

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 192

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

AN ACT

RELATING TO INCARCERATION; PROVIDING FOR JUDICIAL DISCRETION TO
RELEASE AN INDIVIDUAL FROM CUSTODY WHO IS PREGNANT OR
LACTATING.

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

SECTION 1. [NEW MATERIAL] RELEASE OF INDIVIDUALS WHO ARE
PREGNANT OR LACTATING.--

A. The court shall consider an individual's
pregnancy or lactation status when determining whether the
individual is eligible for release or bond and in the
computation of good time credit. At the court's discretion, an
individual who is due to give birth may be granted release from
custody in a jail prior to the presumptive birth date of the
child and for up to eighteen months after the birth of the
child, or for as long as medically indicated, unless the court

.212820.2

underscored material = new
[bracketed material] = delete

1 makes a finding that the individual's release would present a
2 flight risk or a danger to public safety that outweighs the
3 benefits of release to the individual and the child. A
4 presumption shall be made in favor of release for an individual
5 who is pregnant or lactating. An individual released pursuant
6 to this section shall be placed on the least restrictive
7 conditions of release necessary to ensure return to custody.
8 At the court's discretion, after the period of release, the
9 individual shall serve any remaining portion of the
10 individual's sentence.

11 B. As used in this section, "release" means:

12 (1) custodial release, which is release under
13 such court-imposed restrictions as to satisfy the court that
14 the person remains in custody while released; and

15 (2) noncustodial release, which is release
16 under such conditions that are not considered custodial.

17 SECTION 2. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2019.