

LFC Requester:

**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date Feb 19, 2019
Bill No: HB564

Sponsor: Maestas, Chasey and Rue
Short Title: Probation & Parole Good Behavior

Agency Name and Code Number: Administrative Office of the District Attorneys (AODA) 264
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB540; HB342, HB267s
Duplicates/Relates to Appropriation in the General Appropriation Act: none found

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB564 amends, repeals, and adds new material to the sentencing statutes related to probation and parole.

Section 1 sets out the purpose of probation, and requires the court to consult a validated risk and needs assessment when deciding what conditions of probation to impose. A person placed on supervised probation shall, after one year, have 30 days of the person's supervised probation changed to unsupervised probation for every 30 days served without a violation (a person on parole who has time on parole credited toward probation time is not eligible for this reduction).

Section 2 requires the corrections department to:

- operate probation and parole supervision based upon a validated risk and needs assessment;
- focus supervision resources on the initial period of release or placement on probation;
- recommend and enforce conditions that include cognitive-behavioral programming and address basic needs and transitional requirements; and
- apply a consistent system of incentives and graduated sanctions to promptly respond to positive and negative behavior.

Section 3 amends the definition section to include definitions relevant to HB564's provisions.

Section 4, addressing presentence investigations, requires the presentence report to include the state personal identification number, victim impact information, record of prior convictions and the results of any validated risk and needs assessments, and such other information as the court may request.

Section 5, addressing parole authority and procedure, requires the board to consult a validated risk and needs assessment when deciding what conditions of parole to impose.

Section 6, regarding intensive supervision programs, eliminates the provision requiring that officers providing intensive supervision programs have a maximum case load of forty offenders, instead providing that they have "the training, resources and case loads that enable

them to operate effectively.” A judge contemplating imposition of an intensive supervision program must review the results of the validated risk and needs assessment and recommend only those individuals who score as high risk.

Section 7, regarding parole violations, makes a distinction between technical and non-technical violations. (A non-technical violation means absconding or arrest for a new felony or misdemeanor; a technical violation is a violation of the conditions of probation or parole supervision other than an arrest for a new felony or misdemeanor offense or absconding.)

- The board or director may issue a warrant for the arrest of a parolee to answer a charge of a non-technical violation, and may keep the parolee incarcerated pending hearing. If the non-technical violation is established, the board may continue or revoke parole, impose detention for a fixed term up to ninety days (which shall count as time served under the sentence) or enter any other order as it sees fit.
- At any time during release on parole, the board or director may issue a notice to appear and answer a charge of a technical violation. The notice shall be served personally upon the parolee and shall initiate a technical violation process.

Section 8, regarding probation violations, establishes a similar system for courts to address technical and non-technical violations of probation.

Section 9, regarding medical or geriatric parole, requires the corrections department to promulgate rules and implement a “medical and geriatric parole program,” when the director believes the inmate’s release is not incompatible with the welfare of society. The board shall release an inmate upon recommendation from the director unless the parole board finds by clear and convincing evidence that the inmate’s release is incompatible with the welfare of society and states in writing its reason for the finding. The board may not deny medical or geriatric parole solely because of the inmate’s criminal history.

Section 10 enacts a new section of the Probation and Parole Act, titled “Incentives—Sanctions for Technical Violations.” It requires the corrections department to create maintain and implement an incentives and sanctions system providing graduated responses to technical violations.

Section 11 enacts a new section of the Probation and Parole Act titled “Technical Violations.” It requires a probation or parole officer who seeks to impose detention for a technical violation to obtain supervisory approval, and a waiver from the probationer or parolee that acknowledges the violation and accepts the proposed detention. If the waiver is rejected, the officer shall report the alleged violation to the court, board or hearing officer, and proceed to formal resolution.

Section 12 repeals Section 31-21-25.1 NMSA 1978, the existing statute on medical and geriatric parole.

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.

There are no direct fiscal implications for the district attorneys.

SIGNIFICANT ISSUES

HB564 makes significant changes to parole and probation by:

- mandating increased use of validated risk and needs assessments throughout the process;
- distinguishing between “technical” and “non-technical” violations;
- giving authorities the option of imposing detention for up to 90 days for non-technical violations;
- taking a “carrot and stick” approach to technical violations, including allowing a type of “good-time” credit that allows supervised release to become unsupervised release;
- setting out detailed provisions for medical and geriatric parole.

PERFORMANCE IMPLICATIONS

There are no direct performance implications for the district attorneys. To the extent HB564 tailors probation and parole to promote a defendant’s reintegration into society, it should reduce the risk that the person will re-offend and re-enter the criminal justice system.

ADMINISTRATIVE IMPLICATIONS

There are no significant administrative implications for the district attorneys.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB540 makes a similar distinction between “technical” and “non-technical” violations in the Delinquency Act.

HB342 makes a similar distinction between “technical” and “non-technical” probation violations for adult offenders.

HB267s sets out the information required for arrest records, which include the state personal identification number mentioned in Section 4 of HB564. HB267s also provides funding for grants to address issues faced by inmates upon release.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None found.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed.