. The elements of the plan are detailed. The Director is to submit the plan to LHHS and LFC 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.

SIGNIFICANT ISSUES

The statutory changes in SB 54 arose from the Justice Reinvestment Initiative (JRI) facilitated by the Crime and Justice Institute (CJI) over the past year. The Sentencing Commission helped to coordinate the JRI. CJI was invited by the Governor, the Chief Justice of the Supreme Court, and leadership in the Legislature to come to New Mexico, conduct deep dives into New Mexico's criminal justice data, and convene working groups to develop policy solutions to criminal justice problems.

The NMSC has been tasked with two new duties in SB 54 – coordination of reentry efforts and the creation of a public crime data dashboard.

The NMSC has all of the potential stakeholders around the table for a coordination of reentry services. While this would be a task that would take some time, the NMSC could coordinate the necessary parties to fulfill this mandate. The request for a staff attorney position in this year's budget request from NMSC was so that the Commission could better respond to requests such as this from the Legislature, as existing NMSC staff is working at full capacity on the tasks already given to it in statute.

The NMSC could incorporate the work to create a public crime data dashboard in conjunction with DPS and host the dashboard on its website as part of its current data integration efforts. The NMSC, however, does not have the expertise to create this dashboard in house and would need an appropriation for this work so that we could engage with an entity like ICASA to help us fulfill this duty.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

In Section 7, it should be noted that the changed definition of "correctional facility" causes confusion in the section as sometimes statutory text seems to be referring to only NMCD facilities when the term is used, and sometimes seems to be using the expanded definition that includes detention centers.

In Section 14, it should be noted that the new definitions are not placed in alphabetical order,

which is best practice with definitions sections in statute.

In Section 21, 1) the new language doesn't make sense and it is unclear what it is trying to do, as the existing language states simply that one cannot receive a conditional discharge order for DUI; and 2) the parallel language in the new language seems to be wrong, as it seems to include both DUI and drug offenses.

In Section 22, statutory cite Sections 31-21-3 through 31-21-19 should be cited simply as the Probation and Parole Act, as that is what that citation is. Section 31-21-21 does not concern any kind of assessment or evaluation. It is unclear what is being required in this new language.

In Section 26, the new language reads: "The training shall include continuing education on substance use disorders, mental health conditions and cooccurring disorders upon assuming office or employment and quadrennially thereafter." It seems like this sentence is supposed to mean that when someone begins their position, they should get training on continuing education on substance use disorders, mental health conditions and cooccurring disorders, and then get similar training every four years after their start date – but that is not how the sentence actually reads.

In Section 27, the sentence stating the purpose of the fund reads: "to assist all counties that operate correctional facilities to access the reach, intervene, support and engage program to support successful reentry for a person released from jail." It seems that there are missing words in that sentence, or extra words.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS