



**Minutes of the Meeting of the
Reform Committee
10:00 a.m.
October 1, 2020**

via Zoom

Committee Members Present	Committee Members Absent	Others Attending	NMSC Staff
Angela “Spence” Pacheco, Chair	Neal Bowen (BHSD)	Ellen Rabin (LFC)	Linda Freeman
Kim Chavez Cook (LOPD)	Brady Horn	Megan Dorsey	Douglas Carver
Jason Clack (AOC)	Nina Safier	Monica Ault (FFJC)	
Bob Cleavall (NMSC)		Bennett Baur (LOPD)	
Mark Donatelli		Grace Philips (NM Counties)	
Brittany DuChaussee (AGO)			
Claire Harwell			
April Land (UNMSOL)			
Mike Lilley			
Alisha Tafoya Lucero (NMCD)			
Clint Wellborn (AODA)			

I. Welcome and Introductions. Angela Pacheco, Chair, called the meeting to order at 10:02 a.m. Everyone on the Zoom call introduced themselves.

II. Approval of Minutes for the September 17, 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) and Douglas Carver, Deputy Director, NMSC, briefly discussed their upcoming October 7, 2020 presentation to the Criminal Justice Reform Committee of the Legislature’s interim Courts, Corrections, and Justice Committee.

IV. Fines and Fees Bill Draft.

Monica Ault, New Mexico Director of the Fines and Fees Justice Center, introduced a bill draft on fines and fees reform that was drafted in alignment with the proposals around which the committee had achieved consensus. The bill draft contained the following elements:

- it incorporates New Mexico Court Rules on ability to pay into statute;
- it codifies that payment agreements have to be made in 30-day increments;
- it limits payment amounts to two percent of a person’s net income or \$10, whichever is greater;
- it expands the scope of activities eligible for community service in lieu of payment;
- it increases conversion rate for community service and jail using the local minimum wage rate;
- it limits the assessment of fees to once per case; and
- it modifies the definition of costs in the Indigent Defense Act to include a waiver for the ability to pay fees arising out of a case.

Ms. Ault noted that left unaddressed in this draft are traffic offenses or how to handle the burden of excessive fees placed on people who do not qualify for a public defender.

After a thorough discussion, the committee agreed to consider, without committing to a position, the following additional areas to include in the bill draft:

- traffic offenses;
- elimination of Magistrate and Municipal Court fees;
- barring incarceration for non-payment of fines or fees;
- incorporating fines into the definition of “costs” in the Indigent Defense Act; and
- addressing bench warrant fees.

Members of the committee discussed and asked questions about indigency determinations in traffic cases; the line to be observed between enacting policy through legislation and legislating court processes; self-reporting of income, as is generally the practice, versus a requirement that a person provide proof of income; whether the draft language restricted someone from paying more than the payment schedule determined by the court; that the system is losing money as it costs more to incarcerate someone for non-payment; the calculations used to determine the daily amounts earned against amounts owed when someone is incarcerated; whether fees should be removed entirely from the Magistrate and Municipal Court processes; whether people should be incarcerated at all for nonpayment; inconsistency across the state in whether a judge assesses fees per case or per charge, as well as whether credit against any fees or fines is assessed for time served prior to trial; the fact that in Section 31-12-3 NMSA 1978, fines and fees are lumped together; whether the present draft was a sufficient start to this work for this Legislative Session; the problem posed by finding alternative sources of revenue for the various items funded by fees if fees were eliminated; how one could secure payment of fines and fees absent the threat of incarceration for non-payment; the amounts collected in bench warrant fees; and the budget challenges that might be posed if monies collected from certain fees would be sourced instead from the general fund.

V. Geriatric Parole.

The committee had a brief discussion of possible geriatric parole reform. Megan Dorsey, who heads the working group set up to discuss the issue, informed the committee that the working group would meet on October 9, 2020, with participation from the Parole Board. The working group will report to the committee at the committee’s next meeting.

VI. Next Meeting. The committee scheduled its next meeting for 10:00 a.m., October 15, 2020.

VII. Adjourn. The meeting adjourned at 11:47a.m.