

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 239 adds a new subsection to Section 30-31-23 NMSA 1978, regarding possession of controlled substances, to specify that if a person's sentence pursuant to that Section was suspended and deferred in whole or in part and the person violates their probation, the court may impose any sentence it could have originally imposed. SB 239 also adds that no credit shall be given for time served on probation prior to the violation.

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

Senate Bill 239 has two primary effects: 1) it allows judges to impose any sentence that had been available at the time of sentencing in the event of a probation violation, and 2) it disallows credit for time served on probation. This differs from how probation violations are handled under Section 31-21-15 NMSA 1978 and may result in more people ending up in New Mexico prisons.

In FY 2024, the most recent year for which the NMSC has access to complete court data, there were 4,286 cases filed and disposed in which possession of controlled substances pursuant to Section 30-31-23 NMSA 1978 was the lead offense. Of these, 24% resulted in a suspended or deferred sentence in whole or in part. See the table below for all case outcomes. The NMSC does not currently have data on probation revocations.

Cases Disposed in FY 24 Pursuant to Section 30-31-23 NMSA 1978	
Total Number of Disposed Cases (Lead Offense)	4,286
Resulted in Conviction: Incarceration	2%
Resulted in Conviction: Split Sentence (Partial Suspension)	5%
Resulted in Conviction: Full Suspension	16%
Resulted in Deferral	3%
Resulted in Conditional Discharge	6%
Resulted in Dismissal	66%
Resulted in Incompetency or Deceased	2%
Resulted in Acquittal	<1%

It is difficult to determine what the effect of passing SB 239 would be on the state's prison population, but the changes in SB 239 regarding how probation violations are handled for individuals convicted of possession of controlled substances would likely lead to more people

being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS