

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO CORRECTIONS; CLARIFYING PROVISIONS IN THE
CORRECTIONS POPULATION CONTROL ACT; PROVIDING FOR THE
ELECTION OF A CHAIRPERSON BY THE CORRECTIONS POPULATION
CONTROL COMMISSION; MODIFYING CONSIDERATIONS FOR RELEASE OF
NONVIOLENT OFFENDERS; REPEALING SUNSET.

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

Section 1. Section 33-2A-1 NMSA 1978 (being Laws 2002,
Chapter 8, Section 1) is amended to read:

"33-2A-1. SHORT TITLE.--Chapter 33, Article 2A NMSA
1978 may be cited as the "Corrections Population Control
Act"."

Section 2. Section 33-2A-2 NMSA 1978 (being Laws 2002,
Chapter 8, Section 2) is amended to read:

"33-2A-2. PURPOSE.--The purpose of the Corrections
Population Control Act is to establish a corrections
population control commission that shall operate as an
autonomous, nonpartisan body. The commission shall develop
and implement mechanisms to prevent the inmate population
from exceeding the rated capacity of any correctional
facility and shall take appropriate action when necessary to
effect the reduction of the inmate population."

Section 3. Section 33-2A-3 NMSA 1978 (being Laws 2002,
Chapter 8, Section 3) is amended to read:

1 "33-2A-3. DEFINITIONS.--As used in the Corrections
2 Population Control Act:

3 A. "commission" means the corrections population
4 control commission;

5 B. "female correctional facility" means:

6 (1) the women's correctional facility,
7 located in Grants; or

8 (2) any other female correctional facility
9 so designated by the corrections department;

10 C. "male correctional facility" means:

11 (1) the penitentiary of New Mexico, located
12 in Santa Fe;

13 (2) the central New Mexico correctional
14 facility, located in Los Lunas;

15 (3) the southern New Mexico correctional
16 facility, located in Las Cruces;

17 (4) the western New Mexico correctional
18 facility, located in Grants;

19 (5) the Roswell correctional facility,
20 located in Hagerman;

21 (6) the Guadalupe county correctional
22 facility, located in Santa Rosa;

23 (7) the Lea county correctional facility,
24 located in Hobbs; or

25 (8) any other male correctional facility so

1 designated by the corrections department;

2 D. "nonviolent offender" means:

3 (1) a person convicted only of possession of
4 a controlled substance, pursuant to the provisions of Section
5 30-31-23 NMSA 1978;

6 (2) a person incarcerated for violating the
7 conditions of the person's parole plan due to use or
8 possession of a controlled substance whose original
9 conviction was for commission of a nonviolent offense; or

10 (3) an inmate designated by the commission
11 as a nonviolent offender; provided that the offender was
12 convicted for the commission of a nonviolent offense, as that
13 term is defined in Subsection L of Section 33-2-34 NMSA 1978;
14 and

15 E. "rated capacity" means the actual general
16 population bed space, including only individual cells and
17 areas designed for the long-term housing of inmates,
18 available in a female correctional facility or a male
19 correctional facility as certified by the secretary of
20 corrections and subject to applicable state and federal law."

21 Section 4. Section 33-2A-4 NMSA 1978 (being Laws 2002,
22 Chapter 8, Section 4) is amended to read:

23 "33-2A-4. COMMISSION--CREATION--MEMBERSHIP--TERMS.--

24 A. The "corrections population control commission"
25 is created.

1 B. The commission shall be composed of seven
2 members:

3 (1) the secretary of corrections;

4 (2) a public official or private citizen
5 appointed by the chief justice of the New Mexico supreme
6 court;

7 (3) a public official or private citizen
8 appointed by the speaker of the house of representatives;

9 (4) a public official or private citizen
10 appointed by the president pro tempore of the senate;

11 (5) a public official or private citizen
12 appointed by the minority leader of the house of
13 representatives;

14 (6) a public official or private citizen
15 appointed by the minority leader of the senate; and

16 (7) a public official or private citizen
17 appointed by the governor.

18 C. The commission shall elect a chair and adopt
19 rules as necessary to carry out its duties. A majority of
20 the members of the commission constitutes a quorum for the
21 transaction of commission business.

22 D. An appointed member of the commission shall
23 serve until excused by the appointing authority. A vacancy
24 on the commission shall be filled by the appointing authority
25 that made the original appointment.

1 E. Following the initial appointments to the
2 commission, when a new individual assumes any of the
3 leadership positions set forth in Paragraphs (2) through (7)
4 of Subsection B of this section, that individual may make the
5 individual's own appointment to the commission to replace an
6 existing member.

7 F. The members of the commission shall be paid
8 pursuant to the provisions of the Per Diem and Mileage Act
9 and shall receive no other perquisite, compensation or
10 allowance."

11 Section 5. Section 33-2A-6 NMSA 1978 (being Laws 2002,
12 Chapter 8, Section 6) is amended to read:

13 "33-2A-6. OVERCROWDING--POPULATION CONTROL MECHANISM--
14 PROCEDURES.--When the inmate population of a female
15 correctional facility or a male correctional facility exceeds
16 one hundred percent of rated capacity for a period of thirty
17 consecutive days, the following measures shall be taken to
18 reduce capacity:

19 A. the corrections department shall engage in all
20 lawful and professionally appropriate efforts to reduce the
21 inmate population to one hundred percent of rated capacity;

22 B. if inmate population is still in excess of one
23 hundred percent of rated capacity after sixty consecutive
24 days, the secretary of corrections shall notify the
25 commission. Included in the notification shall be a list of

1 nonviolent offenders who are within one hundred eighty days
2 of their projected release date;

3 C. the commission shall convene within ten days to
4 consider the release of nonviolent offenders on the list
5 provided by the secretary of corrections. The commission
6 shall also discuss with the corrections department the impact
7 on the inmate population of possible changes in the
8 classification system and expanding incarceration
9 alternatives;

10 D. for nonviolent offenders approved by the
11 commission for release, the commission shall grant emergency
12 release credits in ten-day increments that shall be applied
13 to the sentences being served by the nonviolent offenders.
14 The commission shall order release of the appropriate number
15 of nonviolent offenders to reduce the inmate population; and

16 E. notwithstanding any other provisions of this
17 section, a nonviolent offender shall not be released:

18 (1) unless the nonviolent offender has a
19 parole plan pursuant to applicable parole board regulations;

20 (2) if the information that classifies the
21 offender as a nonviolent offender pursuant to Subsection D of
22 Section 33-2A-3 NMSA 1978 is discovered to be materially
23 inaccurate; or

24 (3) if the nonviolent offender was convicted
25 of a crime while incarcerated; or

