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SENATE BILL 311

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Michael S. Sanchez

FOR THE CORRECTIONS OVERSIGHT AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING THE PAROLE BOARD WITH EXPRESS AUTHORITY TO REFER CERTAIN PAROLE VIOLATORS TO ALCOHOL OR DRUG TREATMENT PROGRAMS AS A NEW CONDITION OF PAROLE; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 31-21-14 NMSA 1978 (being Laws 1955, Chapter 232, Section 17, as amended) is amended to read:

"31-21-14. RETURN OF PAROLE VIOLATOR.--

A. At any time during a prisoner's release on parole, the board or the director may issue a warrant for the arrest of the released prisoner for violation of [~~any of~~] the conditions of release or issue a notice to appear to answer a charge of violation. The notice shall be served personally upon the prisoner. The warrant shall authorize the

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1     ~~[superintendent]~~ warden of the institution from which the  
2     prisoner was released to return the prisoner to the actual  
3     custody of the institution or to any other suitable detention  
4     facility designated by the board or the director. If the  
5     prisoner is out of the state, the warrant shall authorize the  
6     ~~[superintendent]~~ warden to return him to the state.

7             B. The director may arrest the prisoner without a  
8     warrant or may deputize ~~[any]~~ an officer with power of arrest  
9     to do so by giving him a written statement setting forth that  
10    the prisoner has, in the judgment of the director, violated the  
11    conditions of his release. ~~[Where]~~ When an arrest is made  
12    without a warrant, the prisoner shall not be returned to the  
13    institution unless authorized by the director or the board.  
14    Pending hearing as provided by law upon ~~[any]~~ a charge of  
15    violation, the prisoner shall remain incarcerated in the  
16    institution.

17            C. Upon arrest and detention, the board shall cause  
18    the prisoner to be promptly brought before it for a parole  
19    revocation hearing on the parole violation charged, under rules  
20    and regulations the board may adopt. If violation is  
21    established, the board may continue or revoke the parole or  
22    enter any other order as it sees fit. If the board determines  
23    that the prisoner violated a condition of his release regarding  
24    use of alcohol or drugs, the board may refer the prisoner to an  
25    alcohol or drug treatment program as a new condition of his

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release on parole.

D. A prisoner for whose return a warrant has been issued shall, if it is found that the warrant cannot be served, be a fugitive from justice. If it appears that he has violated the provisions of his release, the board shall determine whether the time from the date of the violation to the date of his arrest, or any part of it, shall be counted as time served under the sentence."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2004.