

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 291

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

AN ACT

RELATING TO CORRECTIONAL INSTITUTIONS; REQUIRING INSPECTIONS OF  
PRIVATELY AND PUBLICLY OPERATED CORRECTIONAL FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 33-15-1 NMSA 1978 (being Laws 2001,  
Chapter 169, Section 1) is amended to read:

"33-15-1. SHORT TITLE.--~~[This act]~~ Chapter 33, Article 15  
NMSA 1978 may be cited as the "Privately and Publicly Operated  
Correctional Facilities Oversight Act"."

SECTION 2. A new section of the Privately and Publicly  
Operated Correctional Facilities Oversight Act is enacted to  
read:

"[NEW MATERIAL] INSPECTION OF PRIVATELY AND PUBLICLY  
OPERATED CORRECTIONAL FACILITIES--REPORTING--CORRECTIVE  
ACTION.--

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1           A. Each correctional facility is subject to  
2 inspection pursuant to this section, in addition to any other  
3 inspection required by law, at least once every two years and  
4 without prior notice. An inspection shall be performed by an  
5 inspector who is designated by the New Mexico legislative  
6 council and shall be a person who:

7                   (1) is of recognized judgment, independence,  
8 objectivity and integrity, and who shall be qualified by  
9 training or experience in corrections law and policy;

10                   (2) has not been an employee or independent  
11 contractor of a correctional facility, or the parent company of  
12 a facility in the case of a privately operated correctional  
13 facility, within the past two years; and

14                   (3) is not within two degrees of consanguinity  
15 of a person who has been an employee or independent contractor  
16 of a correctional facility, or the parent company of a facility  
17 in the case of a privately operated correctional facility,  
18 within the past two years.

19           B. The inspector may inspect all reports, audits,  
20 records and complaints concerning the correctional facility.  
21 Upon presenting appropriate credentials to the owner, operator  
22 or agent in charge, the inspector shall be given reasonable  
23 access as necessary to inspect the correctional facility and  
24 privately interview the staff and inmates. During an  
25 inspection, the inspector shall also have reasonable access to

1 all areas that are used by inmates and all areas that are  
2 accessible to inmates, and to programs for inmates at  
3 reasonable times, which at a minimum shall include normal  
4 working hours and visiting hours. Such access is for the  
5 purpose of:

6 (1) providing information about individual  
7 rights and the services available at the facility;

8 (2) monitoring compliance with respect to the  
9 rights and safety of inmates; and

10 (3) inspecting, viewing, photographing and  
11 video recording all areas of the facility that are used by  
12 inmates or are accessible to inmates.

13 C. The correctional facility shall reimburse the  
14 inspector for the reasonable costs of the inspection. An  
15 inspection shall include:

16 (1) a review of any reports, audits, records  
17 or complaints concerning the correctional facility; and

18 (2) on-site inspections of the facility.

19 D. The inspector shall provide a report of each  
20 inspection to the appropriate interim legislative committee,  
21 the attorney general, the secretary and the correctional  
22 facility that is the subject of the inspection no later than  
23 thirty days after the completion of an inspection. The  
24 attorney general and the correctional facility that is the  
25 subject of the inspection shall post the reports with any

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1 confidential information redacted on their public websites  
2 within thirty days of receiving the report. An inspection  
3 report shall include:

4 (1) information gathered from private and  
5 confidential interviews with inmates and staff of the  
6 correctional facility;

7 (2) an evaluation of the availability, quality  
8 and accessibility of medical and mental health services;

9 (3) an evaluation of whether the correctional  
10 facility is meeting its contractual requirements;

11 (4) key demographic information concerning  
12 inmates as determined by the inspector;

13 (5) other considerations as determined by the  
14 inspector if the correctional facility houses children;

15 (6) an evaluation of the systems of inmate  
16 physical restraint, isolation, discipline, classification,  
17 retaliation and management; and

18 (7) an evaluation of the adequacy of the  
19 training of staff, administrators and wardens.

20 E. Within thirty days after the completion of the  
21 inspection report, the inspector shall make a determination as  
22 to whether corrective action is necessary. Upon a  
23 determination that corrective action is necessary, an inspector  
24 shall issue a corrective action plan to the attorney general,  
25 the secretary and the correctional facility. A correctional

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1 facility that is issued a corrective action plan shall have up  
2 to six months to implement the required corrective action. At  
3 the end of the six-month period, the inspector shall conduct a  
4 follow-up inspection of the correctional facility to determine  
5 if the correctional facility has taken sufficient corrective  
6 action. If the inspector determines that a correctional  
7 facility has not sufficiently met the requirements set forth in  
8 a corrective action plan after the follow-up inspection, the  
9 inspector shall refer the correctional facility to the attorney  
10 general and the secretary for enforcement of the corrective  
11 action plan, including the assessment of fines."

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