HOUSE BILL 342

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL JUSTICE REFORM; PROVIDING FOR ASSISTANCE
TO OFFENDERS WITH BEHAVIORAL HEALTH DIAGNOSES; REVISING
PROCEDURES RELATED TO A PERSON INCARCERATED IN A COUNTY JAIL;
REVISING PROTECTIONS FOR PERSONS INVOLVED WITH AN ALCOHOL- OR
DRUG-RELATED OVERDOSE; PROVIDING PROCEDURES FOR POST-CONVICTION
PETITIONS; REVISING REQUIREMENTS FOR PREPROSECUTION DIVERSION
PROGRAMS; REVISING PROCEDURES RELATED TO PROBATION AND PAROLE;
REVISING REQUIREMENTS FOR PRESENTENCE REPORTS; REVISING
REQUIREMENTS FOR CRIME VICTIMS' REPARATIONS; ENACTING THE
ACCURATE EYEWITNESS IDENTIFICATION ACT; REVISING DUTIES OF THE
NEW MEXICO SENTENCING COMMISSION; REQUIRING EYEWITNESS
IDENTIFICATION POLICIES AND TRAINING; REPEALING SECTION
31-21-25.1 NMSA 1978 (BEING LAWS 1994, CHAPTER 21, SECTION 3).

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

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SECTION 1. Section 9-8-7.1 NMSA 1978 (being Laws 2007, Chapter 325, Section 4) is amended to read:

"9-8-7.1. BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE HUMAN SERVICES DEPARTMENT.--Subject to appropriation, the department shall:

A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. ensure that all behavioral health services, including mental health and substance abuse services, that are provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978;

D. assume responsibility for and implement adult mental health and substance abuse services in the state in coordination with the children, youth and families department;

E. create, implement and continually evaluate the effectiveness of a framework for targeted, individualized..."
interventions for adult and juvenile offenders with behavioral health diagnoses who are incarcerated in a state, county or municipal correctional facility, which framework shall address those persons' behavioral health needs while they are incarcerated and connect them to resources and services immediately upon release that reduce the likelihood of recidivism, detention and incarceration, such as supportive housing, public assistance, medical assistance, behavioral health treatment and employment training;

[E-] F. establish criteria for determining individual eligibility for behavioral health services; and

[F-] G. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

SECTION 2. A new section of the Human Services Department Act is enacted to read:

"[NEW MATERIAL] INCARCERATED INDIVIDUALS--BEHAVIORAL HEALTH SERVICES--COUNTY FUNDING PROGRAM.--To carry out the provisions of Subsection E of Section 9-8-7.1 NMSA 1978 and to provide behavioral health services to individuals who are incarcerated in a county correctional facility:

A. the secretary shall adopt and promulgate rules:

(1) pursuant to which a county may apply for and be awarded funding through the department; and

(2) to establish priorities and guidelines for
the award of funding to counties; and

    B. the department shall distribute funds, as
funding permits, to the county health care assistance funds of
those counties:

    (1) that apply for behavioral health services
funding in accordance with department rules; and

    (2) that have proposed utilization of funding
pursuant to this section that meets the priorities and
guidelines for the awarding of behavioral health services
funding established in department rules."

SECTION 3. Section 30-31-27.1 NMSA 1978 (being Laws 2007,
Chapter 260, Section 1) is amended to read:

"30-31-27.1. OVERDOSE PREVENTION--LIMITED IMMUNITY.--

    A. A person who, in good faith, seeks medical
assistance for someone experiencing [a] an alcohol- or drug-
related overdose shall not be arrested, charged [or ],
prosecuted or otherwise penalized, nor shall the property of
the person be subject to civil forfeiture, for [possession of a
controlled substance pursuant to] violating any of the
following if the evidence for the alleged violation was
obtained as a result of the need for seeking medical
assistance:

    (1) the provisions of Section 30-31-23 NMSA
1978 or Subsection A of Section 30-31-25.1 NMSA 1978 [if the
evidence for the charge of possession of a controlled substance
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was gained as a result of the seeking of medical assistance;

(2) a restraining order; or

(3) the conditions of probation or parole.

B. A person who experiences [a] an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged [or], prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for [possession of a controlled substance pursuant to] violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance:

(1) the provisions of Section 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA 1978 [if the evidence for the charge of possession of a controlled substance was gained as a result of the overdose and the need for medical assistance];

(2) a restraining order; or

(3) the conditions of probation or parole.

C. The act of seeking medical assistance for someone who is experiencing [a] an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section.

D. For the purposes of this section, "seeking medical assistance" means:
(1) reporting an alcohol- or drug-related
overdose or other medical emergency to law enforcement, the 911
system or another emergency dispatch system, a poison control
center or a health care provider; or

(2) assisting an individual who is reporting
an alcohol- or drug-related overdose or providing care to an
individual who is experiencing an alcohol- or drug-related
overdose or other medical emergency while awaiting the arrival
of a health care provider."

SECTION 4.  Section 31-1A-2 NMSA 1978 (being Laws 2003,
Chapter 27, Section 1) is amended to read:

"31-1A-2.  PROCEDURES FOR POST-CONVICTION CONSIDERATION OF
DNA EVIDENCE--REQUIREMENTS.--

A.  A person convicted of a felony, who claims that
DNA evidence will establish [his] the person's innocence, may
petition the district court of the judicial district in which
[he] the person was convicted to order the disclosure,
preservation, production and testing of evidence that can be
subjected to DNA testing.  A copy of the petition shall be
served on the district attorney for the judicial district in
which the district court is located.  A petitioner shall be
granted full, fair and prompt proceedings upon filing a
petition.

B.  As a condition to the district court's
acceptance of [his] the person's petition, the petitioner
shall:

(1) submit to DNA testing ordered by the
district court; and

(2) authorize the district attorney's use of
the DNA test results to investigate all aspects of the case
that the petitioner is seeking to reopen.

C. DNA samples obtained pursuant to Subsection B of
this section shall be submitted for DNA testing according to
the procedures in the DNA Identification Act, and the DNA
record shall be entered into the federal bureau of
investigation's national DNA index system for storage and
exchange of DNA records submitted by forensic DNA laboratories.

[D.] The petitioner shall show, by a
preponderance of the evidence, that:

(1) [he] the petitioner was convicted of a
felony;

(2) evidence exists that can be subjected to
DNA testing;

(3) the evidence to be subjected to DNA
testing:

(a) has not previously been subjected to
DNA testing;

(b) has not previously been subjected to
the type of DNA testing that is now being requested; or

(c) was previously subjected to DNA
testing, but was tested incorrectly or interpreted incorrectly;

   (4) the DNA testing [he] the petitioner is requesting will be likely to produce admissible evidence; and

   (5) identity was an issue in [his] the petitioner's case or that if the DNA testing [he] the petitioner is requesting had been performed prior to [his] the petitioner's conviction and the results had been exculpatory, there is a reasonable probability that the petitioner would not have pled guilty or been found guilty.

[D-] E. If the petitioner satisfies the requirements set forth in Subsection [C] D of this section, the district court shall appoint counsel for the petitioner, unless the petitioner waives counsel or retains [his] the petitioner's own counsel.

[E-] F. After reviewing a petition, the district court may dismiss the petition, order a response by the district attorney or issue an order for DNA testing.

[F-] G. The district court shall order all evidence secured that is related to the petitioner's case and that could be subjected to DNA testing. The evidence shall be preserved during the pendency of the proceeding. The district court may impose appropriate sanctions, including dismissal of the petitioner's conviction or criminal contempt, if the court determines that evidence was intentionally destroyed after issuance of the court's order to secure evidence.
The district court shall order DNA testing if the petitioner satisfies the requirements set forth in Subsections B and C of this section.

If the results of the DNA testing are exculpatory, the district court may set aside the petitioner's judgment and sentence, may dismiss the charges against the petitioner with prejudice, may grant the petitioner a new trial or may order other appropriate relief.

The cost of DNA testing ordered pursuant to this section shall be borne by the state or the petitioner, as the district court may order in the interest of justice. Provided, that a petitioner shall not be denied DNA testing because of the petitioner's inability to pay for the cost of DNA testing. Testing under this provision shall only be performed by a laboratory that meets the minimum standards of the national DNA index system.

The provisions of this section shall not be interpreted to limit:

(1) other circumstances under which a person may obtain DNA testing; or

(2) post-conviction relief a petitioner may seek pursuant to other provisions of law.

The petitioner shall have the right to appeal a district court's denial of the requested DNA testing, a district court's final order on a petition or a district court's denial of the requested DNA testing.
court's decision regarding relief for the petitioner. The state shall have the right to appeal any final order issued by the district court. An appeal shall be filed by a party within thirty days to the court of appeals.

[L. M.] The state shall preserve all evidence that is secured in relation to an investigation or prosecution of a crime and that could be subjected to DNA testing, for not less than the period of time that a person remains subject to incarceration or [supervision on probation or parole in connection with the investigation or prosecution.]

[M. N.] The state may dispose of evidence before the expiration of the time period set forth in Subsection [K] M of this section if:

(1) no other law, regulation or court order requires that the evidence be preserved;

(2) the evidence must be returned to its rightful owner;

(3) preservation of the evidence is impractical due to the size, bulk or physical characteristics of the evidence; and

(4) the state takes reasonable measures to remove and preserve portions of the evidence sufficient to permit future DNA testing.

O. In proceedings under this section, the Rules of Evidence and the Rules of Civil Procedure for the District
Courts shall apply.

[N.P.] As used in this section, "DNA" means deoxyribonucleic acid."

SECTION 5. Section 31-16A-4 NMSA 1978 (being Laws 1981, Chapter 33, Section 4) is amended to read:

"31-16A-4. ELIGIBILITY.--

A. A defendant [must] shall meet the following minimum criteria to be eligible for a preprosecution diversion program:

(1) the defendant [must] shall have no prior felony convictions for a violent crime; [and no prior felony convictions for any crime for the previous ten years;]

(2) the crime alleged to have been committed by the defendant is nonviolent in nature with the exception of domestic disputes not involving a minor;

(3) if the defendant was on probation previously, his probation must not have been revoked or unsatisfactorily discharged;

(4) the defendant has not been admitted into a similar program for the previous ten years;

(5) [2] the defendant is willing to participate in the program and submit to all program requirements;

[(6) the crime alleged to have been committed by the defendant does not involve substantial sale or]
possession of controlled substances; and

(7) a person meeting all of the above criteria and any additional criteria established by the district attorney may be entered into the preprosecution diversion program. The district attorney may elect to not divert a person to the preprosecution diversion program even though that person meets the minimum criteria herein set forth. A decision by the district attorney to not divert to the preprosecution diversion program is not subject to appeal and may not be raised as a defense to any prosecution or habitual offender proceeding] and

(3) any additional criteria set by the district attorney.

B. A [district attorney may set additional criteria] person who meets all of the criteria pursuant to Subsection A of this section may be entered into the preprosecution diversion program; provided that the district attorney may elect not to divert a person to the preprosecution diversion program even though that person meets the minimum criteria set forth in this section.

C. A decision by the district attorney not to divert a person to the preprosecution diversion program is not subject to appeal and shall not be raised as a defense to any prosecution or habitual offender proceeding."

SECTION 6. Section 31-16A-7 NMSA 1978 (being Laws 1981, .211968.2
Chapter 33, Section 7, as amended) is amended to read:

"31-16A-7. PROGRAM PARTICIPATION--[COSTS] REASONABLE CONDITIONS--TERMINATION.--

A. A defendant may be diverted to a preprosecution diversion program for no less than six months and no longer than two years. A district attorney may extend the diversion period for a defendant as a disciplinary measure or to allow adequate time for restitution; provided that the extension coupled with the original period does not exceed two years.

B. A district attorney may require as a program requirement that a defendant agree to such reasonable conditions as the district attorney deems necessary to ensure that the defendant will observe the laws of the United States and the various states and the ordinances of any municipality. [and shall require the defendant to pay to his office the costs related to his participation in the program not exceeding one thousand twenty dollars ($1,020) annually to be paid in monthly installments of not less than fifteen dollars ($15.00) and not more than eighty-five dollars ($85.00), subject to modification by the district attorney on the basis of changed financial circumstances. All costs collected by a district attorney pursuant to this subsection shall be transmitted to the administrative office of the district attorneys for credit to the district attorney fund.

B. C. If a defendant does not comply with the
terms, conditions and requirements of a preprosecution
diversion program, [his] the defendant's participation in the
program [shall] may be terminated, and the district attorney
may proceed with the suspended criminal prosecution of the
defendant.

[C:] D. If the participation of a defendant in a
preprosecution diversion program is terminated, the district
attorney shall state in writing the specific reasons for the
termination, which reasons shall be available for review by the
defendant and [his] the defendant's counsel."

SECTION 7. Section 31-18-15 NMSA 1978 (being Laws 1977,
Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
DEDUCTIONS.--

A. If a person is convicted of a noncapital felony,
the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the
death of a child, life imprisonment;

(2) for a first degree felony for aggravated
criminal sexual penetration, life imprisonment;

(3) for a first degree felony, eighteen years
imprisonment;

(4) for a second degree felony resulting in
the death of a human being, fifteen years imprisonment;
(5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;

(6) for a second degree felony for sexual exploitation of children, twelve years imprisonment;

(7) for a second degree felony, nine years imprisonment;

(8) for a third degree felony resulting in the death of a human being, six years imprisonment;

(9) for a third degree felony for a sexual offense against a child, six years imprisonment;

(10) for a third degree felony for sexual exploitation of children, eleven years imprisonment;

(11) for a third degree felony, three years imprisonment;

(12) for a fourth degree felony for sexual exploitation of children, ten years imprisonment; or

(13) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for felony convictions wherein a person is sentenced to

.211968.2
imprisonment of more than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period
of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars ($17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars ($17,500);

(3) for a first degree felony, fifteen thousand dollars ($15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars ($12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars ($12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars ($5,000);

(7) for a second degree felony, ten thousand dollars ($10,000);

(8) for a third degree felony resulting in the
death of a human being, five thousand dollars ($5,000);

        (9) for a third degree felony for a sexual
offense against a child, five thousand dollars ($5,000);

        (10) for a third degree felony for sexual
exploitation of children, five thousand dollars ($5,000);

        (11) for a third or fourth degree felony, five
thousand dollars ($5,000); or

        (12) for a fourth degree felony for sexual
exploitation of children, five thousand dollars ($5,000).

F. When the court imposes a sentence of
imprisonment for a felony offense, the court shall indicate
whether or not the offense is a serious violent offense, as
defined in Section 33-2-34 NMSA 1978. The court shall inform
an offender that the offender's sentence of imprisonment is
subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
and 33-2-38 NMSA 1978. If the court fails to inform an
offender that the offender's sentence is subject to those
provisions or if the court provides the offender with erroneous
information regarding those provisions, the failure to inform
or the error shall not provide a basis for a writ of habeas
corpus.

G. No later than October 31 of each year, the
New Mexico sentencing commission shall provide a written report
to the secretary of corrections, all New Mexico criminal court
judges, the administrative office of the district attorneys and

the chief public defender. The report shall specify the
average reduction in the sentence of imprisonment for serious
violent offenses and nonviolent offenses, as defined in Section
33-2-34 NMSA 1978, due to meritorious deductions earned by
prisoners during the previous fiscal year pursuant to the
provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
NMSA 1978. The corrections department shall allow the
commission access to documents used by the department to
determine earned meritorious deductions for prisoners."

SECTION 8. Section 31-20-5 NMSA 1978 (being Laws 1963,
Chapter 303, Section 29-17, as amended) is amended to read:

"31-20-5. PLACING DEFENDANT ON PROBATION.--

A. The purpose of probation is to hold people
accountable for their criminal conduct, promote their
reintegration into law-abiding society and reduce the risks
that they will commit new offenses. When a person has been
convicted of a crime for which a sentence of imprisonment is
authorized and when the [magistrate, metropolitan or district]
court has deferred or suspended sentence, it shall order the
defendant to be placed on probation for all or some portion of
the period of deferment or suspension [if the defendant is in
need of supervision, guidance or direction that is feasible for
the corrections department to furnish].

B. Except for sex offenders as provided in Section
31-20-5.2 NMSA 1978, the total period of probation for district
court shall not exceed five years and the total period of
probation for the magistrate or metropolitan courts shall be no
longer than the maximum allowable incarceration time for the
offense or as otherwise provided by law.

C. The corrections department shall complete a validated risk and needs assessment and provide it to the court for consultation when the court decides what conditions of probation to impose.

D. If a defendant is required to serve a period of probation subsequent to a period of incarceration:

   (1) the period of probation shall be served subsequent to any required period of parole, with the time served on parole credited as time served on the period of probation and the conditions of probation imposed by the court deemed as additional conditions of parole; and

   (2) [in the event that] if the defendant violates any condition of that parole and the violation is not sanctioned pursuant to the provisions of Section 16 of this 2019 act, the parole board shall cause [him] the defendant to be brought before it pursuant to the provisions of Section 31-21-14 NMSA 1978 and may make any disposition authorized pursuant to that section and, if parole is revoked, the period of parole served in the custody of a correctional facility shall not be credited as time served on probation."

SECTION 9. Section 31-21-4 NMSA 1978 (being Laws 1955,
Chapter 232, Section 2, as amended) is amended to read:

"31-21-4. CONSTRUCTION AND PURPOSE OF ACT.--

A. The Probation and Parole Act shall be liberally construed to the end that the treatment of persons convicted of crime shall take into consideration their individual characteristics, circumstances [needs and potentialities as revealed by case study] and assessment of risk and needs and that such persons shall be dealt with in the community by a uniformly organized system of constructive rehabilitation under probation supervision instead of in an institution, or under parole supervision when a period of institutional treatment is deemed essential in the light of the needs of public safety and their own welfare.

B. The corrections department shall:

(1) operate probation and parole supervision based upon application of a validated risk and needs assessment and principles of effective intervention to reduce criminogenic risk and needs factors;

(2) focus supervision resources on the initial period of release or placement on probation;

(3) recommend and enforce conditions that include cognitive-behavioral programming to address criminal thinking and address basic needs and transitional requirements, such as housing, employment, medical and mental health services and transportation; and

.211968.2
(4) apply a consistent system of incentives and sanctions to promptly respond to positive and negative behavior by probationers and parolees under supervision."

SECTION 10. Section 31-21-5 NMSA 1978 (being Laws 1978, Chapter 41, Section 1, as amended) is amended to read:

"31-21-5. DEFINITIONS.--As used in the Probation and Parole Act:

[A. "Probation" means the procedure under which an adult defendant, found guilty of a crime upon verdict or plea, is released by the court without imprisonment under a suspended or deferred sentence and subject to conditions;

B. "Parole" means the release to the community of an inmate of an institution by decision of the board or by operation of law, subject to conditions imposed by the board and to its supervision;

C. "Institution" means the state penitentiary and any other similar state institution hereinafter created;

D. "Board" means the parole board;

E. "Director" means the director of the field services division of the corrections department or any employee designated by him; and]

A. "absconding" means that a person under supervision deliberately makes the person's whereabouts unknown to the person's probation or parole officer or fails to report for the purposes of avoiding supervision, and reasonable
efforts by the probation and parole officer to locate the
person have been unsuccessful;

[F. ] B. "adult" means any person convicted of a
crime by a district court;

C. "board" means the parole board;

D. "director" means the director of the adult
probation and parole division of the corrections department or
any employee designated by the director;

E. "geriatric inmate" means a person who:

(1) is under sentence to or confined in a
prison or other correctional institution under the control of
the corrections department;

(2) is sixty-five years of age or older;

(3) suffers from a chronic infirmity, illness
or disease related to aging; and

(4) does not constitute a danger to the
person's own self or to society;

F. "institution" means the state penitentiary and
any other similar state institution;

G. "non-technical violation" means absconding or
arrest for a new felony or misdemeanor;

H. "parole" means the release to the community of
an inmate of an institution by decision of the board or by
operation of law, subject to conditions imposed by the board
and to its supervision;
I. "permanently incapacitated inmate" means a person who:

(1) is under sentence to or confined in a prison or other correctional institution under the control of the corrections department;

(2) by reason of an existing medical condition, is permanently and irreversibly physically incapacitated; and

(3) does not constitute a danger to the person's own self or to society;

J. "probation" means the procedure under which an adult defendant, found guilty of a crime upon verdict or plea, is released by the court without imprisonment under a suspended or deferred sentence and subject to conditions;

K. "technical violation" means a violation of the conditions of probation or parole supervision other than arrest for a new felony or misdemeanor offense or absconding; and

L. "terminally ill inmate" means a person who:

(1) is under sentence or confined in a prison or other correctional institution under the control of the corrections department;

(2) has an incurable condition caused by illness or disease that would, within reasonable medical judgment, produce death within six months; and

(3) does not constitute a danger to the
person's own self or to society."

SECTION 11. Section 31-21-9 NMSA 1978 (being Laws 1972, Chapter 71, Section 17) is amended to read:

"31-21-9. PRESENTENCE [AND PRERELEASE] INVESTIGATIONS.--

A. Upon the order of any [district or magistrate] court, the director shall prepare a presentence report [which]
that shall include [such information as the court may request.

B. Upon the order of any district court, the
director shall prepare a prerelease report which the court
shall use to determine the accused's qualifications for bail.
The report shall include available information about the
accused's family ties, employment, financial resources,
character, physical and mental condition, the length of his
residence in the community, his record of convictions, his
record of appearance at court proceedings or of flight to avoid
prosecution or failure to appear at court proceedings and any
history of drug or alcohol abuse] victim impact information,
record of prior convictions and the results of any validated
risk and needs assessments that have been administered and such
other information as the court may request.

[C.] B. All local and state law enforcement
agencies shall furnish to the director any requested criminal
records."

SECTION 12. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:
"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to life imprisonment shall be paroled after the inmate has served thirty years of the sentence unless the board makes a finding that the inmate is unable or unwilling to fulfill the obligations of a law-abiding citizen. The board shall enter specific findings in support of its decision after:

(1) interviewing the inmate at the institution where the inmate is committed; and

(2) considering all pertinent information concerning the inmate, including:

[(a) the circumstances of the offense;]

[(b) mitigating and aggravating circumstances;]

[(c) whether a deadly weapon was used in the commission of the offense;]

[(d) whether the inmate is a habitual offender;]

[(e) the reports filed under Section 31-21-9 NMSA 1978; and]

[(f) the] reports of [such physical and mental examinations as have been] of the inmate made while the inmate was held in an institution.

- 26 -
[(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that] and whether the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

B. The board shall not deny parole to an inmate who was sentenced to life imprisonment based solely on the offense for which the inmate was convicted.

C. If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

[D-] D. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was sentenced to life imprisonment shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

[E-] E. Only an inmate of an institution who was sentenced to life imprisonment without possibility of release or parole is ineligible for parole and shall remain incarcerated for the entirety of the inmate's natural life.

[F-] F. Except for certain sex offenders as
provided in Section 31-21-10.1 NMSA 1978, an inmate who was
convicted of a first, second or third degree felony and who has
served the sentence of imprisonment imposed by the court in an
institution designated by the corrections department that
exceeds one year or has agreed and been ordered to serve a
period of parole by the court shall be required to undergo a
two-year period of parole. An inmate who was convicted of a
fourth degree felony and who has served [the] a sentence of
imprisonment imposed by the court in an institution designated
by the corrections department that exceeds one year or has
agreed and been ordered to serve a period of parole by the
court shall be required to undergo a one-year period of parole.
During the period of parole, the person shall be under the
guidance and supervision of the board.

[G. Every person while on parole shall remain
in the legal custody of the institution from which the person
was released, but shall be subject to the orders of the board.
The board shall furnish to each inmate as a prerequisite to
release under its supervision a written statement of the
conditions of parole that shall be accepted and agreed to by
the inmate as evidenced by the inmate's signature affixed to a
duplicate copy to be retained in the files of the board. The
board shall also require as a prerequisite to release the
submission and approval of a parole plan. If an inmate refuses
to affix the inmate's signature to the written statement of the

.211968.2

- 28 -
conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also [personally] apprise the inmate in person of the conditions of parole and the inmate's duties relating thereto.

[F. H.] When a person on parole has performed the obligations of the person's release for the period of parole provided in this section, the board shall make a final order of discharge and issue the person a certificate of discharge.

[G.] I. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate as a
condition of parole:

(1) to pay the actual costs of parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars ($1,800) annually to be paid in monthly installments of not less than twenty-five dollars ($25.00) and not more than one hundred fifty dollars ($150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the defendant. The defendant's payment of the supervised parole costs shall not be waived unless the board holds an evidentiary hearing and finds that the defendant is unable to pay the costs. If the board waives the defendant's payment of the supervised parole costs and the defendant's financial circumstances subsequently change so that the defendant is able to pay the costs, the appropriate district supervisor of the adult probation and parole division shall advise the board and the board shall hold an evidentiary hearing to determine whether the waiver should be rescinded; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the inmate's arrest, prosecution or conviction.

[H+] J. The provisions of this section shall apply
to all inmates except geriatric, permanently incapacitated and
terminally ill inmates eligible for the medical and geriatric
parole program [as provided by the Parole Board Act]."

SECTION 13. Section 31-21-13.1 NMSA 1978 (being Laws
1988, Chapter 62, Section 3, as amended) is amended to read:
"31-21-13.1. INTENSIVE SUPERVISION PROGRAMS.--

A. As used in this section, "intensive supervision
programs" means programs that provide highly structured and
intense supervision, with stringent reporting requirements, of
certain individuals who represent an excessively high
assessment of risk of violation of probation or parole,
emphasize meaningful rehabilitative activities and reasonable
alternatives without seriously increasing the risk of
recidivist crime and facilitate the payment of restitution by
the offender to the victim. "Intensive supervision programs"
[include] includes house arrest programs or electronic
surveillance programs or both.

B. The corrections department shall implement and
operate intensive supervision programs in various local
communities. The programs shall provide services for
appropriate individuals by probation and parole officers of the
corrections department. The corrections department shall
promulgate rules [and regulations] to provide that the officers
providing these services have [a maximum case load of forty
offenders] the training, resources and caseloads that enable
them to operate effectively and to provide for offender
selection and other criteria. The corrections department may
cooperate with all recognized law enforcement authorities and
share all necessary and pertinent information, records or
documents regarding probationers or parolees in order to
implement and operate these intensive supervision programs.

C. For purposes of this section, a judge
contemplating imposition of an intensive supervision program
for an individual shall consult with the adult probation and
parole division of the corrections department and [consider the
recommendations before imposing such probation] review the
results of the validated risk and needs assessment. The adult
probation and parole division of the corrections department
shall recommend only those individuals who score as high risk
and who would have otherwise been recommended for incarceration
[for] to participate in intensive supervision programs. [A
judge has discretion to impose an intensive supervision program
for an individual, regardless of recommendations made by the
adult probation and parole division.] Inmates who are assessed
as high risk on a validated risk and needs assessment and who
are eligible for parole or are within twelve months of
eligibility for parole, or inmates who would otherwise remain
in a correctional institution for lack of a parole plan or
those parolees whose parole the board would otherwise revoke
are eligible for intensive supervision programs. The

.211968.2

- 32 -
provisions of this section do not limit or reduce the statutory
authority vested in probation and parole supervision as defined
by any other section of the Probation and Parole Act.

D. There is created in the state treasury the
"corrections department intensive supervision fund" to be
administered by the corrections department upon vouchers signed
by the secretary of corrections. Balances in the corrections
department intensive supervision fund shall not revert to the
general fund. Beginning July 1, 1988, the intensive
supervision programs established pursuant to this section shall
be funded by those supervision costs collected pursuant to the
provisions of Sections 31-20-6 and 31-21-10 NMSA 1978. The
corrections department is specifically authorized to hire
additional permanent or term full-time equivalent positions for
the purpose of implementing the provisions of this section."

SECTION 14. Section 31-21-14 NMSA 1978 (being Laws 1955,
Chapter 232, Section 17, as amended) is amended to read:

"31-21-14. [RETURN OF] NON-TECHNICAL PAROLE [VIOLATOR] VIOLATIONS.--

A. At any time during release on parole:

   (1) the board or the director may issue a
warrant for the arrest of the [released prisoner for] parolee
to answer a charge of a non-technical violation. [of any of
the conditions of release or issue a notice to appear to answer
a charge of violation. The notice shall be served personally

.211968.2

- 33 -
The warrant shall authorize the [superintendent] warden of the institution from which the [prisoner] parolee was released to return the [prisoner] parolee to the [actual] physical custody of the institution or to any other [suitable] detention facility designated by the board or the director. If the [prisoner] parolee is out of the state, the warrant shall authorize the [superintendent] warden to return [him] the parolee to the state; or

[B. (2)] the director may arrest the [prisoner] parolee without a warrant or may deputize [any] an officer with power of arrest to do so by giving [him] the officer a written statement [setting forth] that the [prisoner] parolee has, in the judgment of the director, [violated the conditions of his release] committed a non-technical violation.

Where an arrest is made without a warrant, the [prisoner] parolee shall not be returned to the institution unless authorized by the director or the board.

B. Pending hearing as provided by law upon [any] a charge of non-technical violation, the [prisoner] parolee shall remain incarcerated in the institution.

C. Upon arrest and detention for a non-technical violation, the board shall cause the [prisoner] parolee to be promptly brought before it for a parole revocation hearing on the [parole] non-technical violation charged, under rules [and regulations] the board may adopt.
D. If the non-technical violation is established, the board may continue or revoke the parole, impose detention for a fixed term up to ninety days, which shall be counted as time served under the sentence, or enter any other order as it sees fit.

E. A parolee for whose return a warrant has been issued shall, if it is found that the warrant cannot be served, be a fugitive from justice.

F. If it appears that the parolee has committed a non-technical violation, the board shall determine whether the time from the date of the violation to the date of the parolee's arrest, or any part of it, shall be counted as time served under the sentence.

G. At any time during release on parole, the board or the director may issue a notice to appear to answer a charge of a technical violation. The notice shall be served personally upon the parolee and shall initiate a technical violation hearing in accordance with Section 17 of this 2019 act.

SECTION 15. Section 31-21-17.1 NMSA 1978 (being Laws 1994, Chapter 21, Section 2) is amended to read:

A. The corrections department shall promulgate rules and shall implement a "medical and geriatric parole program".

B. The director shall identify geriatric, permanently incapacitated and terminally ill inmates and authorize the release of those inmates who are eligible for medical or geriatric parole based on rules established by the board. The department shall forward an application and documentation in support of parole eligibility to the board within thirty days of receipt of an application from an inmate. The documentation shall include information concerning the inmate's age, medical history and prognosis, institutional behavior and adjustment and criminal history. The inmate or inmate's representative may submit an application to the board, whose release is not incompatible with the welfare of society and who were not convicted of first degree murder.

C. Inmates who have not served their minimum sentences may be considered eligible for parole under the medical and geriatric parole program. Medical and geriatric parole consideration shall be in addition to any other parole for which a geriatric, permanently incapacitated or terminally ill inmate may be eligible.

D. When considering an inmate for medical or geriatric parole, the director may request that reasonable
medical examinations be conducted.

E. When determining an inmate's eligibility for geriatric or medical parole, the director shall consider the following criteria concerning the inmate:

(1) age;

(2) severity of illness, disease or infirmities;

(3) comprehensive health evaluation;

(4) institutional behavior;

(5) level of risk for violence;

(6) criminal history; and

(7) alternatives to maintaining the geriatric, permanently incapacitated or terminally ill inmate in traditional settings.

F. The parole term of the geriatric, permanently incapacitated or terminally ill inmate on medical or geriatric parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior.

G. The board shall:

(1) release an inmate on medical or geriatric parole upon receipt of authorization from the director to release the inmate;

(2) determine the appropriate level of supervision following an inmate's release on medical or geriatric parole and develop a comprehensive discharge plan for
those geriatric, permanently incapacitated and terminally ill
inmates; and

(3) at the time of an inmate's release on
medical or geriatric parole, prescribe terms and conditions of
the inmate's parole, including medical supervision and
intervals of periodic medical evaluations.

H. The director shall report annually to the
appropriate legislative interim committee the:

(1) number of inmates eligible for medical and
geriatric parole;

(2) nature of the illnesses, disease or
condition of the applicants;

(3) reason any application for medical or
geriatric parole was denied; and

(4) number of persons on medical or geriatric
parole who have been returned to the custody of the corrections
department and the reasons for their return."

SECTION 16. A new section of the Probation and Parole Act
is enacted to read:

"[NEW MATERIAL] INCENTIVES--SANCTIONS FOR TECHNICAL
VIOLATIONS.--

A. The corrections department shall create,
maintain and fully implement an incentives and sanctions system
to guide responses to negative and positive behavior by
parolees under supervision by the department. The system shall
provide for graduated responses to technical violations of
supervision conditions, in a swift, certain and proportional
manner, and include guidance and procedures to determine when
and how to:

(1) request a warrant;
(2) initiate a hearing; and
(3) seek departmental approval to use
custodial interventions.

B. To implement and continuously improve the
incentives and sanctions system, the corrections department
shall:

(1) provide information and training on the
system for probation and parole officers, supervisors and
members and staff of the board;
(2) offer information and training on the
system to judges, prosecution and defense attorneys, law
enforcement personnel, detention center personnel, contracted
service providers and other interested personnel;
(3) review the system at least every five
years to ensure that it adheres to evidence-based practices and
that the use of sanctions and incentives by probation and
parole officers is consistent across the state;
(4) ensure that the guidance and procedures
established by the system consider community safety and the
needs of the victim and offender;
(5) collect data relating to placement
decisions based on the system; and

(6) aggregate collected data and provide a
report to the appropriate legislative interim committee dealing
with courts, corrections and justice issues every two years.

C. A probation or parole officer who reasonably
believes that a parolee has committed one or more technical
violations that require a sanction shall consult the incentives
and sanctions system to determine an appropriate response.
Consistent with the system, the officer may impose a
non-detention sanction to gain the parolee's compliance with
the conditions of parole.

D. Graduated sanctions for technical violations may
include three-day and seven-day detention in a county jail or
other place of detention. Sanctions served in detention shall
be counted as time served under the sentence."

SECTION 17. A new section of the Probation and Parole Act
is enacted to read:

"[NEW MATERIAL] TECHNICAL VIOLATION HEARINGS.--

A. If a probation or parole officer seeks to impose
detention for a technical violation, the officer shall initiate
a technical violation hearing by providing written notice of
intent to impose detention on the parolee not less than ten
business days before the hearing. The notice shall be served
personally upon the parolee.

.211968.2

- 40 -
B. A hearing officer designated by the corrections department shall conduct the hearing in accordance with rules promulgated by the department. A hearing officer shall be assisted by a mental health professional or an addiction services specialist and a security threat specialist.

C. If the hearing officer determines, by a preponderance of the evidence, that the parolee has committed a technical violation, the hearing officer shall consult the incentives and sanctions system to determine an appropriate response.

D. If the hearing officer determines by a preponderance of the evidence that the parolee has committed a non-technical violation, the hearing officer shall refer the case to the court or board as appropriate."

SECTION 18. Section 31-22-7 NMSA 1978 (being Laws 1981, Chapter 325, Section 7, as amended) is amended to read:

"31-22-7. ELIGIBILITY FOR REPARATION.--

A. [In the event any] If a person is injured or killed by [any] an act or omission of [any other] another person coming within the criminal jurisdiction of the state after [the effective date of the Crime Victims Reparation Act] July 1, 1981, which act or omission includes a crime enumerated in Section 31-22-8 NMSA 1978, and upon application for reparation, the commission may award reparation in accordance with the Crime Victims Reparation Act:
(1) to the victim;

(2) in the case of the victim's death, to or for the benefit of any one or more of the deceased victim's dependents; or

(3) to any individual who voluntarily assumes funeral or medical expenses of the victim.

B. For the purpose of the Crime Victims Reparation Act, a person shall be deemed to have intentionally committed an act or omission constituting a crime, notwithstanding that by reason of age, insanity, drunkenness or otherwise [he] the person was legally incapable of forming a criminal intent.

C. In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant. The commission shall consider the behavior of the victim and whether, because of provocation or otherwise, the victim bears responsibility for the act or omission constituting a crime that caused [his] the victim's injury or death and shall reduce the amount of reparation in accordance with its assessment of the degree of responsibility attributable to the victim.

D. An order may be made under this section whether or not any person is prosecuted for or convicted of a crime enumerated in Section 31-22-8 NMSA 1978; provided an arrest has been made or the act or omission constituting [such] a crime has been reported to the police in a reasonable time or the act
or omission constituting a crime has been reported to a medical
or mental health care provider, victim counselor or other
counseling provider. No order may be made under this section
unless the commission finds that:

1. the act or omission constituting a crime
did occur;
2. the injury or death of the victim resulted
from the act or omission constituting a crime; and
3. the claimant or victim fully cooperated
with the appropriate law enforcement agencies or the commission
finds that the claimant or victim acted reasonably under the
circumstances.

E. Upon application from the district attorney of
the appropriate district, the commission may suspend
proceedings under the Crime Victims Reparation Act for such
period as it deems desirable on the [ground] grounds that a
prosecution for the act or omission constituting a crime has
commenced or is imminent."

SECTION 19. A new section of Chapter 60, Article 7B NMSA
1978 is enacted to read:

"[NEW MATERIAL] SUBSTANCE-RELATED POISONING PREVENTION--
LIMITED IMMUNITY.--

A. A person who, in good faith, seeks medical
assistance for someone experiencing an alcohol- or drug-related
overdose shall not be arrested, charged, prosecuted or
otherwise penalized, nor shall the property of the person be
subject to civil forfeiture, for violating any of the following
if the evidence for the alleged violation was obtained as a
result of the need for seeking medical assistance:

(1) the provisions of Section 60-7B-1 or
60-7B-9 NMSA 1978;

(2) a restraining order; or

(3) the conditions of probation or parole.

B. A person who experiences an alcohol- or drug-
related overdose and is in need of medical assistance shall not
be arrested, charged, prosecuted or otherwise penalized, nor
shall the property of the person be subject to civil
forfeiture, for violating any of the following if the evidence
for the alleged violation was obtained as a result of the
overdose and the need for seeking medical assistance:

(1) the provisions of Section 60-7B-1 or
60-7B-9 NMSA 1978;

(2) a restraining order; or

(3) the conditions of probation or parole.

C. The act of seeking medical assistance for
someone who is experiencing an alcohol- or drug-related
overdose may be used as a mitigating factor in a criminal
prosecution pursuant to the Liquor Control Act for which
immunity is not provided pursuant to this section.

D. For the purposes of this section, "seeking
medical assistance" means:

(1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or to a health care provider; or

(2) assisting an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-related overdose or other medical emergency while awaiting the arrival of a health care provider."

SECTION 20. [NEW MATERIAL] SHORT TITLE.--Sections 20 through 23 of this act may be cited as the "Accurate Eyewitness Identification Act".

SECTION 21. [NEW MATERIAL] DEFINITIONS.--As used in the Accurate Eyewitness Identification Act:

A. "administrator" means a person conducting a photo lineup or live lineup;

B. "blind" means the administrator does not know the identity of the suspect;

C. "blinded" means the administrator may know who the suspect is but does not know which lineup member is being viewed by the eyewitness;

D. "eyewitness" means a person who observes another person at or near the scene of an offense;

E. "filler" means either a person or a photograph
of a person who is not suspected of an offense and is included in an identification procedure;

F. "live lineup" means an identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator;

G. "photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness either in hard copy form or via computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator;

H. "showup" means an identification procedure in which an eyewitness is presented with a single suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator; and

I. "suspect" means a person believed by law enforcement to be the possible perpetrator of the crime.

SECTION 22. [NEW MATERIAL] EYEWITNESS IDENTIFICATION PROCEDURES.--

A. Not later than January 1, 2020, a criminal justice entity conducting eyewitness identification procedures
shall adopt and comply with written policies for using an
eyewitness to make a decision about whether a suspect is the
perpetrator of a crime upon viewing the suspect in person in a
live lineup or showup or upon viewing a representation of the
suspect in a photo lineup.

B. Each governmental entity in New Mexico that
administers eyewitness identification procedures shall provide
a copy of its written policies to the secretary of public
safety no later than February 1, 2020 and the secretary shall
make those policies available to the public.

C. A law enforcement agency shall biennially review
policies adopted pursuant to this section to incorporate new
scientifically supported protocols.

D. In developing and revising policies pursuant to
this section, a law enforcement agency shall adopt those
practices shown by reliable evidence to enhance the accuracy of
identification procedures. Each governmental entity in New
Mexico that administers eyewitness identification procedures
shall submit its updated written policies to the secretary of
public safety no later than February 1 of each odd-numbered
year.

E. A law enforcement agency shall include in
policies adopted pursuant to this section practices to enhance
the objectivity and reliability of eyewitness identifications
and to minimize the possibility of mistaken identifications,
including the following:

(1) having a blind administrator or blinded administrator perform the live lineup or photo lineup;

(2) documenting a description of the suspect provided by the eyewitness, including a description of the circumstances under which the suspect was seen by the eyewitness, the time of day, the length of time the suspect was seen, the perceived or actual distance from the eyewitness to the suspect and the lighting conditions;

(3) providing the eyewitness with instructions that minimize the likelihood of an inaccurate identification, including that the perpetrator may or may not be in the identification procedure and that the investigation will continue regardless of whether an identification is made;

(4) composing the lineup so that the fillers generally resemble the eyewitness's description of the perpetrator so that the suspect does not unduly stand out from the fillers;

(5) using at least four fillers in a live lineup and at least five fillers in a photo lineup;

(6) ensuring, when practicable, that a photograph of the suspect used in a photo lineup is contemporary and resembles the suspect's appearance at the time of the offense;

(7) presenting separate photo lineups and live
lineups when there are multiple eyewitnesses, ensuring that the same suspect is placed in a different position for each identification procedure;

(8) having the administrator seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified is the person who committed the crime;

(9) minimizing factors at any point in time that influence an eyewitness to identify a suspect or affect the eyewitness's confidence level in identifying a suspect, including verbal or nonverbal statements by or reactions from the administrator;

(10) presenting lineup members one at a time;

(11) adopting relevant practices shown to enhance the reliability of an eyewitness participating in a showup procedure, such as:

(a) identifying the circumstances under which a showup is warranted;

(b) transporting the eyewitness to a neutral, non-law enforcement location where the detained suspect is being held;

(c) removing the suspect from the law enforcement squad car;

(d) removing restraints from the suspect.
when the suspect is being observed by the eyewitness; and

    (e) administering the showup procedure
close in time to the commission of the crime;

    (12) video recording the entirety of the photo
lineup and live lineup and, where practicable, the showup
procedure, unless the recording equipment is not reasonably
available or the recording equipment fails and obtaining
replacement equipment is not feasible; and

    (13) preserving photographic documentation of
all live lineup and photo lineup members and showup suspects,
as well as all descriptions provided by the eyewitness of the
perpetrator.

F. All written departmental eyewitness
identification policies shall be made available to the public
upon request.

SECTION 23. [NEW MATERIAL] TRAINING OF LAW ENFORCEMENT
OFFICERS.--The secretary of public safety shall create,
administer and conduct training programs for law enforcement
officers and recruits on the methods and technical aspects of
the eyewitness identification practices and procedures shown by
reliable evidence to enhance the accuracy of eyewitness
evidence referenced in the Accurate Eyewitness Identification
Act.

SECTION 24. [NEW MATERIAL] LEGISLATION TO INCREASE,
DECREASE OR CREATE PERIODS OF IMPRISONMENT--FISCAL IMPACT

.211968.2

- 50 -
STATEMENTS--PROCEDURE.--

A. The New Mexico sentencing commission shall prepare a fiscal impact statement as provided in this section for a bill that:

(1) creates a new crime or repeals an existing crime for which imprisonment is authorized;

(2) increases or decreases the period of imprisonment authorized for an existing crime;

(3) imposes or removes mandatory minimum terms of imprisonment; or

(4) modifies the law governing release of inmates in such a way that the time served in prison will increase or decrease.

B. A fiscal impact statement shall reflect the estimated change in annual operating costs for the corrections department attributable to the bill if it becomes law. The estimated change in annual operating costs shall reflect the largest annual change from the projected change for the six fiscal years following the effective date of the law and shall be calculated in current dollars. The fiscal impact statement shall include details concerning any increase or decrease in the inmate population.

C. If the New Mexico sentencing commission does not have sufficient information to project the fiscal impact, the fiscal impact statement shall state that there is insufficient
information to estimate the fiscal impact.

D. The corrections department shall annually provide the New Mexico sentencing commission with:

1) the average operating costs per inmate and the number of inmates in adult correctional facilities; and

2) admissions and release data for all inmates in adult correctional facilities.

E. The judiciary shall annually provide the New Mexico sentencing commission with requested data necessary to prepare fiscal impact statements.

F. As used in this section, "operating costs" means all costs other than capital outlay costs for state-operated adult correctional facilities and privately operated adult correctional facilities.

SECTION 25. REPEAL.--Section 31-21-25.1 NMSA 1978 (being Laws 1994, Chapter 21, Section 3) is repealed.

SECTION 26. APPLICABILITY.--The provisions of:

A. Section 12 of this act apply to a person serving a term of incarceration on July 1, 2019 and to a person whose term of incarceration commences on or after July 1, 2019; and

B. Section 16 of this act apply to a person who is serving a term of parole on July 1, 2019 and to a person whose parole term commences on or after July 1, 2019.

SECTION 27. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.