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HOUSE BILL 639

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RITA G. GETTY

AN ACT

RELATING TO CORRECTIONS; ENACTING REGULATIONS THAT ALLOW RANDOM
DRUG TESTING OF INMATES; REQUIRING CERTAIN INMATES TO
PARTICIPATE IN DRUG REHABILITATION PROGRAMS; ENACTING A NEW
SECTION OF THE NMSA 1978.

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

Section 1. A new section of Chapter 33, Article 2 NMSA
1978 is enacted to read:

" NEW MATERIAL REGULATIONS-- RANDOM DRUG TESTING--
REHABILITATION PROGRAM- CONDITION PRECEDENT TO EARNED
MERITORIOUS DEDUCTIONS. --

A. The corrections department, by December 31, 1997,
shall adopt regulations for all adult correctional institutions
operated by the department, or by a private company pursuant to
a contract with the corrections department, for the

Underscored material = new
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1 implementation of a random drug testing program to detect use of
2 one or more of the controlled substances listed in schedules I
3 through V in the Controlled Substances Act. The regulations
4 shall:

5 (1) ensure that the laboratories used for
6 testing for controlled substances shall use the best available
7 technology to ensure the complete reliability and accuracy of
8 controlled substances tests;

9 (2) include strict procedures governing the
10 chain of custody of specimens collected for controlled
11 substances testing;

12 (3) provide that each specimen be subdivided,
13 secured and labeled in the presence of the tested individual and
14 that a portion of the specimen be retained in a secure manner to
15 prevent the possibility of tampering, so that if the inmate's
16 results are positive, the inmate has an opportunity to have the
17 retained part retested by another laboratory within three days
18 after being advised of the results of the first test;

19 (4) provide for the confidentiality of test
20 results and medical information, except information about
21 controlled substance abuse; provided, however, that this
22 paragraph shall not be construed to limit the use of the test
23 results for the orderly imposition of sanctions under this
24 section; and

25 (5) ensure that inmates are selected for tests

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1 by nondiscriminatory and impartial methods, so that no inmate is
2 harassed by being treated differently from other inmates in
3 similar circumstances.

4 B. The rules and regulation adopted pursuant to
5 Subsection A of this section shall establish requirements for
6 rehabilitation programs that provide for the identification and
7 opportunity for treatment of any inmate who is found to have
8 used a controlled substance in violation of law. The rules and
9 regulations shall provide that an inmate who is found to have
10 used a controlled substance in violation of law and who refuses
11 to participate in a rehabilitation program pursuant to this
12 subsection shall not be eligible for monetary compensation for
13 work performed or for meritorious deductions as set forth in
14 Section 33-2-34 NMSA 1978.

15 C. The rules and regulations adopted pursuant to
16 Subsection A of this section shall also provide that:

17 (1) an inmate who has tested positive for the
18 use of a controlled substance in violation of law shall be
19 retested at least every sixty days for the remainder of the term
20 for which he was sentenced;

21 (2) an inmate who retests positive for the use
22 of a controlled substance in violation of law shall forfeit all
23 meritorious deductions earned by that inmate; and

24 (3) an inmate who retests positive shall be
25 confined to solitary confinement for a period of not less than

.115424.1

1 twelve months from the date of the retest. "

2 Section 2. EFFECTIVE DATE. --The effective date of the
3 provisions of this act is July 1, 1997.

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 17, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 639

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, line 8, after the period strike the remainder of the line, and strike lines 9 through 14.
2. On page 3, line 16, strike the colon, and on line 17, strike "(1)".
3. On page 3, line 19, strike "every sixty days" and insert in lieu thereof "periodically".
4. On page 3, line 20, strike the semicolon and insert in lieu thereof a period and closing quotation marks.

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 639

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5. On page 3, strike lines 21 through 25 and on page 4,
strike all of line 1.,
and thence referred to the APPROPRIATIONS AND FINANCE
COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 639

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The roll call vote was 9 For 0 Against

Yes: 9

Excused: M P. Garcia, Larranaga, Rios, Sanchez

Absent: None

M \H0639

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[bracketed material] = delete

State of New Mexico House of Representatives

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 4, 1997

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 639, as amended

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Abeyta, Garcia, M.H., Heaton, Knowles, Marquardt,
Picraux, Taylor, J.P., Watchman

Absent: None

M \H0639

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 639, as amended

has had it under consideration and reports same WITHOUT
RECOMMENDATION, and thence referred to the JUDICIARY
COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

Adopted _____ Not Adopted _____

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KEYBOARD(TYPE SLUGS)

Page 11

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(Chi ef Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Garcia, Ingle, Vernon, Rodarte

Absent: None

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1 FORTY- SECOND LEGI SLATURE
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3 **KEYBOARD(TYPE SLUGS)**

Page 12

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5 FORTY- THIR D LEGI SLATURE
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11 Mr. Presi dent:

12
13 Your JUDI CIARY COMMI TTEE, to whom has been referred

14 HOUSE BILL 639, as amended
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16 has had it under consideration and reports same with recommendation that
17 it DO PASS.

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19 Respectfully submit ted,
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23 Fernando R. Maci as, Chair man
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FORTY- SECOND LEGI SLATURE
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KEYBOARD(TYPE SLUGS)

Page 13

Adopted _____ Not Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

The roll call vote was 5 For 1 Against

Yes: 5

No: Sanchez

Excused: Tsosie, Vernon

Absent: None

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[bracketed material] = delete