

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** March 3, 2025 *Check all that apply:*  
**Bill Number:** SB 54 Original  Correction   
 Amendment  Substitute

<b>Sponsor:</b>	<u>Senate Judiciary Committee</u>	<b>Agency Name and Code</b>	<u>Administrative Office of the District Attorneys - #264</u>
<b>Short Title:</b>	<u>Substitute Criminal Justice Changes</u>	<b>Number:</b>	
		<b>Person Writing</b>	<u>M. Anne Kelly</u>
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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
<b>Total</b>						

(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:

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 delete the phrase “with the objective of improving the operations and efficiency of administration” which modified the duty to provide courses of instruction.

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 the requirement that “public members appointed to the commission shall not be employees of or under contract by another state agency.” It also adds the director of AOC or their representative as a new member of the commission and changes “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.” It also reduces the number of public members appointed by the chief justice the supreme court from two to one.

Subsection D – which lists the duties of the commission adds a subsection 15 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 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 4 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 5 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 6 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” and changes all references to “correctional” facilities to “detention” facilities.

Subsection B deletes the phrase “no later than December 1, 2023” from the requirement that the health care authority to promulgate rules for the operation of such programs.

Subsection D deletes the time requirement of “by December 31, 2025” to subsection (2) which requires the department to establish and operate a medication-assisted treatment program; adds a new subsection (4) which requires state correctional facilities to “develop, implement and publish a policy that describes the provision of medication-assisted treatment” adds a new subsection (5) that requires state correctional facilities, by December 31, 2025, to provide all medications approved by the federal FDA for the treatment of substance use disorder and withdrawal management to ensure each program participant receives the most effective medication; and adds a new subsection (6) which requires the department to “ensure a continuum of behavioral health care between county detention facilities and the corrections department.”

Subsection E is new material that requires each county detention facility to track and report data on medication-assisted treatment and specifies the required data.

Subsection F is new material that requires each county detention facility to establish and operate a medication-assisted treatment program; develop and implement a policy to describe its provision; provide medication for opioid use disorder; ensure a continuum of care between county facilities and the corrections department; and contingent on the provision of funds, offer medication-assisted treatment to all people who are in need of such treatment who are incarcerated in county detention facilities, by the fiscal year 2027.

Subsection G is new material that provides that any correctional facility that is not in compliance with the rules for the operation of a medication-assisted program shall submit a report to the interim committee of courts, corrections, and justice describing the barriers to providing the services.

Section 7 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 8 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” and a “certified behavioral health clinic” as places where a patient may receive health care via telehealth.

Section 9 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 10 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 county detention facility who has inmate custodial responsibilities.”

Section 11 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 12 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 Experiencing a Behavioral Health Crisis – Training.” This change from “persons to mental impairments” to “persons experiencing a behavioral health 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 change the definition from “mental impairment” to “behavioral health crisis” and broadens the definition to include “a significant disruption of mental or emotional stability or functioning” of a person which results in an urgent need for assessment and treatment and adds “health disorder, spectrum disorder, substance use disorder . . . or a co-occurring disorder” to the conditions that may occur.

Section 13 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 “treatment”.

Section 14 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 15 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.

Subsection B is new material that directs 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 16 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 the statute of limitations shall be tolled the entire period the defendant is in the program.

Subsection E 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 F 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 17 amends Section 31-20-5 entitled “Placing Defendant on Probation” of the Criminal Procedure Act

Subsection B 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 C 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.

Subsection E is new material that defines “validated risk and needs assessment” as used

in this section.

Section 18 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 19 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.

Subsection E is new material that defines “validated risk and needs assessment” as used in this section.

Section 20 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.”

Subsection C is new material that defines “validated risk and needs assessment” as used in this section.

Section 21 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 22 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 23 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 24 amends Section 43-1-13 entitled “Definitions” as used in the Mental Health and Developmental Disabilities Code which adds the definition of “mental disorder” to “mental health disorder” and adds “mental health disorder” to the definition of “mental health or developmental or intellectual disabilities professional.”

Section 25 amends Section 43-1-10 entitled “Emergency Mental Health Evaluation and Care” to add “and Interactions with Persons Experiencing a Behavioral Health Crisis” to the title. It changes the reference to a person experiencing a “mental disorder” to one “experiencing a behavioral health crisis” and changes references to a mental disorder” to a “mental health disorder.”

Subsection H is added as new material to provide that if a peace officer or mental health professional has probable cause to believe that a person is experiencing a behavioral health crisis and the person voluntarily consents to treatment, the peace officer may directly transfer the person to (1) a state-licensed community treatment provider, a hospital, or any approved treatment provider that specializes in behavioral health responses; (2) a public or private community service that the person is willing to accept.

Subsection I is added as new material to provide that each law enforcement agency shall establish a policy and procedure for interacting with a person experiencing a behavioral health crisis.

Subsection J is added as new material to provide that DPS, in collaboration with the NM law enforcement academy, shall establish guidelines and a training program to assist law enforcement agencies in implementing policies and procedures pursuant to Section 29-7-7.5.

Subsection K is added as new material to include the definition of “behavioral health crisis.”

Section 26 is new material entitled “Clinical Supervision Fund” which establishes the fund as a nonreverting fund 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 27 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.

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.

**PERFORMANCE IMPLICATIONS**

None noted.

**ADMINISTRATIVE IMPLICATIONS**

None noted.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None noted.

**TECHNICAL ISSUES**

n/a

**OTHER SUBSTANTIVE ISSUES**

n/a

**ALTERNATIVES**

n/a

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

**AMENDMENTS**

n/a