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SENATE BILL 254

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO CORRECTIONS; PROVIDING EARNED MERITORIOUS  
DEDUCTIONS FOR PAROLEES; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999,  
Chapter 238, Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS  
DEDUCTIONS. --

A. To earn meritorious deductions, a prisoner  
confined in a correctional facility designated by the  
corrections department must be an active participant in  
programs recommended for the prisoner by the classification  
committee and approved by the warden. Meritorious deductions  
shall not exceed the following amounts:

(1) for a prisoner confined for committing a

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1 serious violent offense, up to a maximum of four days per month  
2 of time served;

3 (2) for a prisoner confined for committing a  
4 nonviolent offense, up to a maximum of thirty days per month of  
5 time served;

6 (3) for a prisoner confined following  
7 revocation of parole for the alleged commission of a new felony  
8 offense or for absconding from parole, up to a maximum of four  
9 days per month of time served during the parole term following  
10 revocation; and

11 (4) for a prisoner confined following  
12 revocation of parole for a reason other than the alleged  
13 commission of a new felony offense or absconding from parole,  
14 up to a maximum of eight days per month of time served during  
15 the parole term following revocation.

16 B. A prisoner may earn meritorious deductions upon  
17 recommendation by the classification committee, based upon the  
18 prisoner's active participation in approved programs and the  
19 quality of the prisoner's participation in those approved  
20 programs. A prisoner may not earn meritorious deductions  
21 unless the recommendation of the classification committee is  
22 approved by the warden.

23 C. If a prisoner's active participation in approved  
24 programs is interrupted by a lockdown at a correctional  
25 facility, he may continue to be awarded meritorious deductions

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1 at the rate he was earning meritorious deductions prior to the  
2 lockdown, unless the warden determines that the prisoner's  
3 conduct contributed to the initiation or continuance of the  
4 lockdown.

5 D. A prisoner confined in a correctional facility  
6 designated by the corrections department is eligible for lump-  
7 sum meritorious deductions as follows:

8 (1) for successfully completing an approved  
9 vocational, substance abuse or mental health program, one  
10 month; except when the prisoner has a demonstrable physical,  
11 mental health or developmental disability that prevents the  
12 prisoner from successfully earning a general education diploma,  
13 in which case, the prisoner shall be awarded three months;

14 (2) for earning a general education diploma,  
15 three months;

16 (3) for earning an associate's degree, four  
17 months;

18 (4) for earning a bachelor's degree, five  
19 months;

20 (5) for earning a graduate qualification, five  
21 months; and

22 (6) for engaging in a heroic act of saving  
23 life or property, engaging in extraordinary conduct for the  
24 benefit of the state or the public that is at great expense,  
25 risk or effort on behalf of the inmate, or engaging in

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1 extraordinary conduct far in excess of normal program  
2 assignments that demonstrates the prisoner's commitment to  
3 rehabilitate himself. The classification committee and the  
4 warden may recommend the number of days to be awarded in each  
5 case based upon the particular merits, but any award shall be  
6 determined by the director of the adult institutions division  
7 of the corrections department.

8 E. Lump-sum meritorious deductions, provided in  
9 Paragraphs (1) through (6) of Subsection D of this section, may  
10 be awarded in addition to the meritorious deductions provided  
11 in Subsections A and B of this section. Lump-sum meritorious  
12 deductions shall not exceed one year per award and shall not  
13 exceed a total of one year for all lump-sum meritorious  
14 deductions awarded in any consecutive twelve-month period.

15 F. A prisoner is not eligible to earn meritorious  
16 deductions if the prisoner:

17 (1) disobeys an order to perform labor,  
18 pursuant to Section 33-8-4 NMSA 1978;

19 (2) is in disciplinary segregation;

20 (3) is within the first sixty days of receipt  
21 by the corrections department; or

22 (4) is not an active participant in programs  
23 recommended and approved for him by the classification  
24 committee.

25 G. The provisions of this section shall not be

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1 interpreted as providing eligibility to earn meritorious  
2 deductions from a sentence of life imprisonment or a sentence  
3 of death.

4 H. The corrections department shall promulgate  
5 rules to implement the provisions of this section, and the  
6 rules shall be matters of public record. A concise summary of  
7 the rules shall be provided to each prisoner, and each prisoner  
8 shall receive a quarterly statement of the meritorious  
9 deductions earned.

10 I. A New Mexico prisoner confined in a federal or  
11 out-of-state correctional facility is eligible to earn  
12 meritorious deductions for active participation in programs on  
13 the basis of the prisoner's conduct and program reports  
14 furnished by that facility to the corrections department. All  
15 decisions regarding the award and forfeiture of meritorious  
16 deductions at such facility are subject to final approval by  
17 the director of the adult institutions division of the  
18 corrections department or the director's designee.

19 J. In order to be eligible for meritorious  
20 deductions, a prisoner confined in a federal or out-of-state  
21 correctional facility designated by the corrections department  
22 must actively participate in programs that are available. If a  
23 federal or out-of-state correctional facility does not have  
24 programs available for a prisoner, the prisoner may be awarded  
25 meritorious deductions at the rate the prisoner could have

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1 earned meritorious deductions if the prisoner had actively  
2 participated in programs.

3 K. A prisoner confined in a correctional facility  
4 in New Mexico that is operated by a private company, pursuant  
5 to a contract with the corrections department, is eligible to  
6 earn meritorious deductions in the same manner as a prisoner  
7 confined in state-run correctional facilities. All decisions  
8 regarding the award or forfeiture of meritorious deductions at  
9 such facilities are subject to final approval by the director  
10 of the adult institutions division of the corrections  
11 department or the director's designee.

12 L. As used in this section:

13 (1) "active participant" means a prisoner who  
14 has begun, and is regularly engaged in, approved programs;

15 (2) "program" means work, vocational,  
16 educational, substance abuse and mental health programs,  
17 approved by the classification committee, that contribute to a  
18 prisoner's self-betterment through the development of personal  
19 and occupational skills. "Program" does not include  
20 recreational activities;

21 (3) "nonviolent offense" means any offense  
22 other than a serious violent offense; and

23 (4) "serious violent offense" means:

24 (a) second degree murder, as provided in  
25 Section 30-2-1 NMSA 1978;

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1 (b) voluntary manslaughter, as provided  
2 in Section 30-2-3 NMSA 1978;

3 (c) third degree aggravated battery, as  
4 provided in Section 30-3-5 NMSA 1978;

5 (d) first degree kidnapping, as provided  
6 in Section 30-4-1 NMSA 1978;

7 (e) first and second degree criminal  
8 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

9 (f) second and third degree criminal  
10 sexual contact of a minor, as provided in Section 30-9-13 NMSA  
11 1978;

12 (g) first and second degree robbery, as  
13 provided in Section 30-16-2 NMSA 1978;

14 (h) second degree aggravated arson, as  
15 provided in Section 30-17-6 NMSA 1978;

16 (i) shooting at a dwelling or occupied  
17 building, as provided in Section 30-3-8 NMSA 1978;

18 (j) shooting at or from a motor vehicle,  
19 as provided in Section 30-3-8 NMSA 1978;

20 (k) aggravated battery upon a peace  
21 officer, as provided in Section 30-22-25 NMSA 1978;

22 (l) assault with intent to commit a  
23 violent felony upon a peace officer, as provided in Section  
24 30-22-23 NMSA 1978;

25 (m) aggravated assault upon a peace

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1 officer, as provided in Section 30-22-22 NMSA 1978; and

2 (n) any of the following offenses, when  
3 the nature of the offense and the resulting harm are such that  
4 the court judges the crime to be a serious violent offense for  
5 the purpose of this section: 1) involuntary manslaughter, as  
6 provided in Section 30-2-3 NMSA 1978; 2) fourth degree  
7 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)  
8 third degree assault with intent to commit a violent felony, as  
9 provided in Section 30-3-3 NMSA 1978; 4) third and fourth  
10 degree aggravated stalking, as provided in Section  
11 30-3A-3.1 NMSA 1978; 5) second degree kidnapping, as provided  
12 in Section 30-4-1 NMSA 1978; 6) second degree abandonment of a  
13 child, as provided in Section 30-6-1 NMSA 1978; 7) first,  
14 second and third degree abuse of a child, as provided in  
15 Section 30-6-1 NMSA 1978; 8) third degree dangerous use of  
16 explosives, as provided in Section 30-7-5 NMSA 1978; 9) third  
17 and fourth degree criminal sexual penetration, as provided in  
18 Section 30-9-11 NMSA 1978; 10) fourth degree criminal sexual  
19 contact of a minor, as provided in Section 30-9-13 NMSA 1978;  
20 11) third degree robbery, as provided in Section 30-16-2 NMSA  
21 1978; 12) third degree homicide by vehicle or great bodily  
22 injury by vehicle, as provided in Section 66-8-101 NMSA 1978;  
23 and 13) battery upon a peace officer, as provided in Section  
24 30-22-24 NMSA 1978.

25 M Except for sex offenders, as provided in Section

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1 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a  
2 correctional facility designated by the corrections department  
3 who has been released from confinement and who is serving a  
4 parole term may be awarded earned meritorious deductions of up  
5 to thirty days per month upon recommendation of the parole  
6 officer supervising the offender, with the final approval of  
7 the adult parole board. The offender must be in compliance  
8 with all the conditions of the offender's parole to be eligible  
9 for earned meritorious deductions. The adult parole board may  
10 remove earned meritorious deductions previously awarded if the  
11 offender later fails to comply with the conditions of the  
12 offender's parole. The corrections department and the adult  
13 parole board shall promulgate rules to implement the provisions  
14 of this subsection."

15 Section 2. EFFECTIVE DATE. --The effective date of the  
16 provisions of this act is July 1, 2004.

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