

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** 03/09/2025 *Check all that apply:*

**Bill Number:** HB428 Original ☐ Correction ☐

Amendment ☒ Substitute ☐

**Sponsor:** Micaela Lara Cadena **Agency Name and Code Number:** 770-NMCD

**Short Title:** Rule Definitions for Corrections **Person Writing** Anisa Griego-Quintana

**Phone:** 505-479-2296 **Email** anisa.griego-quinta@cd.nm.gov

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
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
<b>Total</b>	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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: The original intent of the bill remains intact which is that it removes the exemptions for the Corrections Department from the Administrative Procedures Act and the State Rules Act, regarding the requirement for publication and public comment prior to the adoption, amendment or repeal of rules related to New Mexico inmates, probationers, and parolees under supervision.

The House Judiciary Committee amendments to House Bill 428 modify the bill by specifying that internal security procedures are not considered "rules" subject to the bill's rulemaking requirements. The amendments define internal security procedures to include policies related to:

1. inmate escape;
2. hostage and riot response;
3. crisis negotiation and correctional emergency response teams;
4. emergency preparedness management unit;
5. security threat intelligence units;
6. facility design;
7. perimeter security, including towers, rovers, vehicle controls, traffic and gate controls; or
8. the management of a correctional facility's schedules, transport details, command center, master control or housing unit controls and their functions.

Additionally, the amendments reduce the required public comment period for proposed rule changes from 45 days to 30 days.

#### **FISCAL IMPLICATIONS**

Despite the added exemptions as noted above, mandating the Corrections Department to adhere to the formal rulemaking process would lead to higher operational expenses. The need to prepare necessary documentation, manage public comment periods, and host hearings would demand more staff time and resources. As a result, existing funds designated for rehabilitation programs, facility improvements, or staff development may need to be redirected to cover these added administrative costs.

#### **SIGNIFICANT ISSUES**

Several other significant issues continue to exist, including the potential for public comments based on incomplete or inaccurate information, the increased administrative burden on staff to manage potentially non-expert feedback, and delays in implementation of necessary policy adjustments.

Despite the amendments, the bill does not provide any exceptions for security needs in the Administrative Rules Act or the Administrative Procedures Act. While the amendment does exempt important security functions in Chapter 33 of NMSA the language is narrow.

It is recommended that language be modified to exempt “facility security and emergency response,” rather than providing a list. This broad language exempting “facility security and emergency response” should be added to Chapter 33 in NMSA as well as the Administrative Rules Act and the Administrative Procedures Act, to ensure that all facets of facility security and emergency response remain protected.

## **PERFORMANCE IMPLICATIONS**

Delays caused by the rulemaking process could hinder the department’s ability to maintain efficient operations. Rapid changes to address inmate behavior, facility safety protocols, or staffing requirements may be slowed, potentially impacting the overall safety and effectiveness of the corrections system.

## **ADMINISTRATIVE IMPLICATIONS**

The Corrections Department would face an increased administrative burden. Managing the rulemaking process, including legal reviews, stakeholder consultations, and the preparation of formal rules, could strain existing personnel and reduce the department’s capacity to focus on its core operational responsibilities.

Additionally, the department would require additional time than what is currently allotted for in the bill, to ensure the department can hire and train necessary staff to meet these new requirements, which further impacts operational efficiency.

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

None for the Corrections Department.

## **TECHNICAL ISSUES**

The Corrections Department would be required to hire experts to train current staff. The agency would also need additional staff. As noted under “Fiscal Implications,” the agency budget does not account for these additional costs.

## **OTHER SUBSTANTIVE ISSUES**

Making internal corrections policies subject to public rulemaking could lead to unintended consequences. Public input, while valuable, may not always be informed by the complexities of corrections operations. This could result in well-intentioned, but impractical suggestions, that slow necessary reforms or impede operational efficiency.

## **ALTERNATIVES**

None for the Corrections Department.

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

If the bill is not enacted, the Corrections Department will retain the flexibility to implement operational policies swiftly without being encumbered by the lengthy rulemaking process. This agility is essential for responding to emergencies, adjusting security protocols, and addressing day-

to-day operational challenges, without unnecessary delays or administrative burdens.

## **AMENDMENTS**

None proposed by the Corrections Department.