

LFC Requester:

Scott Sanchez

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: 03/3/2025 Check all that apply:
Bill Number: SB54 Original Correction Amendment Substitute X

Sponsor: Katy Duhigg Agency Name and Code Number: 770-NMCD
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Table with 4 columns: Appropriation (FY25, FY26), Recurring or Nonrecurring, Fund Affected. Values: 0, 0, N/A, N/A.

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Table with 5 columns: Estimated Revenue (FY25, FY26, FY27), Recurring or Nonrecurring, Fund Affected. Values: 0, 0, 0, N/A, N/A.

(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	0	Significant	Significant	Significant	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act
 risk and needs assessment

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The Senate Judiciary Committee substitute for SB54 maintains the requirement for the Corrections Secretary to provide incentives and stipends to academy and special trainers as outlined in the original bill.

The Corrections Secretary is no longer responsible for training county detention officers. However, the substitute requires collaboration between the training academy division of the Corrections Department and the director of the New Mexico Law Enforcement Academy to develop regional training programs for county detention officers, subject to review and approval by the jail.

The Corrections Department is specifically required in the substitute to comply with, not enforce, Health Care Authority orders and rules pertaining to behavioral health in corrections settings.

The New Mexico Sentencing Commission is no longer tasked with coordinating reentry efforts for persons released from prison and detention centers. Its primary new duty remains creating a public crime data dashboard, in conjunction with the Public Safety Department, to be hosted on the Commission’s website.

The substitute preserves the Medication-assisted Treatment for Incarcerated Fund but some aspects of the timeline for implementing across-the-board medicated-assistance treatment (MAT) for all incarcerated persons are changed. The substitute now provides (pp. 24-25) that each county detention facility shall (1) establish and operate a MAT program to continue all previously prescribed treatment for incarcerated persons booked into county detention facility; (2) develop, implement and publish policies that describe provisions of the program; (3) provide medications for opioid use disorder for withdrawal management, and ensure treatment is tailored to each patient’s needs; (4) ensure a continuum of behavioral health care between county detention facilities and the Corrections Department; and (5) contingent on provision of state, local or federal funds, by the end of FY2027 to offer MAT to all people incarcerated in county facilities who need it.

Requirements for state correctional facilities to provide all medications to all incarcerated persons was reduced and the date for providing all medications was pushed forward significantly, notably requiring all continuing medications immediately upon effective date of the bill.

The substitute remains the same as the original bill in its expansion of the statute to include data collection and reporting of MAT to ensure a continuum of care for individuals transitioning from

a county to state facility. It would require tracking the number of individuals screened for MAT; number of individuals receiving MAT; demographic information of individuals receiving MAT, type of medication; duration of the treatment; and status of the medication assisted treatment as release, including if a prescription was provided at release and the person was connected to community base care. The substitute would still require any facility who is not in compliance with implementing MAT to report to the interim committee that studies courts, corrections and justice describing the barriers to offering the services and what resources are necessary to provide medication-assisted treatment.

The substitute removes the original provision allowing courts to impose standard probation conditions to maintain public safety. However, it keeps the provision allowing courts to impose special conditions based on a validated risk and needs assessment administered by the Corrections Department. The department must notify the court of any necessary special conditions, prompting the court to adjust the supervision conditions accordingly. The requirement for periodic validation studies of the risk and needs assessment tool remains unchanged in the substitute bill.

- At p.54, new to the bill is a lengthy Definitions section from the Mental Health and Developmental Disabilities Code, Sec. 43-1-3, which has been incorporated into the substitute in order to establish a definition for “mental health disorder” by simply changing the term “mental disorder” to “mental health disorder” without changing the existing statutory definition: “mental health disorder means substantial disorder of a person’s emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental or intellectual disability.”

- At p.60, and new to the bill, is the inclusion of Sec. 43-1-10 with (1) a new title, Emergency Mental Health Evaluation and Care and Interactions with Persons Experiencing a Behavioral Health Crisis; (2) the insertion of the phrase “behavioral health crisis,” and (3) authority for a peace officer to detain and transport a person for emergency mental health evaluation and care in the absence of a legally valid order from the court if the peace officer, based upon the officer’s own observation and investigation, has reasonable grounds to believe that the person “is experiencing a behavioral health crisis” and presents a likelihood of serious harm to that person’s self or to others and that immediate detention is necessary to prevent such harm.

The same foundational rationale is extended to (1) a physician, psychologist or qualified mental health professional licensed for independent practice who is affiliated with a community mental health center or core service agency; and (2) an evaluation facility for an emergency-based admission when presented with such a person who, as a result of a mental health disorder, presents a likelihood of serious harm to that person’s self or to others and that immediate detention is necessary to prevent such harm.

- At pp. 64-65, new language is incorporated into the bill 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 resolve the intervention by directly transferring the person to:
 - (1) a state-licensed community treatment provider, a hospital, a certified community behavioral clinic, a crisis triage center, an approved treatment facility offering detoxification services for chemical dependency emergencies, an emergency department or other approved treatment provider that specializes in behavioral health responses; or
 - (2) a public or private community service that the person is willing to accept.

Each law enforcement agency in the state shall establish a policy and procedure for interacting with a person experiencing a behavioral health crisis, including policies and procedures regarding the transfer of a person experiencing a behavioral health crisis to a hospital, clinic or community treatment provider and subsequent steps for wraparound care.

The Department of Public Safety, in collaboration with the New Mexico Law Enforcement Academy, shall establish guidelines and a training program to assist law enforcement agencies in implementing policies and procedures into the training program pursuant to Section 29-7-7.5 NMSA 1978.

As used in this section, "behavioral health crisis" means a significant disruption of mental or emotional stability or functioning of a person resulting in an urgent need for immediate assessment and treatment to prevent a serious deterioration in the mental or physical health of the person."

- At p. 65, the Health Care Authority (was the Regulation and Licensing Department) is empowered to administer the Clinical Supervision Fund, subject to appropriation by the Legislature, to subsidize the cost of clinical supervision provided by behavioral health providers.
- At p. 66, a Temporary Provision in the bill called Creation of a Statewide System of Community-Based Treatment, which was in the original version, incorporates the new definition for "behavioral health crisis" to mean a significant disruption of mental or emotional stability or functioning of a person resulting in an urgent need for immediate assessment and treatment to prevent a serious deterioration in the mental or physical health of the person."
- The Jail Reentry Fund is removed from the substitute.
- The provision in the original for a magistrate, metropolitan or district court to impose standard probation conditions to maintain public safety has been removed from the substitute.

FISCAL IMPLICATIONS

While the agency is seeking GRO funds for medication assisted treatment, the budget request was based on the existing times in statute. The removal of these dates from the original statute are likely to change initial estimations and may require that the agency serve a greater number of participants with a greater selection of medications with an inadequate amount of funding. These estimates are not currently known and are expected to be significant. Separately, the cost for the automating data tracking, collection, and reporting of MAT is projected at an additional \$75 thousand in one time technology costs.

The costs associated with conducting periodic validation studies on the risk and needs assessment tool are estimated to be \$500 thousand for the first year, reflecting the initial expenses required for the comprehensive evaluation. These initial costs will cover the hiring of necessary experts, conducting the validation studies, and implementing any adjustments or improvements to the tool. For subsequent years, the cost is projected to decrease to \$300 thousand annually. This ongoing expense will support continued validation efforts, including regular updates, monitoring, and necessary revisions to ensure tool remains effective and aligns with current best practices. The funds will also be used for periodic assessments, reports, and any adjustments required as the tool evolves, in response to new data or changes in laws or regulations.

SIGNIFICANT ISSUES

Senate Bill 54 could significantly impact the New Mexico Corrections Department by expanding its role in treatment and rehabilitation, affecting operations, staffing, and resources as described below:

- The current statute provides the department with adequate time to obtain licensure to distribute all FDA medications. With timeframes stricken, the agency would be required to go out to RFP to distribute methadone and does not have funding identified for this purpose at this time. Currently the agency and its medical contractor are working on becoming certified to distribute methadone.
- Increased Administrative Burden: Section 6 discusses tracking and reporting data on MAT, which would require additional resources and staff, increasing administrative workload.
- Funding and Resource Allocation: The creation of new funds (e.g., Clinical Supervision Fund) and expanded programs may demand substantial financial resources, along with a risk of underfunding the initiatives.
- Training Strain: New training mandates for county officers and for law enforcement officers may strain existing resources, requiring additional funding and personnel.
- Impact on Correctional Staff: Additional responsibilities could increase workload and stress on correctional staff, potentially affecting their performance and well-being.
- Legal and Operational Risks: Section 25's provisions for nonmedical interventions may pose legal and operational risks, particularly regarding liability and the proper handling of individuals in crises.

The bill would also mandate risk/needs assessments for individuals subject to pre-sentence reports, which would add an extra step for probation and parole officers.

PERFORMANCE IMPLICATIONS

The bill would include other issues, including the execution of special supervision conditions.

- Supervision Conditions: Page 45, section B discusses waiting for the assessment to be conducted, which could take 45-60 days from the start of offenders' supervision. This means that any special conditions would not be in place immediately. Additionally, the added amount of time for judges to respond could result in offenders being on supervision prior to special conditions being ordered. All of this would increase the paperwork for every case and every Judgment and Sentence would be required to be amended, when special conditions are added.

ADMINISTRATIVE IMPLICATIONS

See issues noted above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill defines “correctional facility” as a “county detention facility or corrections department facility, whether operated by a government or private contractor, that is used for confinement of adult persons who are charged with or convicted of a violation of a law or ordinance.” Section 24-1-5.11(H). The term “state correctional facilities,” which is not defined, is used in Section 24-1-5.11(D)(1) to (D)(5). Are “state correctional facilities” supposed to be the same or different than a “corrections department facility” in the definition of “correctional facility”?

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

As stated above.

ALTERNATIVES

Leave MAT implementation dates in statute or remove the term “all” from required medications.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

See issues above noting significant implications on the department.

AMENDMENTS

Leave MAT implementation dates in statute or remove the term “all” from required medications.