



**Minutes of the Meeting of the
Reform Committee
10:00 a.m.
October 15, 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
Kim Chavez Cook (LOPD)	Brady Horn	Bennett Baur (LOPD)	Douglas Carver
Jason Clack (AOC)	Nina Safier	Denali Wilson (ACLU-NM)	
Bob Cleavall (NMSC)			
Megan Dorsey			
Claire Harwell			
April Land (UNMSOL)			
Mike Lilley			
Mark Probasco (AGO)			
Alisha Tafoya Lucero (NMCD)			
Clint Wellborn (AODA)			

I. Welcome and Introductions. Angela Pacheco, Chair, called the meeting to order at 10:03 a.m.

II. Approval of Minutes for the October 1, 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), Douglas Carver, Deputy Director, NMSC, and Monica Ault, New Mexico Director of the Fines and Fees Justice Center, discussed their October 7, 2020 presentation on the fines and fees reform to the Criminal Justice Reform Subcommittee (CJRS) of the Legislature’s interim Courts, Corrections, and Justice Committee (CCJ). Mr. Carver noted that he had mentioned the forthcoming efforts on collection of race and ethnicity data. Mr. Carver also informed the committee that CJRS had requested that the NMSC come up with an estimate for the cost of rewriting the Criminal Code; he and CJRS agreed that NMSC would bring an appropriation bill to the CCJ December meeting for endorsement.

IV. Committee Work Plan for Remainder of the Year.

Chair Pacheco informed the committee that time was growing tight for the committee to complete its work on legislation in time for the full NMSC to endorse any bills that might come out of the committee. Executive Director Freeman informed the committee that the NMSC would meet on October 20, 2020, and then again on November 16, 2020, which means that the committee would have to complete bill drafts by November 2 in order to have Commission approval of bills in time for the December 1, 2020 CCJ bill endorsement meeting. She added that the NMSC would likely have a December meeting as well, and thus a bill draft could be approved at that meeting, even though it would be too late for a possible CCJ endorsement. The committee had a brief discussion on possible sponsors for any proposed legislation.

V. Fines and Fees Bill Draft.

Ms. Ault walked the committee through the additions to the fines and fees bill draft that the committee had reviewed at its last meeting. Those changes were:

- additional language, developed in conjunction with the Administrative Office of the Courts (AOC), to align the bill language with Court Rules on payment in full and additional payments outside of a person's payment agreement;
- a requirement for credit for presentence confinement;
- the creation of a presumption that applies to bench warrant fees and fines in the Indigent Defense Act; and
- an indigency presumption for traffic offenses.

Mr. Carver added that the new language reflected items that the committee had discussed as wanting to see, without yet deciding whether they wanted to include those items in the final draft. He also noted that this draft did not include non-incarceration for non-payment, as that seemed to be an item that would require extensive discussion by the members of the committee, and it might be best to postpone that discussion until next year.

Members of the committee discussed and asked questions about whether the new language would change the requirement for monthly payments, like with a credit card, even if someone paid additional amounts in a given month; how a statutory prohibition against incarcerating someone for non-payment would be entwined with questions of extension of probation; the length of time courts of limited jurisdiction had over people who owed fines or fees, particularly when the person had a balance remaining after the jurisdiction for the underlying crime had expired; how a court's contempt power was entwined with the requirement for someone to pay fines or fees owed; where in statute was the best place to put the new provisions concerning traffic offenses, Article 6 or Article 8; the need to have the traffic provisions tie back to the Delinquency Act, specifically Section 32A-2-29 NMSA 1978; whether the language in the bill affected restitution – it does not; and whether the proposed language exempting minors from fines and fees under the Motor Vehicle Code was good policy, or appropriate for this legislation.

A motion was made and seconded to have the bill draft sent to the Legislative Council Service (LCS) for drafting, with all of the language in this second version of the bill, except the language exempting minors from costs and fees in the Motor Vehicle Code. The motion passed with 7 votes in favor, 3 against.

Mr. Carver summarized next steps as follows:

1. Remove the minors language from the present Section 9 of the bill draft;

2. He, Ms. Ault, and Jason Clack, AOC, would decide on the best place to put the remaining Motor Vehicle Code language, either in Article 6 or Article 8;
3. He, Ms. Ault, and Mr. Clack would craft language tying the Motor Vehicle Code language to the Delinquency Act; and
4. Confirmation that all other changes to the bill between version 1 and this version were acceptable to the committee;
5. Circulate the final language via email; and
6. Presuming committee approval, submit the final language to LCS.

The committee concurred.

VI. Geriatric Parole.

Megan Dorsey, chair of the working group established by the committee to consider geriatric parole reform, informed the committee that the working group had had a successful first meeting. Work areas for the working group's next meeting included research on why age 65 was the age included for geriatric parole, and whether other states had a different range of ages for geriatric parole eligibility; whether other states left decisions on geriatric or medical parole in the hands of the Parole Board, or did they place these decisions in the hands of another entity, such as the Attorney General or an independent commission; and incorporating the present policies of the New Mexico Corrections Department and the Parole Board into the bill's draft language. The committee asked about how this effort connected to prior efforts to reform the geriatric and medical parole process. Ms. Dorsey noted that this effort was distinct from the broader probation and parole reform effort that failed to pass the Legislature in the last Legislative Session. Mr. Carver added that this effort is truly a successor effort to the reforms that were initiated in 2014 surrounding medical and geriatric parole. Ms. Dorsey concluded by noting that the focus of the bill draft would be to have a process that was easily accessible, expedient, advanced rehabilitation, supported decreased recidivism, and provided for the safety of the community.

VII. Rewrite of the Criminal Code.

Committee discussion of this item was postponed until the next committee meeting.

VIII. Next Meeting. The committee scheduled its next meeting for 10:00 a.m., October 29, 2020.

IX. Adjourn. The meeting adjourned at 11:58 a.m.