

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 514

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

AN ACT

RELATING TO CRIME; LIMITING INCARCERATION FOR TECHNICAL  
VIOLATIONS OF PROBATION AND PAROLE; ALPHABETIZING DEFINITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 31-21-5 NMSA 1978 (being Laws 1978,  
Chapter 41, Section 1, as amended) is amended to read:

"31-21-5. DEFINITIONS.--As used in the Probation and  
Parole Act:

A. "adult" means a person convicted of a crime by a  
district court;

B. "board" means the parole board;

C. "director" means the director of the adult  
probation and parole division of the corrections department or  
an employee designated by the director;

D. "geriatric inmate" means a person who:

1                   (1) is serving a sentence and is confined in a  
2 prison or other correctional institution under the control of  
3 the corrections department;

4                   (2) is fifty-five years of age or older;

5                   (3) suffers from a debilitating and chronic  
6 infirmity, illness or disease related to aging; and

7                   (4) does not constitute a danger to the  
8 person's own self or to society at the time of review;

9                   E. "institution" means the state penitentiary and  
10 any other similar state institution;

11                   F. "parole" means the release to the community of  
12 an inmate of an institution by decision of the board or by  
13 operation of law, subject to condition imposed by the board and  
14 to its supervision;

15                   G. "permanently incapacitated inmate" means a  
16 person who:

17                   (1) is serving a sentence and is confined in a  
18 prison or other correctional institution under the control of  
19 the corrections department;

20                   (2) by reason of an existing medical condition  
21 is permanently and irreversibly physically incapacitated; and

22                   (3) does not constitute a danger to the  
23 person's own self or to society at the time of review;

24                   [A.] H. "probation" means the procedure under which  
25 an adult defendant, found guilty of a crime upon verdict or

1 plea, is released by the court without imprisonment under a  
2 suspended or deferred sentence and subject to conditions;

3 ~~[B. "parole" means the release to the community of~~  
4 ~~an inmate of an institution by decision of the board or by~~  
5 ~~operation of law, subject to conditions imposed by the board~~  
6 ~~and to its supervision;~~

7 ~~G. "institution" means the state penitentiary and~~  
8 ~~any other similar state institution hereinafter created;~~

9 ~~D. "board" means the parole board;~~

10 ~~E. "director" means the director of the adult~~  
11 ~~probation and parole division of the corrections department or~~  
12 ~~any employee designated by the director;~~

13 ~~F. "adult" means any person convicted of a crime by~~  
14 ~~a district court;~~

15 ~~G. "geriatric inmate" means a person who:~~

16 ~~(1) is serving a sentence and is confined in a~~  
17 ~~prison or other correctional institution under the control of~~  
18 ~~the corrections department;~~

19 ~~(2) is fifty-five years of age or older;~~

20 ~~(3) suffers from a debilitating and chronic~~  
21 ~~infirmity, illness or disease related to aging; and~~

22 ~~(4) does not constitute a danger to the~~  
23 ~~person's own self or to society at the time of review;~~

24 ~~H. "permanently incapacitated inmate" means a~~  
25 ~~person who:~~

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1                   ~~(1) is serving a sentence and is confined in a~~  
2 ~~prison or other correctional institution under the control of~~  
3 ~~the corrections department;~~

4                   ~~(2) by reason of an existing medical condition~~  
5 ~~is permanently and irreversibly physically incapacitated; and~~

6                   ~~(3) does not constitute a danger to the~~  
7 ~~person's own self or to society at the time of review; and]~~

8                   I. "standard violation of probation" or "standard  
9 violation of parole" means any violation not constituting a  
10 technical violation;

11                   J. "technical violation of probation" or "technical  
12 violation of parole" means a violation of a condition of  
13 probation or parole that does not either create a threat to the  
14 probationer or parolee or other or does not constitute a new  
15 criminal charge; and

16                   ~~[F.]~~ K. "terminally ill inmate" means a person who:

17                   (1) is serving a sentence and is confined in a  
18 prison or other correctional institution under the control of  
19 the corrections department;

20                   (2) has an incurable condition caused by  
21 illness or disease that will, within reasonable medical  
22 judgment, produce death within six months; and

23                   (3) does not constitute a danger to the  
24 person's own self or to society at the time of review."

25                   SECTION 2. Section 31-21-14 NMSA 1978 (being Laws 1955,

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1 Chapter 232, Section 17, as amended) is amended to read:

2 "31-21-14. RETURN OF PAROLE VIOLATOR.--

3 A. At any time during release on parole, the board  
4 or the director may issue a warrant for the arrest of the  
5 ~~[released prisoner]~~ parolee for ~~[violation of any of the~~  
6 ~~conditions of release]~~ a standard violation of parole or issue  
7 a notice to appear to answer a charge of any violation. The  
8 notice shall be served personally upon the ~~[prisoner]~~ parolee.  
9 The warrant shall authorize the ~~[superintendent]~~ warden of the  
10 institution from which the ~~[prisoner]~~ parolee was released to  
11 return the ~~[prisoner]~~ parolee to the actual custody of the  
12 institution or to any other suitable detention facility  
13 designated by the board or the director. If the ~~[prisoner]~~  
14 parolee is out of the state, the warrant shall authorize the  
15 ~~[superintendent]~~ warden to return ~~[him]~~ the prisoner to the  
16 state. For a technical violation of parole, the director shall  
17 issue a notice to appear to be served personally upon the  
18 parolee unless the director authorizes arrest based on a flight  
19 risk or danger to the community.

20 B. The director may arrest the ~~[prisoner]~~ parolee  
21 without a warrant or may deputize ~~[any]~~ an officer with power  
22 of arrest to do so by giving ~~[him]~~ the officer a written  
23 statement setting forth that the ~~[prisoner]~~ parolee has, in the  
24 judgment of the director, ~~[violated the conditions of his~~  
25 ~~release]~~ committed a standard violation of parole and the

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1 parolee presents a flight risk or danger to the community.  
2 Where an arrest is made without a warrant, the [~~prisoner~~  
3 parolee shall not be returned to the institution unless  
4 authorized by the director or the board. Pending hearing as  
5 provided by law upon [~~any~~] a charge of a standard violation of  
6 parole, the [~~prisoner~~ parolee presenting a flight risk or  
7 danger to the community shall remain incarcerated in the  
8 institution.

9 C. Upon arrest and detention or service of a notice  
10 to appear, the board shall cause the [~~prisoner~~] parolee to be  
11 promptly brought before it for a parole revocation hearing on  
12 the parole violation charged, under rules [~~and regulations~~] the  
13 board may adopt.

14 D. If a standard violation of parole is  
15 established, the board may continue or revoke the parole and  
16 impose non-detention sanctions or a maximum of ninety days of  
17 incarceration or enter any other order as it sees fit; provided  
18 that the sanction shall be commensurate with the seriousness of  
19 the violation and not a punishment offense of conviction. If a  
20 technical violation of parole is established:

21 (1) for a first technical violation of parole,  
22 the director shall not impose a sanction of more than three  
23 days of community service, restrictive curfew, behavioral  
24 health treatment or other non-detention sanction;

25 (2) for a second technical violation of

1 parole, the director shall not impose a sanction of more than  
2 five days of community service, restrictive curfew, behavioral  
3 health treatment or other non-detention section;

4 (3) for a third technical violation of parole,  
5 the director shall not impose a sanction of more than seven  
6 days of incarceration; and

7 (4) for a fourth or subsequent technical  
8 violation of parole, the director may refer the violation to  
9 the board, which may impose incarceration for a fixed term up  
10 to thirty days, which shall be counted as time served under the  
11 sentence, or enter any other order as it sees fit; provided  
12 that the board may impose more than thirty days of  
13 incarceration if the board finds that additional detention is  
14 necessary for the parolee's rehabilitation or public safety;  
15 and provided further that the sanction shall be commensurate  
16 with the seriousness of the violation and not a punishment for  
17 the offense of conviction.

18 ~~[D.]~~ E. A ~~[prisoner]~~ parolee for whose return a  
19 warrant has been issued shall, if it is found that the warrant  
20 cannot be served, be a fugitive from justice. If it appears  
21 that ~~[he]~~ the parolee has violated the provisions of ~~[his]~~ the  
22 parolee's release, the board shall determine whether the time  
23 from the date of the violation to the date of ~~[his]~~ the  
24 parolee's arrest, or any part of it, shall be counted as time  
25 served under the sentence."

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1           SECTION 3. Section 31-21-15 NMSA 1978 (being Laws 1963,  
2 Chapter 301, Section 13, as amended by Laws 2016, Chapter 27,  
3 Section 1 and by Laws 2016, Chapter 31, Section 1) is amended  
4 to read:

5           "31-21-15. RETURN OF PROBATION VIOLATOR.--

6           A. At any time during probation:

7                   (1) the court may issue a warrant for the  
8 arrest of a probationer for [~~violation of any of the conditions~~  
9 ~~of release~~] a standard violation of probation. The warrant  
10 shall authorize the return of the probationer to the custody of  
11 the court or to any suitable detention facility designated by  
12 the court;

13                   (2) the court may issue a notice to appear to  
14 answer a charge of any violation and shall issue the notice for  
15 a technical violation of probation unless the director  
16 authorizes arrest based on a flight risk or danger to the  
17 community. The notice shall be personally served upon the  
18 probationer; or

19                   (3) the director may arrest a probationer  
20 without warrant or may deputize any officer with power of  
21 arrest to do so by giving the officer a written statement  
22 setting forth that the probationer has, in the judgment of the  
23 director, [~~violated the conditions of the probationer's~~  
24 ~~release~~] committed a standard violation of probation. The  
25 written statement, delivered with the probationer by the

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1 arresting officer to the official in charge of a county jail or  
2 other place of detention, is sufficient warrant for the  
3 detention of the probationer. Upon the probationer's arrest  
4 and detention, the director shall immediately notify the court  
5 and submit in writing a report showing in what manner the  
6 probationer has violated the conditions of release.

7 B. Following service of a notice to appear or  
8 arrest pursuant to Subsection A of this section, the court  
9 shall then hold a hearing, which may be informal, on the  
10 violation charged. If [~~the~~] a standard violation of probation  
11 is established, the court may continue the original probation  
12 or revoke the probation and either order a new probation with  
13 any condition provided for in Section 31-20-5 or 31-20-6 NMSA  
14 1978 or require the probationer to serve the balance of the  
15 sentence imposed or any lesser sentence; provided that the  
16 sanction shall be commensurate with the seriousness of the  
17 violation and not a punishment for the offense of conviction.

18 If a technical violation of probation is established:

19 (1) for a first technical violation of  
20 probation, the court shall not impose a sanction of more than  
21 three days of community service, restrictive curfew, behavioral  
22 health treatment or other non-detention sanction;

23 (2) for a second technical violation of  
24 probation, the court shall not impose a sanction of more than  
25 five days of community service, restrictive curfew, behavioral

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1 health treatment or other non-detention sanction;

2 (3) for a third technical violation of  
3 probation, the court shall not impose a sanction of more than  
4 three days of incarceration; and

5 (4) for the fourth or subsequent technical  
6 violation of probation, the court may continue the original  
7 probation or revoke the probation and either order a new  
8 probation with any condition provided for in Section 31-20-5 or  
9 31-20-6 NMSA 1978 or require the probationer to serve the  
10 balance of the sentence imposed or any lesser sentence;  
11 provided that the sanction shall be commensurate with the  
12 seriousness of the violation and not a punishment for the  
13 offense of the conviction.

14 C. If imposition of sentence was deferred, the  
15 court may, consistent with Subsection B of this section, impose  
16 any sentence that might originally have been imposed, but  
17 credit shall be given for time served on probation.

18 ~~[G.]~~ D. If it is found that a warrant for the  
19 return of a probationer cannot be served, the probationer is a  
20 fugitive from justice. After hearing upon return, if it  
21 appears that the probationer has violated the provisions of the  
22 probationer's release, the court shall determine whether the  
23 time from the date of violation to the date of the  
24 probationer's arrest, or any part of it, shall be counted as  
25 time served on probation. For the purposes of this subsection,

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underscored material = new  
[bracketed material] = delete

1 "probationer" means a person convicted of a crime by a  
2 district, metropolitan, magistrate or municipal court.

3 ~~[D-]~~ E. The board shall budget funds to cover  
4 expenses of returning probationers to the court. The sheriff  
5 of the county in which the probationer was convicted is the  
6 court's agent in the transportation of the probationer, but the  
7 director, with the consent of the court, may utilize other  
8 state agencies for this purpose when it is in the best interest  
9 of the state."