



SPONSOR:

BILL: _____

AMEND NMSA 31-20-2 TO PROVIDE ANY INMATE CONVICTED OF A FELONY OFFENSE SHALL SERVE THE SENTENCE IN A DEPARTMENT OF CORRECTIONS FACILITY REGARDLESS OF THE LENGTH OF SENTENCE IMPOSED.

Approximately 28% of the prisoners at the six New Mexico detention facilities are convicted felons (New Mexico Sentencing Commission, 2005). Due to a practice, developed from NMSA 31-19-1 and 31-20-1, originally intended to apply to misdemeanants serving terms of less than 364 days, felons serving sentences of less than 364 days are permitted to finish out their sentences in jail as well.

The New Mexico Department of Corrections is the more appropriate place to send felons. 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 request seeks to: amend NMSA 31-20-2 and terminate the unsustainable practice of housing sentenced felons in county jails.

County jails are attractive to felons due to the fact that sentences in county jails do not end with a remaining parole term to be served, during which the inmate is still accountable for extended periods of time. However, upon completing a jail sentence, a felon is left without services or support of any kind to immediately resume criminal behavior without the potential of a parole officer monitoring their compliance and checking on their behavior.

Prisons are better equipped to provide education, work detail, and other long term living conditions that detention facilities were simply not designed to provide.

There is also some evidence that suggests that violent gangs are migrating from “three-strike” states such as California to come here to New Mexico where laws are much more permissive. Once in New Mexico, gang members are arrested for low level felonies and permitted to serve their sentences in county jails where they can actively recruit and intimidate misdemeanants who might otherwise not be exposed to street and prison gangs. Sentenced felons also capitalize on the time they are permitted to serve in county jails by teaching misdemeanants how to become more sophisticated criminals. Felons teach misdemeanants police counter-attacks, victim ambushes, and drug manufacturing and distribution techniques; as well as criminal motives, drives, rationalizations and attitudes. County jails are thus becoming universities for crime where low-level and inexperienced misdemeanants graduate back to the community within months of arrest, prepared to commit more sophisticated and violent crimes on society. Despite costly attempts by counties to rehabilitate inexperienced offenders through providing programming aimed at reducing recidivism, misdemeanants jailed for such crimes as shoplifting and drug possession go to jail to join a gang or learn to commit violent crimes at the feet of “sentenced felons.”

Unlike jail populations, it is predicted that state prison populations may decrease in the future, or at the very least have a slower increase, because of three recent significant cultural shifts: 1) the decriminalization of marijuana, 2) comprehensive immigration reform, and 3) an increased effort to provide community based intensive supervision and treatment for high needs individuals (addicts or individuals with serious mental illness) with the aid of GPS tracking.

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Years ago, when the number of sentenced felons in local county jails did not adversely affect cost, crowding, or public safety, 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 overcrowded, with many facing costly litigation. Concurrently the New Mexico Department of Corrections has vacant beds and is the more appropriate place to send convicted felons.

There is a crisis of over-crowding at the Metropolitan Detention Center in Bernalillo County, NM. What once cost taxpayers less than \$20 million annually to operate now costs taxpayers more than \$70 million annually to operate (NM 2nd Judicial District Criminal Justice Plan, 2012). With time the costs associated with housing, medical care, feeding, security, and overall jail management also have continued to climb.

In order to contain costs and to improve living and working conditions at MDC and other county jails across the state, a comprehensive approach to adult criminal justice must be employed. This bill balances out the numbers sentenced to available beds in jails versus prisons, it is less expensive than moving inmates to facilities across state lines (approximately \$4 million/year to send 200 inmates), and it is less expensive than building additional facilities (\$9 million for temporary portables next to the current MDC location).

Below is the recommended amendment:

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

A. Persons sentenced to imprisonment for a term of one year 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. Notwithstanding any other provision of law, no individual convicted of a felony may serve their sentence in a county jail.

This bill seeks to: amend the statutory framework to provide that any inmate convicted of a felony shall serve the sentence in a Department of Corrections facility regardless of length of sentence imposed.