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HOUSE BILL 807

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO COUNTY JAILS; PROVIDING FOR THE CREATION OF
STANDARDS FOR DEDUCTIONS OF TIME FOR GOOD BEHAVIOR; PROVIDING
MINIMUM STANDARDS; REMOVING THE REQUIREMENT OF JUDICIAL
APPROVAL BEFORE A JAIL ADMINISTRATOR MAY AWARD CREDIT FOR GOOD
BEHAVIOR.

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

Section 1. Section 33-3-9 NMSA 1978 (being Laws 1969,
Chapter 207, Section 1, as amended) is amended to read:

"33-3-9. COUNTY JAILS--DEDUCTION OF TIME FOR GOOD
BEHAVIOR.--

A. The sheriff or jail administrator of any county
~~[with the approval of the committing judge or presiding judge]~~
may grant any person imprisoned in the county jail a deduction
of time from the term of ~~[his]~~ the person's sentence for good

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1 behavior and industry [~~and shall establish rules for the~~
2 ~~accrual of "good time"~~] in accordance with established rules
3 meeting the minimum standards provided in this section and in
4 Section 33-3-9.1 NMSA 1978. Deductions of time shall not
5 exceed one-half of the term of the prisoner's original
6 sentence. If a prisoner is under two or more cumulative
7 sentences, the sentences shall be treated as one sentence for
8 the purpose of deducting time for good behavior.

9 B. A prisoner shall not accrue [~~good~~] deductions of
10 time for the mandatory portion of a sentence imposed pursuant
11 to the provisions of:

12 (1) [~~Sections~~] Section 66-8-102 [~~and~~] or
13 66-5-39 NMSA 1978; or

14 (2) a county or municipal ordinance that
15 prohibits driving while under the influence of intoxicating
16 liquor or drugs or driving with a revoked or suspended driver's
17 license.

18 C. A part or all of the prisoner's accrued
19 deductions may be forfeited for any conduct violation. The
20 sheriff or jail administrator shall establish rules and
21 procedures for the forfeiture of accrued deductions and keep a
22 record of all forfeitures of accrued deductions and the reasons
23 for the forfeitures. In addition, any independent contractor
24 shall also keep a duplicate record of such forfeitures.

25 D. No other time allowance or credits in addition

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1 to deductions of time permitted under this section may be
2 granted to any prisoner.

3 E. If a private independent contractor operates a
4 jail, ~~[he]~~ the independent contractor shall make reports of
5 disciplinary violations and good behavior to the jail
6 administrator or the sheriff of the county in which the jail is
7 located. All action on such reports and awards or forfeitures
8 of good time shall be made by the jail administrator or the
9 sheriff. The independent contractor shall not have the power
10 to award or cause the forfeiture of good time pursuant to this
11 section."

12 Section 2. A new Section 33-3-9.1 NMSA 1978 is enacted to
13 read:

14 "33-3-9.1. [NEW MATERIAL] COUNTY JAILS--ELIGIBILITY FOR
15 DEDUCTION OF TIME FOR GOOD BEHAVIOR.--

16 A. To earn deductions of time for good behavior, an
17 inmate confined to a county jail must be an active participant
18 in programs recommended for the inmate by the jail
19 administrator or the administrator's designee.

20 B. An inmate may earn deductions of time for good
21 behavior based on the inmate's active participation in approved
22 programs and the quality of the inmate's participation in those
23 programs. An inmate shall not earn deductions of time unless
24 the deductions are approved by the jail administrator or the
25 administrator's designee.

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1 C. An inmate is only eligible for deductions of
2 time for good behavior if the inmate successfully completes an
3 approved educational, vocational, substance abuse or mental
4 health program, except when the inmate has demonstrated a
5 physical, mental health or developmental disability that
6 prevents the inmate from successfully participating in such
7 programs.

8 D. An inmate is not eligible to earn deductions of
9 time if the inmate:

- 10 (1) disobeys an order to perform labor;
11 (2) is in disciplinary segregation;
12 (3) is confined for committing a serious
13 violent offense as defined in Section 33-2-34 NMSA 1978; or
14 (4) is not an active participant in programs
15 recommended and approved for the inmate by the jail
16 administrator or the administrator's designee.

17 E. An inmate confined to a county jail that is
18 operated by a private contractor is eligible for deductions of
19 time for good behavior as provided in this section and in
20 Section 33-3-9 NMSA 1978 and as required by rules of the board
21 of county commissioners.

22 F. The board of county commissioners shall approve
23 rules, policies and procedures relating to deductions of time
24 for good behavior prior to their implementation, and the rules,
25 policies and procedures shall be a matter of public record.

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G. As used in this section:

(1) "active participant" means an inmate who has begun, and is regularly engaged in, approved programs;

(2) "jail administrator" means the person hired by a county who supervises the entire operation of the jail and reports directly to the county manager or to the board of county commissioners and may include the sheriff of the county; and

(3) "program" means a work, vocational, educational, substance abuse or mental health program, approved by the jail administrator or the administrator's designee, that contributes to an inmate's self-betterment through the development of personal and occupational skills. "Program" does not include recreational activities."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009.