

AN ACT

RELATING TO CORRECTIONS; CLARIFYING PROVISIONS IN THE  
CORRECTIONS POPULATION CONTROL ACT; PROVIDING FOR THE ELECTION  
OF A CHAIRPERSON BY THE CORRECTIONS POPULATION CONTROL  
COMMISSION; MODIFYING CONSIDERATIONS FOR RELEASE OF NONVIOLENT  
OFFENDERS; REPEALING SUNSET.

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

Section 1. Section 33-2A-1 NMSA 1978 (being Laws 2002,  
Chapter 8, Section 1) is amended to read:

"33-2A-1. SHORT TITLE.--Chapter 33, Article 2A NMSA 1978  
may be cited as the "Corrections Population Control Act"."

Section 2. Section 33-2A-2 NMSA 1978 (being Laws 2002,  
Chapter 8, Section 2) is amended to read:

"33-2A-2. PURPOSE.--The purpose of the Corrections  
Population Control Act is to establish a corrections  
population control commission that shall operate as an  
autonomous, nonpartisan body. The commission shall develop  
and implement mechanisms to prevent the inmate population from  
exceeding the rated capacity of any correctional facility and  
shall take appropriate action when necessary to effect the  
reduction of the inmate population."

Section 3. Section 33-2A-3 NMSA 1978 (being Laws 2002,  
Chapter 8, Section 3) is amended to read:

"33-2A-3. DEFINITIONS.--As used in the Corrections

Population Control Act:

A. "commission" means the corrections population control commission;

B. "female correctional facility" means:

(1) the women's correctional facility, located in Grants; or

(2) any other female correctional facility so designated by the corrections department;

C. "male correctional facility" means:

(1) the penitentiary of New Mexico, located in Santa Fe;

(2) the central New Mexico correctional facility, located in Los Lunas;

(3) the southern New Mexico correctional facility, located in Las Cruces;

(4) the western New Mexico correctional facility, located in Grants;

(5) the Roswell correctional facility, located in Hagerman;

(6) the Guadalupe county correctional facility, located in Santa Rosa;

(7) the Lea county correctional facility, located in Hobbs; or

(8) any other male correctional facility so designated by the corrections department;

D. "nonviolent offender" means:

(1) a person convicted only of possession of a controlled substance, pursuant to the provisions of Section 30-31-23 NMSA 1978;

(2) a person incarcerated for violating the conditions of the person's parole plan due to use or possession of a controlled substance whose original conviction was for commission of a nonviolent offense; or

(3) an inmate designated by the commission as a nonviolent offender; provided that the offender was convicted for the commission of a nonviolent offense, as that term is defined in Subsection L of Section 33-2-34 NMSA 1978; and

E. "rated capacity" means the actual general population bed space, including only individual cells and areas designed for the long-term housing of inmates, available in a female correctional facility or a male correctional facility as certified by the secretary of corrections and subject to applicable state and federal law."

Section 4. Section 33-2A-4 NMSA 1978 (being Laws 2002, Chapter 8, Section 4) is amended to read:

"33-2A-4. COMMISSION--CREATION--MEMBERSHIP--TERMS.--

A. The "corrections population control commission" is created.

B. The commission shall be composed of seven

members:

(1) the secretary of corrections;

(2) a public official or private citizen appointed by the chief justice of the New Mexico supreme court;

(3) a public official or private citizen appointed by the speaker of the house of representatives;

(4) a public official or private citizen appointed by the president pro tempore of the senate;

(5) a public official or private citizen appointed by the minority leader of the house of representatives;

(6) a public official or private citizen appointed by the minority leader of the senate; and

(7) a public official or private citizen appointed by the governor.

C. The commission shall elect a chair and adopt rules as necessary to carry out its duties. A majority of the members of the commission constitutes a quorum for the transaction of commission business.

D. An appointed member of the commission shall serve until excused by the appointing authority. A vacancy on the commission shall be filled by the appointing authority that made the original appointment.

E. Following the initial appointments to the

commission, when a new individual assumes any of the leadership positions set forth in Paragraphs (2) through (7) of Subsection B of this section, that individual may make the individual's own appointment to the commission to replace an existing member.

F. The members of the commission shall be paid pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance."

Section 5. Section 33-2A-6 NMSA 1978 (being Laws 2002, Chapter 8, Section 6) is amended to read:

"33-2A-6. OVERCROWDING--POPULATION CONTROL MECHANISM--PROCEDURES.--When the inmate population of a female correctional facility or a male correctional facility exceeds one hundred percent of rated capacity for a period of thirty consecutive days, the following measures shall be taken to reduce capacity:

A. the corrections department shall engage in all lawful and professionally appropriate efforts to reduce the inmate population to one hundred percent of rated capacity;

B. if inmate population is still in excess of one hundred percent of rated capacity after sixty consecutive days, the secretary of corrections shall notify the commission. Included in the notification shall be a list of nonviolent offenders who are within one hundred eighty days of their projected release date;

C. the commission shall convene within ten days to consider the release of nonviolent offenders on the list provided by the secretary of corrections. The commission shall also discuss with the corrections department the impact on the inmate population of possible changes in the classification system and expanding incarceration alternatives;

D. for nonviolent offenders approved by the commission for release, the commission shall grant emergency release credits in ten-day increments that shall be applied to the sentences being served by the nonviolent offenders. The commission shall order release of the appropriate number of nonviolent offenders to reduce the inmate population; and

E. notwithstanding any other provisions of this section, a nonviolent offender shall not be released:

(1) unless the nonviolent offender has a parole plan pursuant to applicable parole board regulations;

(2) if the information that classifies the offender as a nonviolent offender pursuant to Subsection D of Section 33-2A-3 NMSA 1978 is discovered to be materially inaccurate; or

(3) if the nonviolent offender was convicted of a crime while incarcerated."

Section 6. REPEAL.--Section 33-2A-8 NMSA 1978 (being Laws 2002, Chapter 8, Section 8) is repealed. \_\_\_\_\_