

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
-----------------------	----------------------

**AGENCY BILL ANALYSIS – 2026 SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(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:** 5 FEB 2026 *Check all that apply:*  
**Bill Number:** SB239 Original X  Correction   
 Amendment  Substitute

**Sponsor:** J. Cervantes **Agency Name and Code:** 790 – Department of Public Safety  
**Short Title:** Continue Sentencing for Possession of a Controlled Substance **Person Writing:** Major Emmanuel T. Gutierrez  
**Phone:** 505-917-2952 **Email:** Emmanuel.gutierrez@dps.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(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**

Senate Bill 239 (SB 239) amends New Mexico law to give courts continuing jurisdiction over sentences for convictions involving possession of controlled substances, allowing judges to revisit and impose any sentence that could have originally been ordered if a defendant violates probation conditions after receiving a suspended or deferred sentence. The bill does not change the underlying criminal penalties for possession, which continue to vary based on the type and amount of substance involved, but it clarifies that courts are not required to credit time served on probation when resentencing following a violation. Overall, SB 239 strengthens judicial oversight and accountability in controlled substance possession cases by reinforcing the court's authority to respond more firmly to probation violations, potentially affecting how such cases are supervised and enforced after conviction.

### **FISCAL IMPLICATIONS**

No fiscal implications for DPS.

### **SIGNIFICANT ISSUES**

No significant issues for DPS.

### **PERFORMANCE IMPLICATIONS**

The New Mexico Department of Public Safety supports SB-239. This legislation clarifies and reinforces the authority of courts to maintain continuing jurisdiction over sentences for controlled substance possession convictions when a defendant receives a suspended or deferred sentence and subsequently violates probation conditions.

SB-239 does not alter the underlying criminal penalties for possession offenses, which remain appropriately scaled based on the type and quantity of controlled substances involved. Instead, the bill provides important statutory clarity by confirming that courts may impose any sentence that could have originally been ordered upon a probation violation and are not required to credit time previously served on probation when resentencing. This is consistent with current practice, as such that conditions are included in plea agreements, and is consistent with NMSA 1978, Section 31-20-13(C) and Section 31-20-5.

By strengthening judicial oversight and accountability, SB-239 enhances the integrity of probation supervision and ensures meaningful consequences for noncompliance. This authority supports public safety objectives by enabling courts to respond effectively to repeated or serious violations, reinforces compliance with court-ordered conditions, and promotes consistency in post-conviction enforcement across jurisdictions.

### **ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No conflict, duplication, companionship or relationship to DPS.

### **TECHNICAL ISSUES**

No technical issues to DPS.

### **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

No other substantive issues to DPS.

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

Status quo will remain.

## **AMENDMENTS**

None at this time.