

1 AN ACT
2 RELATING TO CORRECTIONS; CLASSIFYING HOMICIDE BY A VEHICLE OR
3 GREAT BODILY HARM BY A VEHICLE AS A SERIOUS VIOLENT OFFENSE
4 FOR EARNED MERITORIOUS DEDUCTIONS.
5

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

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

9 "33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
10 DEDUCTIONS.--

11 A. To earn meritorious deductions, a prisoner
12 confined in a correctional facility designated by the
13 corrections department must be an active participant in
14 programs recommended for the prisoner by the classification
15 supervisor and approved by the warden or the warden's
16 designee. Meritorious deductions shall not exceed the
17 following amounts:

18 (1) for a prisoner confined for committing a
19 serious violent offense, up to a maximum of four days per
20 month of time served;

21 (2) for a prisoner confined for committing a
22 nonviolent offense, up to a maximum of thirty days per month
23 of time served;

24 (3) for a prisoner confined following
25 revocation of parole for the alleged commission of a new

1 felony offense or for absconding from parole, up to a maximum
2 of four days per month of time served during the parole term
3 following revocation; and

4 (4) for a prisoner confined following
5 revocation of parole for a reason other than the alleged
6 commission of a new felony offense or absconding from parole:

7 (a) up to a maximum of eight days per
8 month of time served during the parole term following
9 revocation, if the prisoner was convicted of a serious
10 violent offense or failed to pass a drug test administered as
11 a condition of parole; or

12 (b) up to a maximum of thirty days per
13 month of time served during the parole term following
14 revocation, if the prisoner was convicted of a nonviolent
15 offense.

16 B. A prisoner may earn meritorious deductions upon
17 recommendation by the classification supervisor, based upon
18 the prisoner's active participation in approved programs and
19 the 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 supervisor is
22 approved by the warden or the warden's designee.

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

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

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

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

16 (2) for earning a high school equivalency
17 credential, three months;

18 (3) for earning an associate's degree, four
19 months;

20 (4) for earning a bachelor's degree, five
21 months;

22 (5) for earning a graduate qualification,
23 five months; and

24 (6) for engaging in a heroic act of saving
25 life or property, engaging in extraordinary conduct for the

1 benefit of the state or the public that is at great expense
2 or risk to or involves great effort on the part of the
3 prisoner or engaging in extraordinary conduct far in excess
4 of normal program assignments that demonstrates the
5 prisoner's commitment to self-rehabilitation. The
6 classification supervisor and the warden or the warden's
7 designee may recommend the number of days to be awarded in
8 each case based upon the particular merits, but any award
9 shall be determined by the director of the adult institutions
10 division of the corrections department or the director's
11 designee.

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

20 F. A prisoner is not eligible to earn meritorious
21 deductions if the prisoner:

- 22 (1) disobeys an order to perform labor,
23 pursuant to Section 33-8-4 NMSA 1978;
24 (2) is in disciplinary segregation;
25 (3) is confined for committing a serious

1 violent offense and is within the first sixty days of receipt
2 by the corrections department; or

3 (4) is not an active participant in programs
4 recommended and approved for the prisoner by the
5 classification supervisor.

6 G. The provisions of this section shall not be
7 interpreted as providing eligibility to earn meritorious
8 deductions from a sentence of life imprisonment or a sentence
9 of life imprisonment without possibility of release or
10 parole.

11 H. The corrections department shall promulgate
12 rules to implement the provisions of this section, and the
13 rules shall be matters of public record. A concise summary
14 of the rules shall be provided to each prisoner, and each
15 prisoner shall receive a quarterly statement of the
16 meritorious deductions earned.

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

1 J. In order to be eligible for meritorious
2 deductions, a prisoner confined in a federal or out-of-state
3 correctional facility designated by the corrections
4 department must actively participate in programs that are
5 available. If a federal or out-of-state correctional
6 facility does not have programs available for a prisoner, the
7 prisoner may be awarded meritorious deductions at the rate
8 the prisoner could have earned meritorious deductions if the
9 prisoner had actively participated in programs.

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

19 L. As used in this section:

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

23 (2) "program" means work, vocational,
24 educational, substance abuse and mental health programs,
25 approved by the classification supervisor, that contribute to

1 a prisoner's self-betterment through the development of
2 personal and occupational skills. "Program" does not include
3 recreational activities;

4 (3) "nonviolent offense" means any offense
5 other than a serious violent offense; and

6 (4) "serious violent offense" means:

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

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

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

13 (d) third degree aggravated battery
14 against a household member, as provided in Section 30-3-16
15 NMSA 1978;

16 (e) first degree kidnapping, as
17 provided in Section 30-4-1 NMSA 1978;

18 (f) first and second degree criminal
19 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

20 (g) second and third degree criminal
21 sexual contact of a minor, as provided in Section 30-9-13
22 NMSA 1978;

23 (h) first and second degree robbery, as
24 provided in Section 30-16-2 NMSA 1978;

25 (i) second degree aggravated arson, as HB 102
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1 provided in Section 30-17-6 NMSA 1978;

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

4 (k) shooting at or from a motor
5 vehicle, as provided in Section 30-3-8 NMSA 1978;

6 (l) aggravated battery upon a peace
7 officer, as provided in Section 30-22-25 NMSA 1978;

8 (m) assault with intent to commit a
9 violent felony upon a peace officer, as provided in Section
10 30-22-23 NMSA 1978;

11 (n) aggravated assault upon a peace
12 officer, as provided in Section 30-22-22 NMSA 1978; or

13 (o) any of the following offenses, when
14 the nature of the offense and the resulting harm are such
15 that the court judges the crime to be a serious violent
16 offense for the purpose of this section: 1) involuntary
17 manslaughter, as provided in Section 30-2-3 NMSA 1978; 2)
18 fourth degree aggravated assault, as provided in Section
19 30-3-2 NMSA 1978; 3) third degree assault with intent to
20 commit a violent felony, as provided in Section 30-3-3 NMSA
21 1978; 4) fourth degree aggravated assault against a household
22 member, as provided in Section 30-3-13 NMSA 1978; 5) third
23 degree assault against a household member with intent to
24 commit a violent felony, as provided in Section 30-3-14 NMSA
25 1978; 6) third and fourth degree aggravated stalking, as

1 provided in Section 30-3A-3.1 NMSA 1978; 7) second degree
2 kidnapping, as provided in Section 30-4-1 NMSA 1978; 8)
3 second degree abandonment of a child, as provided in Section
4 30-6-1 NMSA 1978; 9) first, second and third degree abuse of
5 a child, as provided in Section 30-6-1 NMSA 1978; 10) third
6 degree dangerous use of explosives, as provided in Section
7 30-7-5 NMSA 1978; 11) third and fourth degree criminal sexual
8 penetration, as provided in Section 30-9-11 NMSA 1978; 12)
9 fourth degree criminal sexual contact of a minor, as provided
10 in Section 30-9-13 NMSA 1978; 13) third degree robbery, as
11 provided in Section 30-16-2 NMSA 1978; 14) homicide by
12 vehicle or great bodily harm by vehicle, as provided in
13 Section 66-8-101 NMSA 1978; or 15) battery upon a peace
14 officer, as provided in Section 30-22-24 NMSA 1978.

15 M. Except for sex offenders, as provided in
16 Section 31-21-10.1 NMSA 1978, an offender sentenced to
17 confinement in a correctional facility designated by the
18 corrections department who has been released from confinement
19 and who is serving a parole term may be awarded earned
20 meritorious deductions of up to thirty days per month upon
21 recommendation of the parole officer supervising the offender,
22 with the final approval of the adult parole board. The
23 offender must be in compliance with all the conditions of the
24 offender's parole to be eligible for earned meritorious
25 deductions. The adult parole board may remove earned

1 meritorious deductions previously awarded if the offender
2 later fails to comply with the conditions of the offender's
3 parole. The corrections department and the adult parole board
4 shall promulgate rules to implement the provisions of this
5 subsection. This subsection applies to offenders who are
6 serving a parole term on or after July 1, 2004."

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