



SPONSOR:

BILL: _____

AMEND NMSA 31-19-1 AND NMSA 31-20-2 TO PROVIDE FOR A CHANGE SO THAT INMATES DO TIME AT A DEPARTMENT OF CORRECTIONS FACILITY ON MISDEMEANOR OFFENSES UNLESS THE SENTENCE IS 180 DAYS OR LESS. CURRENTLY, ALL SENTENCES LESS THAN 365 DAYS ARE SERVED IN JAILS.

Typically, inmates serving sentences for crimes classified as misdemeanors serve their time in “detention” facilities rather than “correctional” facilities. Detention facilities are not generally equipped to correct and rehabilitate inmates through reentry programming, however such programming and capacity is available in correctional facilities skilled in providing this type of service. Detention facilities are merely intended to detain inmates awaiting trial. Nevertheless, detention facilities are being yoked with the task of housing inmates who are serving sentences and in need of specific correction and rehabilitation. This practice is derived from NMSA 31-19-1, which directs county jails, at their cost, to provide detention services for sentenced misdemeanants for up to 364 days. Increasingly, court caseloads encourage plea deals that offer inmates misdemeanor charges in lieu of felony charges in exchange for speedier acceptance of guilty pleas. This phenomenon may attribute to recent year declines in New Mexico prison populations concurrent to increases in New Mexico jail populations.

Misdemeanants in detention facilities do not benefit from the effective and comprehensive reentry programs offered by the Department of Corrections. The State of New Mexico is fortunate to have a Department of Corrections with vanguard reentry programs attributing to a 46.7% three year reincarceration rate, which is better than the national average. Unfortunately, due to New Mexico Criminal Code 31-19-1 and 31-20-2, many of the state’s sentenced misdemeanants, serving more than 180 day sentences, are found in county jails where these programs are unavailable, rather than in state correctional facilities where they are better served. These convicted misdemeanants are unable to benefit from the programs offered to their counterparts in correctional facilities where programming to reduce recidivism and thereby increase public safety exist. Not only are the programs unavailable in county jails, but these jails become seriously overcrowded, and the resulting litigation costs for such overcrowded conditions are passed on to taxpayers.

Years ago, when the number of sentenced misdemeanants in local county jails did not adversely affect cost or crowding, local counties were able to assist. However, today county jail operations are costing local taxpayers millions of dollars each year and the facilities are significantly over crowded with many counties facing costly litigation. Concurrently the New Mexico Department of Corrections has vacant beds. In an effort to lower the costs of the criminal justice system and return more productive ex-offenders to society with a corresponding increase in public safety, this bill seeks to: amend NMSA 31-19-1 and NMSA 31-20-2 and terminate the unsustainable practice of housing misdemeanants sentenced to more than 180 days in county jails.

31-19-1. Sentencing authority[;] misdemeanors; imprisonment and fines; probation.

- A. Where the defendant has been convicted of a crime constituting a misdemeanor, the judge shall sentence the person:
 - 1. to be imprisoned in a corrections facility designated by the corrections department for any definite term that exceeds 180 days;

CONTINUATION PAGE 2, AMEND THE MISDEMEANOR SENTENCING STATUTE TO PROVIDE FOR A CHANGE SO THAT INMATES DO TIME AT A DOC FACILITY ON MISDEMEANOR OFFENSES UNLESS THE SENTENCE IS 180 DAYS OR LESS. CURRENTLY, ALL SENTENCES LESS THAN 365 DAYS ARE SERVED IN JAILS.

- 2. to be imprisoned in the county jail for a definite term of 180 days or less ~~than one year~~;
 - 3. or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both such imprisonment and fine in the discretion of the judge.
- B.** Where the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge.
- C.** When the court has deferred or suspended sentence, it shall order the defendant placed on supervised or unsupervised probation for all or some portion of the period of deferment or suspension.

31-20-2. Place of imprisonment; commitments.

A. Persons sentenced to imprisonment for a term of ~~one year~~ 181 days or more shall be imprisoned in a corrections facility designated by the corrections department, unless a new trial is granted ~~or a portion of the sentence is suspended so as to provide for imprisonment for not more than eighteen months~~; then the imprisonment may be in such place of incarceration, other than a corrections facility under the jurisdiction of the corrections department, as the sentencing judge, in his discretion, may prescribe; ~~provided that a sentence of imprisonment for one year or more but not more than eighteen months shall be subject to the provisions of Subsections D and E of this section and shall not be imposed unless the requirements set forth in Subsection D of this section are satisfied.~~