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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CORRECTIONS; REQUIRING THAT A PERSON ASSIGNED TO AN INTENSIVE SUPERVISION PROGRAM ALSO BE ENROLLED IN A BEHAVIORAL HEALTH PROGRAM; REQUIRING THAT EVIDENCE-BASED BEHAVIORAL HEALTH TREATMENT PROGRAMS BE INCORPORATED INTO COMMUNITY CORRECTIONS AND INTENSIVE SUPERVISION PROGRAMS; REQUIRING THE CORRECTIONS DEPARTMENT TO USE A VALIDATED RISK AND NEEDS ASSESSMENT FOR ALL INMATES AND IMPLEMENT EVIDENCE-BASED PRISON PROGRAMMING.

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

SECTION 1. Section 31-21-13.1 NMSA 1978 (being Laws 1988, Chapter 62, Section 3, as amended) is amended to read:

"31-21-13.1. INTENSIVE SUPERVISION PROGRAMS.--

A. As used in this section:

(1) "cost beneficial" means that the cost savings realized over a reasonable period of time are greater

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1 than the costs of implementation;

2 (2) "evidence-based program" means a
3 behavioral health treatment program that:

4 (a) incorporates methods demonstrated to
5 be effective for the intended population through scientifically
6 based research, including statistically controlled evaluations
7 or randomized trials;

8 (b) can be implemented with a set of
9 procedures to allow successful replication in New Mexico; and

10 (c) when possible, has been determined
11 to be cost beneficial;

12 (3) "intensive supervision programs" means
13 programs that provide highly structured and intense
14 supervision, with stringent reporting requirements, of certain
15 individuals who represent an excessively high assessment of
16 risk of violation of probation or parole, emphasize meaningful
17 rehabilitative activities and reasonable alternatives without
18 seriously increasing the risk of recidivist crime and
19 facilitate the payment of restitution by the offender to the
20 victim. "Intensive supervision programs" [~~include~~] includes
21 house arrest programs or electronic surveillance programs or
22 both; and

23 (4) "validated risk and needs assessment"
24 means an actuarial tool scientifically proven to determine a
25 person's risk to reoffend and criminal risk factors that, when

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1 properly addressed, can reduce that person's likelihood of
2 committing future criminal behavior.

3 B. The corrections department shall implement and
4 operate intensive supervision programs in various local
5 communities. The programs shall provide services for
6 appropriate individuals by probation and parole officers of the
7 corrections department. The corrections department shall
8 promulgate rules and regulations to provide that the officers
9 providing these services have a maximum caseload of forty
10 offenders and to provide for offender selection and other
11 criteria. The corrections department may cooperate with all
12 recognized law enforcement authorities and share all necessary
13 and pertinent information, records or documents regarding
14 probationers or parolees in order to implement and operate
15 these intensive supervision programs.

16 C. The corrections department shall incorporate
17 evidence-based programs as follows:

18 (1) by January 1, 2017, twenty percent of
19 intensive supervision program funding shall be spent on
20 evidence-based programs;

21 (2) by January 1, 2018, thirty percent of
22 intensive supervision program funding shall be spent on
23 evidence-based programs;

24 (3) by January 1, 2019, forty percent of
25 intensive supervision program funding shall be spent on

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1 evidence-based programs; and

2 (4) by January 1, 2020, fifty percent of
3 intensive supervision program funding shall be spent on
4 evidence-based programs.

5 ~~[G.]~~ D. For purposes of this section, a judge
6 contemplating imposition of an intensive supervision program
7 for an individual shall consult with the adult probation and
8 parole division of the corrections department and consider the
9 recommendations before imposing such probation. The adult
10 probation and parole division of the corrections department
11 shall recommend only those individuals who would have otherwise
12 been recommended for incarceration for intensive supervision
13 programs. A judge has discretion to impose an intensive
14 supervision program for an individual, regardless of
15 recommendations made by the adult probation and parole
16 division. Inmates eligible for parole, or within twelve months
17 of eligibility for parole, or inmates who would otherwise
18 remain in a correctional institution for lack of a parole plan
19 or those parolees whose parole the board would otherwise revoke
20 are eligible for intensive supervision programs. The
21 provisions of this section do not limit or reduce the statutory
22 authority vested in probation and parole supervision as defined
23 by any other section of the Probation and Parole Act.

24 E. If an intensive supervision program is imposed
25 for an individual, that individual shall be enrolled in an

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1 appropriate behavioral health program. The individual's needs
2 shall be assessed through the use of a validated risk and needs
3 assessment. The corrections department shall promulgate rules
4 for the administration of the validated risk and needs
5 assessment.

6 ~~[D-]~~ F. There is created in the state treasury the
7 "corrections department intensive supervision fund" to be
8 administered by the corrections department upon vouchers signed
9 by the secretary of corrections. Balances in the corrections
10 department intensive supervision fund shall not revert to the
11 general fund. Beginning July 1, 1988, the intensive
12 supervision programs established pursuant to this section shall
13 be funded by those supervision costs collected pursuant to the
14 provisions of Sections 31-20-6 and 31-21-10 NMSA 1978. The
15 corrections department is specifically authorized to hire
16 additional permanent or term full-time-equivalent positions for
17 the purpose of implementing the provisions of this section."

18 **SECTION 2.** A new section of the Adult Community
19 Corrections Act is enacted to read:

20 "[NEW MATERIAL] EVIDENCE-BASED PROGRAMS.--

21 A. The department shall incorporate evidence-based
22 programs as follows:

23 (1) by January 1, 2017, twenty percent of
24 community corrections program funding shall be spent on
25 evidence-based programs;

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1 (2) by January 1, 2018, thirty percent of
2 community corrections program funding shall be spent on
3 evidence-based programs;

4 (3) by January 1, 2019, forty percent of
5 community corrections program funding shall be spent on
6 evidence-based programs; and

7 (4) by January 1, 2020, fifty percent of
8 community corrections program funding shall be spent on
9 evidence-based programs.

10 B. As used in this section:

11 (1) "cost beneficial" means that the cost
12 savings realized over a reasonable period of time are greater
13 than the costs of implementation; and

14 (2) "evidence-based program" means a
15 behavioral health treatment program or practice that:

16 (a) incorporates methods demonstrated to
17 be effective for the intended population through scientifically
18 based research, including statistically controlled evaluations
19 or randomized trials;

20 (b) can be implemented with a set of
21 procedures to allow successful replication in New Mexico; and

22 (c) when possible, has been determined
23 to be cost beneficial."

24 SECTION 3. A new section of Chapter 33, Article 2 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] VALIDATED RISK AND NEEDS ASSESSMENT AND
2 EVIDENCE-BASED PROGRAMS.--

3 A. Inmates incarcerated in state correctional
4 facilities shall have their needs for prison programming
5 assessed through the use of validated risk and needs
6 assessments. Inmates shall be assigned to programs based on
7 the results of the validated risk and needs assessment. The
8 corrections department shall promulgate rules and regulations
9 for the administration of the validated risk and needs
10 assessment.

11 B. The corrections department shall incorporate
12 evidence-based programs into its prison programming as follows:

13 (1) by January 1, 2017, twenty percent of
14 inmate program funding shall be spent on evidence-based
15 programs;

16 (2) by January 1, 2018, thirty percent of
17 inmate program funding shall be spent on evidence-based
18 programs;

19 (3) by January 1, 2019, forty percent of
20 inmate program funding shall be spent on evidence-based
21 programs; and

22 (4) by January 1, 2020, fifty percent of
23 inmate program funding shall be spent on evidence-based
24 programs.

25 C. As used in this section:

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1 (1) "cost beneficial" means that the cost
2 savings realized over a reasonable period of time are greater
3 than the costs of implementation;

4 (2) "evidence-based program" means a program
5 or practice that:

6 (a) incorporates methods demonstrated to
7 be effective for the intended population through scientifically
8 based research, including statistically controlled evaluations
9 or randomized trials;

10 (b) can be implemented with a set of
11 procedures to allow successful replication in New Mexico; and

12 (c) when possible, has been determined
13 to be cost beneficial; and

14 (3) "validated risk and needs assessment"
15 means an actuarial tool scientifically proven to determine a
16 person's risk to reoffend and criminal risk factors that, when
17 properly addressed, can reduce that person's likelihood of
18 committing future criminal behavior."

19 SECTION 4. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2016.