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HOUSE BILL 216

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Stevan Pearce

AN ACT

RELATING TO CORRECTIONS; CHANGING DUTIES AND POWERS OF THE
SECRETARY OF CORRECTIONS TO INCLUDE CRIME PREVENTION THROUGH
INMATE MENTORING PROGRAMS.

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

Section 1. Section 9-3-5 NMSA 1978 (being Laws 1977,
Chapter 257, Section 6, as amended) is amended to read:

"9-3-5. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary of corrections is responsible to
the governor for the operation of the corrections department.
It is his duty to manage all operations of the department and
to administer and enforce the laws with which he or the
department is charged.

B. To perform his duties, the secretary of
corrections has every power expressly enumerated in the laws,
whether granted to the secretary [~~of the department~~] or any

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1 division of the department, except where authority conferred
2 upon any division [~~therein~~] is explicitly exempted from the
3 secretary's authority by statute. In accordance with these
4 provisions, the secretary shall:

5 (1) except as otherwise provided in the
6 Corrections Department Act, exercise general supervisory and
7 appointing authority over all department employees, subject
8 to any applicable personnel laws and regulations;

9 (2) delegate authority to subordinates as he
10 deems necessary and appropriate, clearly delineating such
11 delegated authority and the limitations thereto;

12 (3) organize the department into those
13 organizational units he deems will enable it to function most
14 efficiently, subject to any provisions of law requiring or
15 establishing specific organizational units;

16 (4) within the limitations of available
17 appropriations and applicable laws, employ and fix the
18 compensation of those persons necessary to discharge his
19 duties;

20 (5) take administrative action by issuing
21 orders and instructions, not inconsistent with the law, to
22 [~~assure~~] ensure implementation of and compliance with the
23 provisions of law [~~with the~~] for whose administration or
24 execution [~~of which~~] he is responsible and to enforce those
25 orders and instructions by appropriate administrative action
or actions in the courts;

(6) conduct research and studies that will

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1 improve the operations of the department and the provision of
2 services to the citizens of the state;

3 (7) provide courses of instruction and
4 practical training for employees of the department and other
5 persons involved in the administration of programs with the
6 objective of improving the operations and efficiency of
7 administration;

8 (8) prepare an annual budget of the
9 department;

10 (9) provide cooperation, at the request of
11 heads of administratively attached agencies, in order to:

12 (a) minimize or eliminate duplication
13 of services and jurisdictional conflicts;

14 (b) coordinate activities and resolve
15 problems of mutual concern; and

16 (c) resolve by agreement the manner and
17 extent to which the department shall provide budgeting,
18 record keeping and related clerical assistance to
19 administratively attached agencies;

20 (10) appoint, with the governor's consent, a
21 "director" for each division [~~a "director"~~]. These appointed
22 positions are exempt from the provisions of the Personnel
23 Act. Persons appointed to these positions shall serve at the
24 pleasure of the secretary;

25 (11) give bond as provided in the Surety
Bond Act. The department shall pay the costs of [~~such~~] the
bonds; [~~and~~]

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1 (12) require performance bonds of such
2 department employees and officers as he deems necessary, as
3 provided in the Surety Bond Act. The department shall pay
4 the costs of ~~[such]~~ the bonds; and

5 (13) provide for crime prevention efforts by
6 administering a program based on internet communications
7 using volunteer inmates to mentor school children on the
8 consequences of crime.

9 C. The secretary of corrections may apply for and
10 receive, with the governor's approval, in the name of the
11 corrections department any public or private funds, including
12 but not limited to United States government funds, available
13 to the department to carry out its programs, duties or
14 services.

15 D. Where functions of departments overlap or a
16 function assigned to one department could better be performed
17 by another department, a secretary may recommend appropriate
18 legislation to the next session of the legislature for its
19 approval.

20 E. The secretary of corrections may make and adopt
21 such reasonable and procedural rules and regulations as may
22 be necessary to carry out the duties of the corrections
23 department and its divisions. No rule or regulation
24 promulgated by the director of any division in carrying out
25 the functions and duties of the division shall be effective
until approved by the secretary. Unless otherwise provided
by statute, no regulation affecting any person or agency

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1 outside the department shall be adopted, amended or repealed
2 without a public hearing on the proposed action before the
3 secretary or a hearing officer designated by him. The public
4 hearing shall be held in Santa Fe unless otherwise permitted
5 by statute. Notice of the subject matter of the regulation,
6 the action proposed to be taken, the time and place of the
7 hearing, the manner in which interested persons may present
8 their views and the method by which copies of the proposed
9 regulation, proposed amendment or repeal of an existing
10 regulation may be obtained shall be published once at least
11 thirty days prior to the hearing date in a newspaper of
12 general circulation and mailed at least thirty days prior to
13 the hearing date to all persons who have made a written
14 request for advance notice of hearing. All rules and
15 regulations shall be filed in accordance with the State Rules
16 Act."