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SENATE BILL

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

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING THAT SOMEONE
SENTENCED SOLELY FOR MISDEMEANOR OR PETTY MISDEMEANOR OFFENSES
SHALL BE SENTENCED TO COUNTY JAIL.

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

SECTION 1. Section 31-19-1 NMSA 1978 (being Laws 1963,
Chapter 303, Section 29-4, as amended) is amended to read:

"31-19-1. SENTENCING AUTHORITY--MISDEMEANORS--
IMPRISONMENT AND FINES--PROBATION.--

A. Where the defendant has been convicted of a
crime constituting a misdemeanor, the judge shall sentence the
person to be imprisoned in the county jail for a definite term
less than one year or to the payment of a fine of not more than
one thousand dollars (\$1,000) or to both such imprisonment and
fine in the discretion of the judge.

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1 B. Where the defendant has been convicted of a
2 crime constituting a petty misdemeanor, the judge shall
3 sentence the person to be imprisoned in the county jail for a
4 definite term not to exceed six months or to the payment of a
5 fine of not more than five hundred dollars (\$500) or to both
6 such imprisonment and fine in the discretion of the judge.

7 C. When the court has deferred or suspended
8 sentence, it shall order the defendant placed on supervised or
9 unsupervised probation for all or some portion of the period of
10 deferment or suspension.

11 D. If a person is sentenced for multiple offenses,
12 and if the crimes for which the person is being sentenced are
13 solely misdemeanor or petty misdemeanor offenses, or violations
14 of probation for a misdemeanor or petty misdemeanor offense,
15 the person shall be sentenced to be imprisoned in the county
16 jail, regardless of whether the total time of commitment is
17 over one year."

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

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

21 A. Persons sentenced to imprisonment for a term of
22 one year or more shall be imprisoned in a corrections facility
23 designated by the corrections department, unless a new trial is
24 granted or a portion of the sentence is suspended so as to
25 provide for imprisonment for not more than eighteen months;

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

10 B. Notwithstanding the provisions of Subsection A
11 of this section, if a person is sentenced for multiple
12 offenses, and if the crimes for which the person is being
13 sentenced are solely misdemeanor or petty misdemeanor offenses,
14 or violations of probation for a misdemeanor or petty
15 misdemeanor offense, the person shall be sentenced to be
16 imprisoned in the county jail, regardless of whether the total
17 time of commitment is over one year.

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

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1 commitments, judgments and orders shall be treated and
2 construed as running to the corrections department.

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

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

8 (2) classify inmates for housing assignments;

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

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

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

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

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1 ~~[D-]~~ E. A sentence of one year or more but not more
2 than eighteen months and providing for imprisonment in a place
3 of incarceration other than a corrections facility under the
4 jurisdiction of the corrections department pursuant to
5 Subsection A of this section, which shall be known as the local
6 sentencing option, shall not be imposed unless:

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

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

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

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

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

24 (1) the local governing body or its agent
25 shall have the ability to petition that judge when the capacity

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

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

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

25 ~~[G-]~~ H. The corrections department may enter into

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

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