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HOUSE BILL 122

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

JERRY LEE ALWIN

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CORRECTIONS; EXPANDING THE ELIGIBILITY OF INMATES FOR PLACEMENT IN COMMUNITY CORRECTIONS OR INTENSIVE SUPERVISION PROGRAMS; AMENDING SECTIONS OF THE NMSA 1978.

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, "intensive supervision programs" means programs that provide highly structured and intense supervision, with stringent reporting requirements, of certain individuals who represent an excessively high assessment of risk of violation of probation or parole, emphasize meaningful rehabilitative activities and reasonable alternatives without seriously increasing the risk of recidivist crime and

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1 facilitate the payment of restitution by the offender to the
2 victim. Intensive supervision programs include house arrest
3 programs or electronic surveillance programs or both.

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

17 C. For purposes of this section, a judge
18 contemplating imposition of an intensive supervision program for
19 an individual shall consult with the adult probation and parole
20 division of the corrections department and consider the
21 recommendations before imposing such probation. The adult
22 probation and parole division of the corrections department
23 shall recommend only those individuals who would have otherwise
24 been recommended for incarceration for intensive supervision
25 programs. A judge has discretion to impose an intensive

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1 supervision program for an individual, regardless of
2 recommendations made by the adult probation and parole division.
3 Inmates eligible for parole, or within [~~twelve~~] twenty-four
4 months of eligibility for parole, or inmates who would otherwise
5 remain in a correctional institution for lack of a parole plan
6 or those parolees whose parole the board would otherwise revoke
7 are eligible for intensive supervision programs. The provisions
8 of this section do not limit or reduce the statutory authority
9 vested in probation and parole supervision as defined by any
10 other section of the Probation and Parole Act.

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

23 Section 2. Section 33-9-5 NMSA 1978 (being Laws 1983,
24 Chapter 202, Section 5, as amended) is amended to read:

25 "33-9-5. CRITERIA FOR APPLICATIONS. --

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1 A. Counties, municipalities or private
2 organizations, individually or jointly, may apply for grants
3 from the fund, including grants for counties or municipalities
4 to purchase contractual services from private organizations,
5 provided that:

6 (1) the application is for funding a program
7 with priority use being for criminal offenders selected pursuant
8 to the provisions of Section 33-9-7 NMSA 1978;

9 (2) the applicant certifies that it is willing
10 and able to operate the program according to standards provided
11 by the department, which may include the negotiation of a
12 contract between the offender and program staff with provisions
13 such as deductions from employment income for applicable victim
14 restitution, family support, room and board, savings and weekly
15 allowance. In addition to monetary restitution, to the extent
16 practical, or if monetary restitution is not applicable, the
17 contract may include provision for community service restitution
18 for a specific number of hours;

19 (3) the applicant demonstrates the support of
20 key components of the criminal justice system;

21 (4) the applicant, if a private organization,
22 demonstrates the support of the county and municipality where
23 the program will provide services;

24 (5) the applicant certifies that it will
25 utilize volunteer services as an integral portion of the program

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1 to the maximum extent feasible; and

2 (6) no class A county as defined in Section
3 4-44-1 NMSA 1978, alone or in conjunction with any municipality
4 within a class A county, shall receive more than forty-nine
5 percent of any money appropriated to the fund.

6 B. Notwithstanding the provisions of Subsection A of
7 this section:

8 (1) the department may utilize the fund to
9 place individuals eligible or within [twelve] twenty-four months
10 of eligibility for parole in community-based settings. The
11 adult parole board may, in its discretion, require participation
12 by a criminal offender in a program as a condition of parole
13 pursuant to the provisions of Section 31-21-10 NMSA 1978; and

14 (2) the department may authorize use of the
15 fund for adults who are not criminal offenders with prior
16 department approval, if the priority use does not result in full
17 utilization of the fund or the capacity of a program, or the
18 department may authorize additional programs or additional
19 funding for existing programs.

20 C. The department may utilize not more than twenty-
21 five percent of the fund to contract directly for programs,
22 including programs for New Mexico Indian tribes and pueblos for
23 diversion of state law offenders, or to establish programs
24 operated by the department; provided, however, that the
25 department may utilize up to sixty percent of the fund to

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1 operate adult community corrections programs if, after a
2 reasonable effort to solicit proposals, there are no
3 satisfactory proposals from a community where it is determined
4 that a program is necessary or if it becomes necessary to cancel
5 a program as provided in the contract.

6 D. The department shall establish additional
7 guidelines for allocation of funds under the Adult Community
8 Corrections Act. An applicant shall retain the authority to
9 accept or reject the placement of any person in a program "

10 Section 3. EFFECTIVE DATE. -- The effective date of the
11 provisions of this act is July 1, 1996.