

LFC Requester:

Scott Sanchez

## AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

### SECTION I: GENERAL INFORMATION

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

**Date Prepared:** 03/03/2025

*Check all that apply:*

**Bill Number:** SB 54

Original       

Correction       

Amendment       

Substitute   X  

**Sponsor:** Sen. Katy M. Duhigg  
Rep. Janelle Anyanonu

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Short Title:** Criminal Justice Changes

**Person Writing**

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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:

None identified at this time.

Duplicates/Relates to Appropriation in the General Appropriation Act

None identified at this time.

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

#### Synopsis:

#### Substitute Bill:

The Senate Judiciary Committee Substitute for Senate Bill 54 (the substitute bill), consistent with the original bill, continues to make numerous changes to statutory provisions involving criminal justice, and to add new sections also involving criminal justice. This substitute bill continues to provide for courses of instruction and practical training for a county detention officer; require the New Mexico Sentencing Commission to create a public crime data dashboard; expand medication-assisted treatment programs in correctional facilities; require correctional facilities to track and report data on medication-assisted treatment; provide for the expansion of the criminal justice workforce; provide for training and procedures for interaction with a person experiencing a behavioral health crisis; provide eligibility requirements for pre-prosecution diversion programs; providing for a judicial district to establish a treatment court program; allow for crime mapping to utilize crime data to interrupt or deter violence; provide for continuing judicial education on substance use disorder, mental health conditions and co-occurring disorders; create the law enforcement deflection program; and provide a temporary provision for the statewide plan for a community-based crisis treatment system.

Section 1 of the substitute bill requires the Secretary of the Department of Corrections to provide for incentives and stipends for academy and specialty trainers. This section in the substitute bill adds language to the original bill requiring the Secretary of the Department of Corrections to conduct research that incorporates best practices that will improve the operations of the department and services provided. It also adds language to the original bill about the corrections department complying with the Health Care Authority's orders and rules pertaining to behavioral health in corrections as opposed to enforcing them as was in the original bill. The substitute bill also no longer has the language expressly providing for training and instruction for a county attorney involved in the administration of programs as was proposed in the original bill.

Section 2 of the substitute bill provides that public members appointed to the Sentencing Commission shall not be employees of or under contract by another state agency. It adds the director of the administrative office of the courts to the Sentencing Commission and provides that one public member is to be appointed by the chief justice of the supreme court instead of two members. It removes the language from the original bill to no longer propose that there be coordinated reentry efforts as part of the

bill for persons released from prison and detention centers, nor fostered collaboration and communications among stakeholder groups working on reentry issues, nor an establishment of minimum standards for reentry, including pre-release assessments, behavioral and physical health continuum of care, employment, housing and basic needs. It adds language that the Sentencing Commission shall create a public crime data dashboard in conjunction with the department of public safety pursuant to Section 29-3-11 NMSA 1978, to be hosted on the website of the New Mexico sentencing commission, and it provides certain requirements for the dashboard.

Section 3 of the Substitute Bill adds the same language as in Section 4 of the Original Bill.

Section 4 of the Substitute Bill is the same language as in Section 5 of the Original Bill.

Section 5 of the Substitute Bill is the same language as in Section 6 of the Original Bill.

Section 6 of the Substitute Bill in the substitute bill adds language to the original bill about establishing and operating a medication-assisted treatment program to continue all previously prescribed medication-assisted treatment for incarcerated people. This section of the Substitute Bill requires that the corrections department require that state correctional facilities develop, implement and publish a policy that describes the provision of medication-assisted treatment, require the state correctional facilities to provide all medications approved by the federal food and drug administration, ensure a continuum of behavioral health care between county detention and facilities and the corrections department be provided; it removes and otherwise adjusts from Section 7 of the Original Bill timelines for carrying out the requirements in the respective sections. This section of the Substitute Bill requires each county detention facility to track and report data on medication-assisted treatment utilization to the health care authority, it provides other requirements to each detention facility pertaining to medication-assisted treatment programs and requires that those facilities out of compliance report to the interim committee on corrections the barriers.

Section 7 of the Substitute Bill is the same language as in Section 8 of the Original Bill.

Section 8 of the Substitute Bill adds language from Section 9 of the Original Bill about a certified community behavioral health clinic being added as an originating site, meaning a place where a patient may receive health care via telehealth.

Section 9 of the Substitute Bill is the same language as in Section 10 of the Original Bill.

Section 10 of the Substitute Bill is the same language as in Section 11 of the Original Bill.

Section 11 of the Substitute Bill is the same language as Section 12 of the Original Bill except the Substitute Bill clarifies that the training is to be provided for county detention officers as opposed to a county detention officer.

Section 12 of the Substitute Bill differs from the Section 13 of the Original Bill which proposes to modify the same statute because the Original Bill uses the word “crisis” instead of “experiencing a behavioral health crisis”, and the Original Bill does not provide for a definition of behavioral health crisis.

Section 13 of the Substitute Bill adds definitions to Section 31-1-2 NMSA 1978, Criminal Procedure Act providing definitions for the terms *mental illness*, *substance use disorder*, and *treatment*; Section 14 of the Original Bill proposes to add more definitions to this specific statute, where in the Substitute Bill those terms are defined in other sections.

Section 14 of the Substitute Bill is the same language as in Section 15 of the Original Bill except it does not contain the definition of deflection program, as it is defined in a different section of the Original Bill.

Section 15 of the Substitute Bill is the same language as in Section 17 of the Original Bill.

Section 16 of the Substitute Bill is the same language as Section 18 of the Original Bill.

Section 17 of the Substitute Bill differs from the Section 19 of the Original Bill modifying the same section in that it removes a proposed subsection from the Original Bill about imposing standard probation conditions necessary to maintain public safety, and it provides the definition of validated risk and needs assessment whereas in the Original Bill that was defined in another section.

Section 18 of the Substitute Bill is the same language as in Section 20 of the Original Bill.

Section 19 of the Substitute Bill adds language to Section 31-21-9 NMSA 1978 *Presentence and Prerelease Investigations* recognizing that a Metropolitan court, which was previously not included with the other courts, may require the director of the adult probation and parole division of the corrections department or any employee designated by the director to prepare a presentence report that shall include such information as the court may request, and it adds language that the three state courts may require the director to prepare a presentence or prelease report containing the results of an evaluation or assessment or a validated risk and needs assessment, and also defining what a validated risk and needs assessment is. This language is the same as that in Section 22 of the Original Bill, except the definition of validated risk and needs assessment is included in this section in the Substitute Bill.

Section 20 of the Substitute Bill adds the words “Dual Supervision” to the title for Section 31-21-21 NMSA 1978, to now read *Conditions of Probation – Dual Supervision*, and adds language allowing the board, in consultation with the director of the adult probation and parole division of the corrections department or any employee designated by the director to impose a special condition necessary to the successful rehabilitation of the person and to be able to follow the validated risk and needs assessment procedure. This language is the same as that in Section 23 of the Original Bill, except the definition of validated risk and needs assessment is included in this section in the Substitute Bill.

Section 21 of the Substitute Bill is the same as that in Section 24 of the Original Bill.

Section 22 of the Substitute Bill is the same as that in Section 25 of the Original Bill.

Section 23 of the Substitute Bill is the same as that in Section 26 of the Original Bill.

Section 24 of the Substitute Bill adds the word health to the term “mental disorder” to now read “mental health disorder” when defining it in the definitions under the Mental Health and Developmental Disabilities Code.

Section 25 of the Substitute Bill adds the language “Interactions with Persons Experiencing a Behavioral Health Crisis” to 43-1-10 NMSA 1978, to now read “Emergency Mental Health Evaluation and Care and Interactions with Persons Experiencing a Behavioral Health Crisis.” It adds details that a peace officer or mental health professional with probable cause to believe that a person is experiencing a behavioral health crisis may, with the voluntary consent of the person to treatment, resolve the intervention by directly transferring the person to certain treatment providers that specialize in behavioral health responses or a public or private community service that the person is willing to accept. It requires each law enforcement agency in the state to establish a policy and procedure for interacting with a person experiencing a behavioral health crisis, it requires that the Department of Public Safety, in collaboration with the New Mexico Law Enforcement Academy, to establish guidelines and a training program to assist law enforcement agencies in implementing policies and procedures into the training program, and it defines behavioral health crisis.

Section 26 of the Substitute Bill creates the Clinical Supervision Fund as a non-reverting fund administered by the health care authority.

Section 27 of the Substitute Bill differs from Section 29 of the Original Bill in that the terms behavioral health crisis, and individual in crisis are not included in this section of the Substitute Bill.

The Senate Judiciary Committee Substitute for Senate Bill 54 removes language from the original Senate Bill 54 about coordinating reentry efforts for a person released from prison, no longer providing for that in the bill, and it removes language.

The Senate Judiciary Committee Substitute for Senate Bill 54 removes language about establishing a nonmedical intervention plan for transfer for a person in crisis, it removes language about the creation of the forensic laboratory bureau fund, the creation of the jail reentry fund, and the creation of the clinical supervision fund, and it adds language for the creation of the clinical supervision fund.

#### Original Bill:

Section 1 of the Original Bill requires the Secretary of the Department of Corrections to provide for incentives and stipends for academy and specialty trainers. This section in the original bill has language expressly providing for training and instruction for a county detention officer involved in the administration of programs. It also adds language about the corrections department enforcing the Health Care Authority's orders and rules pertaining to behavioral health in corrections.

Section 2 of the Original Bill adds language to require that the Sentencing Commission coordinate reentry efforts for persons released from prison and detention centers, foster collaboration and communications among stakeholder groups working on reentry issues, and establish minimum standards for reentry, including pre-release assessments, behavioral and physical health continuum of care, employment, housing and basic needs. It adds language that the Sentencing Commission shall create a public crime data dashboard in conjunction with the department of public safety pursuant to Section 29-3-11 NMSA 1978, to be hosted on the website of the New Mexico sentencing commission, and it provides certain requirements for the dashboard.

Section 3 of the Original Bill adds language providing for a Forensic Laboratory Fund providing for a non-reverting fund to be administered by the New Mexico Department of Public Safety.

Section 4 of the Original Bill adds language to Section 21-22D-6 NMSA 1978, *Award Criteria – Contract terms – Payment*, providing for awards towards the total health professional education indebtedness of a health profession, specifically adding for participants in practices that provide behavioral health services to people who are incarcerated, returned from incarceration or supervised by the corrections department as being one the categories listed as the highest priority for receiving this award. This is the same language as in Section 4 of the Original Bill.

Section 5 of the Original Bill adds those who are licensed attorneys and work for a public defender's office or district attorney's office in the state as being individuals who receive preference for a public service law loan repayment program. This is the same language as in Section 5 of the Original Bill.

Section 6 of the Original Bill adds language to Section 21-22F-6 NMSA 1978 Loan Repayment Contract Terms--Payment. increasing the amount from seven thousand two hundred dollars to twelve thousand dollars in terms of the total maximum credit for a year that a participating attorney may receive in the public service law loan repayment program may receive. It also changes references from commission to department referencing the Higher Education Department.

Section 7 of the Original Bill adds language about establishing and operating, by December 31, 2026, a medication-assisted treatment program to continue all previously prescribed medication-assisted treatment for incarcerated people. This section of the Original Bill requires within certain time frames, that the corrections department require that state correctional facilities develop, implement and publish a policy that describes the provision of medication-assisted treatment, that state correctional facilities provide all medications approved by the federal food and drug administration. The Original Bill also requires, within certain timeframes, a continuum of behavioral health care between county detention and facilities and the corrections department be provided. This section of the Original Bill requires each county detention facility to track and report data on medication-assisted treatment utilization to the health

care authority, it provides other requirement to each detention facility pertaining to medication-assisted treatment programs and requires that those facilities out of compliance report to the interim committee that studies corrections the barriers to offering such services.

Section 8 of the Original Bill adds the category of licensed clinical social worker or licensed counselor to the definition of health professional under the Health Service Corps Act.

Section 9 of the Original Bill adds language to Section 24-25-3 NMSA 1978, *Definitions*, under the Health Services Corp. Act providing originating site includes a crisis triage center.

Section 10 of the Original Bill adds a requirement for the New Mexico Department of Public Safety to 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; the central repository in the statute references the central repository for the collection, storage, retrieval and analysis of crime incident and arrest reports generated by all law enforcement agencies in this state.

Section 11 of the Original Bill adds a definition to the Law Enforcement Training Act defining county detention officer as meaning an employee of a county detention facility who has inmate custodial responsibilities.

Section 12 of the Original Bill adds a new section of the Law Enforcement Training Act to be titled County Detention Officer – Training Requirements, which provides for a regional training program to be created by the director of the New Mexico Law Enforcement Academy of the Department of Public Safety subject to review and approval by the jail administrator for county detention officers to be able to attend and receive certification; jail administrator is defined in this new section as the person hired by a county or municipality or a combination of these who supervises the entire operation of the jail and reports directly to the administrative head of the local governmental entity or local governing body"; per diem, mileage, and tuition expenses is provided paid for by the detention and corrections workforce capacity building fund.

Section 13 of the Original Bill replaces the phrase “mental impairments” with the phrase “crisis,” throughout Section 29-7-7.5 currently titled Interaction with Persons Experiencing a Behavioral Health Crisis.

Section 14 of the Original Bill adds definitions to Section 31-1-2 NMSA 1978, Criminal Procedure Act providing definitions for the terms *mental illness*, *substance use disorder*, *persons in crisis*, *behavioral health crisis*, *law enforcement deflection program*, *treatment*, *mental health professional*, and *validated risk and needs assessment*.

Section 15 of the Original Bill provides for a deflection program, meaning a collaborative program between law enforcement agencies and behavioral health entities that assists individuals who may have a mental illness, substance use disorder, another behavioral health disorder or co-occurring disorders, to create community-based pathways to recovery, support services, housing, case management or other services in lieu of arrest.

Section 16 of the Original Bill proposed to add new material for certain actions a law enforcement or qualified mental health professional can take, with the consent of the individual, when the law enforcement officer or qualified mental health professional has probable cause to believe an individual is experiencing a behavioral health crisis.

Section 17 of the Original Bill removes the restriction that those defendants with prior felony convictions for a violent crime are not eligible for pre-prosecution diversion, now making them eligible, and it provides seven factors that a district attorney is required to consider to determine eligibility for a pre-prosecution diversion program.

Section 18 of the Original Bill adds a new section to Chapter 31, Article 20 which would be titled Treatment Court Diversion, for the establishment in each district court a treatment court program, including a drug court, mental health court or other treatment-based court diversion program, and it provides for the district court to establish its own eligibility criteria and guidelines for the program, and it details how participation in the treatment court program may occur along with the impacts of finishing and not finishing the program successfully.

Section 19 of the Original Bill adds subsections to Section 31-20-5 NMSA 1978 *Placing Defendant on Probation* permitting courts to 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, and it references what such an assessment is, who completes it, and how it is to be utilized by the Courts and the corrections department; and it requires that the validated risk and needs assessment undergo periodic validation studies and quality assurance procedures.

Section 20 of the Original Bill adds language to Section 31-20-6 *Conditions of Order Deferring or Suspending Sentence* to allow a court to require the defendant to participate and complete to the satisfaction of the court an alternative program, treatment or activity deemed appropriate by the court, including a treatment court program.

Section 21 of the Original Bill adds language to Section 31-20-13 Conditional Discharge Order—Exception, allowing for individuals with a conviction for driving a motor vehicle while under the influence of intoxicating liquor or a drug offense that is five years or older to be eligible for a conditional discharge.

Section 22 of the Original Bill adds language to Section 31-21-9 NMSA 1978 *Presentence and Prerelease Investigations* recognizing that a Metropolitan court, which was previously not included with the other courts, may require the director of the adult probation and parole division of the corrections department or any employee designated by the director to prepare a presentence report that shall include such information as the court may request, and it adds language that the three state courts may require the director to prepare a presentence or prelease reporting containing the results of an evaluation or assessment or a validated risk and needs assessment, and also defining what a validated risk and needs assessment is.

Section 23 of the Original Bill adds the words “Dual Supervision” to the title for Section 31-21-21 NMSA 1978, to now read *Conditions of Probation – Dual Supervision*, and adds language allowing the board, in consultation with the director of the adult probation and parole division of the corrections department or any employee designated by the director to impose a special condition necessary to the successful rehabilitation of the person and to be able to follow the validated risk and needs assessment procedure.

Section 24 of the Original Bill adds language to Section 31-30-4 *Violence Intervention Program Requirements* to require that a violence intervention program 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, to partner with the crime victims reparation commission to identify opportunities to better support victims of violence and ensure the privacy of victims and survivors, and to comply with all reporting requirements pursuant to Section 29-3-11 NMSA 1978 and Paragraph (15) of Subsection D of Section 9-3-10 NMSA 1978.

Section 25 of the Original Bill requires the department and the commission to report through 2030 to the legislature each year regarding the awards and outcomes of each grantee; this is referencing grant awards from the from the violence intervention program fund.

Section 26 of the Original Bill adds language to Section 34-13-2 NMSA *Court Education Services Division – Purpose* to require that training provided by the court education services division of the administrative offices of the court include continuing education on substance use disorders, mental health

conditions and cooccurring disorders upon assuming office or employment and quadrennially thereafter.

Section 27 of the Original Bill adds a new material providing for a jail reentry fund to be a non-reverting fund to be administered by the Health Care Authority.

Section 28 of the Original Bill adds a new material providing for a clinical supervision fund to be a non-reverting fund to be administered by the Regulation and Licensing Department.

Section 29 of the Original Bill provides a temporary provision for the creation of a statewide system of community-based treatment, it provides that the director shall establish a statewide plan for a community-based crisis treatment system with a wide range of programs and services as alternatives to inpatient residential care, and it includes required elements for the program as well as definitions.

## **FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

Section 1 of the substitute bill adds language not in the original bill about the Secretary of Corrections being able to include incentive and stipend programs for academy and specialty trainers. Depending on how the incentive and stipend programs are carried out, this could lead to anti-donation issues or other challenges with fiscal controls if the incentive and stipend programs making larger payments at the front end of the program without requirements for the trainers to remain in the program.

Section 2 of the substitute bill provides that public members appointed to the Sentencing Commission shall not be employees of or under contract by another state agency. Insofar as there are currently public members appointed who are employees of or under contract by another state agency, it is not clear whether those individuals would have to vacate their positions on the Sentencing Commission.

Section 6 in the substitute bill reflects that detention facilities shall track and report data on medication-assisted treatment utilization to the health care authority and removes the language from the original bill regarding tracking for the duration of the treatment. By removing the duration of the treatment, however, it appears that snapshots would be captured as opposed to more longitudinal data.

## **PERFORMANCE IMPLICATIONS**

Section 1(B)(4) provides language for incentive and stipend programs for academy and specialty trainers. However, it does not expressly provide a requirement for it, nor does it detail how the incentive and stipend programs should be carried out. For example, clarifying language could help ensure that upfront payment is not made without the long-term benefit.

## **ADMINISTRATIVE IMPLICATIONS**

The language within Section 16 references that 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. However, to the extent the New Mexico law enforcement academy remains under the employment of the department of public safety, the language would be proposing to have the agency consult with a component of itself. Consider amending the definition in Section 16(D) to describe the situation more clearly, rather than a person.

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

None identified at this time.

## **TECHNICAL ISSUES**



N/A

## **OTHER SUBSTANTIVE ISSUES**

The term “specialty trainer” in Section 1(A)-(B)(4) does not appear elsewhere in the bill. Consider defining the term and referencing it where it may exist in other provisions.

Section 11(B) provides for the training for “a county detention officer.” The non-pluralized phrase is ambiguous as to whether such training is intended for every county detention officer entering employment within the agency. Consider clarifying whether this is intended for county detention officers and other staff entering employment or carrying out the administration, and whether the bill contemplates that this training will include certain aspects otherwise discussed in the bill, including mental health, reentry services, medication-assisted treatment programs, and data driven interventions.

Section 4(D)(1)(e) provides preference in making awards for loan repayment under NMSA 1978, Section 22-22F-5 or associated statutory provision, to certain applicants, including those who work for a public defender’s office or district attorney’s office. However, there are other individuals who work in the areas of criminal justice, such as City or county attorneys (enforce certain provisions involving crimes, including special commissions from the district attorney’s office), attorneys with the Children, Youth and Families Department (work with abuse and neglect, etc.), and the New Mexico department of justice (work under the criminal code).

Section 11 pertains to county detention officers. Consider amending to clarify which detention officers this section applies to. Consider clarifying how an impasse when the corrections department and the jail administrator of any facility cannot reach an agreement as to the training program.

Section 12 and Section 13. Consider defining “co-occurring disorder.”

Section 25 is unclear as to what criteria a private entity must meet to be considered a private community service. Also, consider defining “public community service.”

Section 15. More clear criteria around what constitutes a substantial danger may add more uniformity across district attorney’s offices in implementing this part of the provision.

Section 16 makes reference to participation in treatment court diversion prior to adjudication. It is unclear in what instances a court would terminate a defendant from the program when the defendant has abided by the conditions of the program. Additionally, while reference is made to tolling of the statute of limitations, the statute does not speak to other timelines following the applicable charging document, such as a six-month prosecution timeline or whether any language can inform a court how to apply constitutional speedy trial factors or considerations.

## **ALTERNATIVES**

N/A

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

Status Quo

## **AMENDMENTS**

N/A