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BILL

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL SENTENCING; REQUIRING A PERSON TO BE  
INCARCERATED USING THE LOCAL SENTENCING OPTION IF THE BALANCE  
OF A PERSON'S SENTENCE IS UNDER ONE YEAR.

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

**SECTION 1.** Section 31-20-2 NMSA 1978 (being Laws 1963,  
Chapter 303, Section 29-13, as amended) is amended to read:

"31-20-2. PLACE OF IMPRISONMENT--COMMITMENTS.--

A. Persons sentenced to imprisonment for a term of  
one year or more shall be imprisoned in a corrections facility  
designated by the corrections department, unless a new trial is  
granted or a portion of the sentence is suspended so as to  
provide for imprisonment for not more than eighteen months;  
then the imprisonment may be in such place of incarceration,  
other than a corrections facility under the jurisdiction of the

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1 corrections department, as the sentencing judge, in [~~his~~] the  
2 judge's discretion, may prescribe; provided that a sentence of  
3 imprisonment for one year or more but not more than eighteen  
4 months shall be subject to the provisions of Subsections [~~D~~  
5 ~~and~~] E and F of this section and shall not be imposed unless  
6 the requirements set forth in Subsection [~~D~~] E of this section  
7 are satisfied.

8 B. Notwithstanding the provisions of Subsection A  
9 of this section, if the sentence of a person to be  
10 incarcerated, after accounting for suspensions or deferrals of  
11 part of the person's sentence and after accounting for time  
12 already served, is less than one year, the person shall be  
13 sentenced using the local sentencing option and shall be  
14 subject to the provisions of Subsections E and F of this  
15 section.

16 [~~B-~~] C. All commitments, judgments and orders of  
17 the courts of this state for the imprisonment or release of  
18 persons in the penitentiary of New Mexico shall run to the  
19 corrections department, but nothing contained in this section  
20 shall invalidate or impair the validity of any commitment,  
21 judgment or order of any court in this state directed to the  
22 secretary of corrections, the warden of the penitentiary of New  
23 Mexico or to the penitentiary of New Mexico, and all such  
24 commitments, judgments and orders shall be treated and  
25 construed as running to the corrections department.

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1           ~~[G-]~~ D. There is created within the corrections  
2 department an "intake and classification center". The intake  
3 and classification center shall have the following duties:

4                   (1) process all inmates sentenced or committed  
5 for purposes of diagnosis to the corrections department;

6                   (2) classify inmates for housing assignments;

7                   (3) develop an individualized plan for  
8 participation by each inmate in programs, work assignments and  
9 special needs;

10                   (4) monitor each inmate's progress during  
11 incarceration and reclassify or modify classification  
12 assignments as may be necessary, taking into consideration the  
13 overall needs of the inmate population, institutional and  
14 facility requirements and the individual inmate's needs;

15                   (5) with the approval of the secretary of  
16 corrections, may transfer inmates of the penitentiary of New  
17 Mexico to an institution under the control of another state if  
18 that state has entered into a corrections control agreement  
19 with New Mexico; and

20                   (6) with the approval of the secretary of  
21 corrections, may transfer inmates to any facility, including  
22 the forensic hospital under the jurisdiction of the department  
23 of health.

24           ~~[D-]~~ E. A sentence of one year or more but not more  
25 than eighteen months and providing for imprisonment in a place

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1 of incarceration other than a corrections facility under the  
2 jurisdiction of the corrections department pursuant to  
3 Subsection A of this section, which shall be known as the local  
4 sentencing option, shall not be imposed unless:

5 (1) the place of incarceration is located  
6 within the county in which the crime was committed; and

7 (2) the governing authority in charge of the  
8 place of incarceration has entered into a joint powers  
9 agreement with the corrections department setting forth:

10 (a) the amount of money the corrections  
11 department shall pay for offenders sentenced to a term of one  
12 year or more but not more than eighteen months and the number  
13 of offenders [~~which~~] that may be sentenced to such terms; and

14 (b) any other provisions deemed  
15 appropriate and agreed to by the local governing body and the  
16 corrections department.

17 [~~E.~~] F. If a judge imposes a sentence of one year  
18 or more but not more than eighteen months and provides for  
19 imprisonment in a place of incarceration other than a  
20 corrections facility under the jurisdiction of the corrections  
21 department:

22 (1) the local governing body or its agent  
23 shall have the ability to petition that judge when the capacity  
24 of the place of incarceration is filled or when any problem  
25 develops concerning that offender requesting the judge to issue

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1 an order committing the offender to the corrections department  
2 for completion of the remainder of ~~[his]~~ the offender's  
3 sentence. A hearing on a petition pursuant to this paragraph  
4 shall be held within three days of the filing of the petition.  
5 Notwithstanding any other provision of law, the judge shall  
6 retain jurisdiction over the offender for the purpose of  
7 implementing the local sentencing option; and

8 (2) the local governing body or its agent  
9 shall keep the district judges for the judicial district in  
10 which the place of incarceration is located informed as to the  
11 capacity for the sentencing of offenders in accordance with the  
12 local sentencing option. No judge shall sentence an offender  
13 in accordance with the local sentencing option if that sentence  
14 will result in exceeding the number of offenders set forth in  
15 the joint powers agreement.

16 ~~[F-]~~ G. The corrections department shall file an  
17 annual report with the legislature ~~[which]~~ that shall contain  
18 the number of joint powers agreements in operation pursuant to  
19 this section, copies of those agreements, the number of  
20 offenders currently incarcerated pursuant to those agreements  
21 and any other relevant information relating to the  
22 implementation of this section.

23 ~~[G-]~~ H. The corrections department may enter into  
24 contracts with public or private detention facilities for the  
25 purpose of housing inmates lawfully committed to the

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1 corrections department. Any facility with which the department  
2 contracts shall meet or exceed corrections department standards  
3 prior to the housing of any inmates within the facility and  
4 shall meet certification requirements for prisons within  
5 eighteen months of entering into such contracts. The  
6 contractor shall adhere to all appropriate corrections  
7 department policies and procedures and shall agree to have  
8 staff trained at the corrections department training academy."

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