

**LFC Requester:**

**AGENCY BILL ANALYSIS  
2020 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto: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** January 30, 2020

**Bill No:** HB 263

**Sponsor:** Maestas, Chasey, Rehm,  
Powdrell-Culbert, Baldonado  
**Short Title:** Probation and Parole changes

**Agency Name and Code Number:** Administrative Office of the  
District Attorneys 264  
**Person Writing:** Donald Gallegos  
**Phone:** 575-770-3120    **Email:** dgallegos@questalaw.

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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:

HB 263 makes changes to the system of probation and parole to include a procedure for assessing risk and needs for defendants facing incarceration but who may be better served on supervised probation, parole. Provides for day-to-day credit and early release from supervision for persons who successfully comply with conditions. Makes changes to definitions by adding new definitions to comport with changes included in the bill. Changes the process of preparing pre-sentence reports. Makes changes to §31-21-14 (Parole Violations) and §31-21-15 (Probation Violations) by adding language that distinguishes non-technical violations (committing new crimes) from technical violations (violating other terms and conditions of parole and probation), and setting forth procedures to address those violations, including arrests with and without a warrant. New material to deal with geriatric and terminally ill inmates. Provide training on the new system to district attorneys. Establishes sanctions for technical violations.

**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.

**SIGNIFICANT ISSUES**

HB 263 will affect the district attorneys as follows:

1. Changes made to §31-21-15. Probation Violations.
2. Violation of conditions of probation are broken down into either technical or non-technical.
3. Depending on whether the violation(s) is technical or non-technical, determines which procedure will be followed. For non-technical violations (committing new crimes), the process is set forth in pages 15, lines 22-25 and page 16, lines 1-25. For technical violations (e.g. failing urinalysis test, not reporting to probation officer, etc.), the process is set forth in page 17, lines 1-17.
4. If a probationer commits a technical violation, a warrant may be issued by a court for their arrest only if the person is on probation for a sex offense, serious violent felony or human trafficking (page 15, lines 11-21).
5. Regardless of the changes in HB 263, the role of the district attorneys is the same and it does not appear that there will be a substantial increase in workload.

6. If passed and enacted into law, will not become effective until January 1, 2021.
7. If passed and enacted into law, will only affect those whose probation and parole commences after January 1, 2021.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

Rules 5-805 and 6-802, NMRA 2019, govern the procedures for pursuing probation violation cases in district and magistrate courts.

## **TECHNICAL ISSUES**

- A. Rule 5-805 C provides that courts may establish a technical violations program in district court. HB 263 will probably conflict with this and rule changes may be necessary.
- B. Rule 5-805F provides that a district attorney may initiate a probation violation petition without a prior recommendation of the probation office.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

**Status quo**

## **AMENDMENTS**