

LFC Requester:

**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{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 22, 2019
Bill No: HB564a

Sponsor: Judiciary Committee
Amendment
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: none found for the amendment. HB540; HB342, HB267s may impact the original bill.

Duplicates/Relates to Appropriation in the General Appropriation Act: none found

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB564a strikes Section 5 of the original bill, and replaces it with a new Section 5. The original Section 5 amended Section 31-21-10 NMSA 1978, Parole Authority and Procedure, to require the board to consult a validated risk and needs assessment when considering what conditions of parole to impose. HB564a keeps that provision, but also makes the following changes to the statute:

An inmate sentenced to life imprisonment shall be paroled after serving thirty years of the sentence, unless the board finds that the inmate is unable or unwilling to fulfill the obligations of a law abiding citizen. The board may consider the offense for which the inmate was convicted but shall not deny parole to an inmate sentenced to life imprisonment based solely on the offense for which the inmate was convicted.

A two-year period of parole is required for inmates convicted of a first, second or third degree felony who have served a sentence of imprisonment of one year, or who have agreed to and been ordered to serve a period of parole by the court. (This does not apply to certain sex offenders as provided in Section 31-21-10.1 NMSA 1978.)

A one-year period of parole is required for inmates convicted of a fourth degree felony who have served a sentence of imprisonment of more than one year or who have agreed to and been ordered to serve a period of parole by the court.

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

HB564a amends Section 5 to mandate the use of validated risk and needs assessments. (This is consistent with other changes in the original bill, which use validated risk and needs assessments throughout the probation and parole process.)

HB564a changes the presumption regarding parole for persons sentenced to life imprisonment. Currently, such a person becomes eligible for parole after serving thirty years if the board makes a finding that parole is in the best interest of society and the inmate, and that the inmate is able and willing to fulfill the obligations of a law-abiding citizen. HB564a provides that the person shall be granted parole unless the board makes a finding that the inmate is unable or unwilling to fulfill the obligations of a law-abiding citizen. In making that determination the board may consider the offense for which the inmate was convicted, but may not deny parole to an inmate sentenced to life imprisonment based solely on the offense for which the inmate was convicted.

HB564a also limits the imposition of parole. Currently, inmates (except for certain sex offenders) convicted of a first, second or third degree felony who have served a sentence of imprisonment must undergo a two-year period of parole. HB564a imposes the two-year parole term only on such inmates who have served a sentence that exceeds one year or who have agreed to and been ordered to serve a period of parole by the court. An inmate who serves one year or less does not have to serve parole (unless the inmate agrees to do so, and is ordered to do so by the court).

HB564a imposes a similar limit on inmates convicted of a fourth degree felony—they must serve a one-year parole only if their sentence exceeded one year or they agreed to serve parole and were required to serve parole by the court.

PERFORMANCE IMPLICATIONS

There are no direct performance implications for the district attorneys. To the extent HB564a 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

None found (specific to the amendment).

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.