



**Minutes of the Meeting of the
Reform Committee
10:00 a.m.
September 16, 2021**

via Zoom

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Bob Cleavall (NMSC) (Acting Chair)	Angela “Spence” Pacheco, Chair	Bennett Baur (LOPD)	Linda Freeman
Karen Cann	Claire Harwell	Melanie Martinez (NMCD)	Douglas Carver
Kim Chavez Cook (LOPD)	April Land (UNMSOL)	Monica Ault (Fines and Fees Justice Center)	Nancy Shane
Jason Clack (AOC)	Mike Lilley	Ellen Rabin (LFC)	
Mark Donatelli	Anita Mesa (BHSD)	Cynthia Pacheco (AOC)	
Brady Horn	Nina Safier	Hon. Warren Walton	
Brian McKay (AGO)		Hon. Pat A. Casados	
Dave Schmidt		Grace Philips (NM Counties)	
Clint Wellborn (AODA)			

I. Welcome and Introductions. Bob Cleavall, Acting Chair, called the meeting to order at 10:05 a.m.

II. Approval of Minutes for the November 19, 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 there was a new research scientist hired. Additionally, she and Dr. Brady Horn participated in a panel on private prisons for the Economic Development and Policy interim committee.

IV. Geriatric and Medical Parole Bill.

Douglas Carver, Deputy Director, NMSC, discussed the history of votes on this bill during the past regular Legislative Session, noting that it had widespread support in the Legislature, and was not amended as it progressed during the Session; it was only when other provisions were added to it that it became controversial and thus did not have a final vote in the Senate that was required because of the House

additions to the legislation. Karen Cann, Deputy Secretary, New Mexico Corrections Department (NMCD), and Melanie Martinez, Director of Probation and Parole, NMCD, both indicated that NMCD still supported this bill. Mr. Carver noted that the bill that is being proposed for committee support was the bill as introduced during the last Legislative Session. Upon a motion by Jason Clack, Administrative Office of the Courts (AOC), seconded by Kim Chavez Cook, Law Office of the Public Defender (LOPD), the bill by unanimous vote was recommended to the full Commission for approval to be introduced in the 2022 Legislative Session.

V. Adult Fines and Fees Bill.

Deputy Director Carver discussed the history of votes on this bill during the past regular Legislative Session, noting that it was significantly amended in the Senate Judiciary Committee (SJC), but that SJC was missing a number of members that day, and one of those missing members struck one of those amendments on the Senate Floor. The bill never received its final vote in the House. Deputy Director Carver noted that one of the SJC amendments struck Section 8 of the bill, which was an important section. Monica Ault, New Mexico Director, Fines and Fees Justice Center, informed the committee that the substantive amendments in SJC were the ones striking Section 8, that raised the conversion rate, and that included a reference to the Federal minimum wage. She also reminded the committee that one of the intentions of the bill was to save judges time, so that they would not have to repeat an indigency determination for a second time after one had already been conducted by the LOPD. She recommended that all of the SJC amendments be accepted aside from Amendment 10, which had struck Section 8.

Magistrate Judges Warren Walton and Pat Casados asked to address the committee on the bill. Both judges expressed a concern that the bill would require additional staffing in the Magistrate Courts, especially to conduct the financial assessments. The judges also expressed the concern that the two-percent cap on repayment would mean that files are open for a longer period. In addition, Cynthia Pacheco of the AOC raised a number of questions about the bill text. Ms. Ault responded to the judges' concerns by noting that the bill was structured so that the Court would have to spend less time monitoring such matters. The assessments were already required under Court rule, and income levels would continue to be self-reported, as they are now. There would be no additional paperwork, and no need for additional staff. She added that as soon as someone has met the indigency standard to obtain a public defender, that is noted in the file for the Court to see. Finally, she noted that the courts already spend a significant amount of time and money chasing after unpayable fees, sometimes resulting in courts spending more to collect unpaid fees than was owed for the fee itself; this bill represents attempts to help rectify that.

The committee then vigorously discussed the possibility of changing the bill to one that abolishes such court fees altogether. It was noted that this year was a good year to introduce such a bill, as there would be a significant amount of new money in the state budget. In addition, all agreed that the items funded through the various court fees would have a much more stable revenue stream if they were funded out of the general fund. The committee debated whether there was the political will to pass such a bill this year. It was pointed out that changing this bill to a fees abolition bill would be a significant change, and thus the bill could not be taken to the Governor with a request that she give it a message by arguing that it was a bill that was supported in the last regular Legislative Session but did not quite make it through. Additionally, it was noted that a good amount of work would be required to pull all of the data necessary to figure out how much each fee in statute collects, and thus how much general fund money would be required to fill those gaps. Furthermore, outreach will have to be made to all of the affected and interested parties. There was some discussion around whether a fees abolition bill could be included as part of the Criminal Code update. In the end, the committee decided that it would proceed on two tracks. It would meet again on September 30 to discuss any needed changes to this bill, and it would form a working group to begin work on a bill to eliminate fees altogether.

VI. Next Meeting. The committee scheduled its next meeting for 10:00 a.m., September 30, 2021.

VII. Adjourn. The meeting adjourned at 11:35 a.m.