



**Minutes of the Meeting of the  
Reform Committee  
10:00 a.m.  
October 29, 2020**

via Zoom

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Angela “Spence” Pacheco, Chair	Neal Bowen (BHSD)	Monica Ault (FFJC)	Linda Freeman
Bennett Baur (LOPD)		Megan Dorsey	Douglas Carver
Jason Clack (AOC)		Ellen Rabin (LFC)	
Bob Cleavall (NMSC)			
Mark Donatelli			
Claire Harwell			
Brady Horn			
April Land (UNMSOL)			
Mike Lilley			
Melanie Martinez (NMCD)			
Mark Probasco (AGO)			
Nina Safier			
Clint Wellborn (AODA)			

**I. Welcome and Introductions.** Angela Pacheco, Chair, called the meeting to order at 10:01 a.m.

**II. Approval of Minutes for the October 15, 2020 meeting.** The minutes for the previous committee meeting were approved by consensus.

**III. Staff Report.**

Linda Freeman, Executive Director of the New Mexico Sentencing Commission (NMSC), informed the committee that the NMSC’s budget hearing before the Legislative Finance Committee had been postponed until November 16, 2020. Douglas Carver, Deputy Director, NMSC, noted that the Legislative Council Service seemed to be slow in getting bills drafted. He informed the committee that the NMSC was considering introducing bills concerning the abolition of the Sex Offender Management Board, geriatric and medical parole reform, fines and fees reform in the adult system, fines and fees reform in the juvenile justice system, an appropriation bill for rewriting of the Criminal Code, and a bill concerning the collection of race and ethnicity data. He added that he believed that a possible bill out of the NMSC Juvenile Committee concerning serious youthful offenders was probably not going to be ready this year. Executive Director

Freeman added that Justice Edward Chavez, Chair of the NMSC, had informed her that he wished that the full NMSC review any bills that were in process in the Commission's subcommittees, regardless of whether they had committee approval.

#### **IV. Geriatric and Medical Parole Bill Draft.**

Megan Dorsey discussed the bill draft sent to the committee concerning geriatric and medical parole reform. The bill was developed by the committee's working group on this matter. Input was also received from the Director of the Parole Board, Abram Anaya, who participated in a meeting of the working group and provided comments on the latest bill draft. She noted that the bill draft being presented to the committee was close to a consensus bill from the working group, there being only a handful of outstanding issues. The overarching purpose of the bill, she noted, was that individuals who no longer posed a danger to society, and who had a serious medical condition or were aged, could be released, while ensuring that those who were still dangerous remained in custody. The bill intends to ensure access to the process to obtain medical or geriatric parole, and that the review process is rapid. Ms. Dorsey added that much of the new language in the bill draft was taken from existing New Mexico Corrections Department policies.

In response to questions, Ms. Dorsey noted that the change in the minimum age for one to apply for geriatric parole was changed from 65 to 55 as New Mexico's current age of 65 was the highest in the country, one of three states that had that age. Most other states have ages of 50 or 55. She added that the age requirement was just the first factor, and did not automatically mean someone was eligible for geriatric parole.

The committee had a long discussion concerning whether those serving life without eligibility of parole or serving sentences of 30 years before being eligible for parole would be covered under this legislation. Certain members of the committee felt that these persons should not be eligible to apply under the medical and geriatric parole provisions; others felt that these individuals were the ones most likely to become aged or infirm in prison, and thus excluding them would make the bill largely a nullity. In the end, the committee decided to leave current law unchanged and remove these individuals from the provisions of the bill.

Members of the committee asked questions about and discussed the change in age from 65 to 55 for consideration of geriatric parole; the question of those in prison for life or who have to serve for 30 years without being eligible for parole; how the bill would effect sex offenders; whether it would be possible to set up an independent commission, outside of the normal Parole Board process, to make decisions in these cases; the *de novo* appeal process to the District Court in the draft bill; the number of people who presently apply for medical or geriatric parole under the current scheme; the expense imposed on NMCD for keeping people with serious medical conditions under department control; the humanitarian concerns underpinning the proposed legislation; whether the Duran litigation would have an impact on the proposed language; the language used to describe a geriatric inmate's illness; and whether NMCD had to forward all applications to the Parole Board, regardless of whether the department felt the person was a candidate for parole.

At the end of the meeting, a motion was made and seconded that Ms. Dorsey and Mr. Carver update the bill draft in the following manner:

- Exclude those sentenced to 30 years and life;
- Add in "debilitating" to describe type of illness for geriatric parole;
- Add language clarifying that all applications go to the Parole Board, whether or not they are approved by NMCD;
- Address whether there is any conflict in the new language with what is required under Duran; and

- Consider modifying the language concerning District Court appeals.

The committee approved the motion with no dissenting votes.

At Thursday's meeting, the Committee will consider the revised language and hopes to decide on a final bill draft.

**V. Rewrite of the Criminal Code.**

This item was postponed until the committee's next meeting.

**VI. Committee Work Plan for Remainder of Year.**

This item was postponed until the committee's next meeting.

**VII. Next Meeting.** The committee scheduled its next meeting for 10:00 a.m., November 5, 2020.

**VIII. Adjourn.** The meeting adjourned at 11:42 a.m.