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SENATE BILL 145

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Bill B. O'Neill

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO COMMUNITY CORRECTIONS; ELIMINATING THE STATE
SELECTION PANEL AND THE LOCAL SELECTION PANEL; MODIFYING THE
APPLICATION REVIEW PANEL; CLARIFYING PROVISIONS IN THE ADULT
COMMUNITY CORRECTIONS ACT.

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

SECTION 1. Section 33-9-5 NMSA 1978 (being Laws 1983,
Chapter 202, Section 5, as amended) is amended to read:

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

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

- (1) the application is for funding a program

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1 with priority use being for criminal offenders [~~selected~~
2 ~~pursuant to the provisions of Section 33-9-7 NMSA 1978~~];

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

13 (3) the applicant demonstrates the support of
14 key components of the criminal justice system;

15 (4) the applicant, if a private organization,
16 demonstrates the support of the county and municipality where
17 the program will provide services;

18 (5) the applicant certifies that it will
19 utilize volunteer services as an integral portion of the
20 program to the maximum extent feasible; and

21 (6) no class A county as defined in Section
22 4-44-1 NMSA 1978, alone or in conjunction with any municipality
23 within a class A county, shall receive more than forty-nine
24 percent of any money appropriated to the fund.

25 B. [~~Notwithstanding the provisions of Subsection A~~

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1 ~~of this section:~~

2 (1)] The department may [~~utilize~~] use the fund to
3 place individuals eligible for probation or parole in
4 community-based settings. The department may also [~~utilize~~]
5 use the fund to place criminal offenders within twelve months
6 of eligibility for parole in community-based settings; provided
7 that the criminal offender has never been convicted of a felony
8 offense involving the use of a firearm. The adult parole board
9 may, in its discretion, require participation by a criminal
10 offender in a program as a condition of parole pursuant to the
11 provisions of Section 31-21-10 NMSA 1978. [~~and~~

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

18 [~~G.~~] D. The department may [~~utilize not more than~~
19 ~~twenty-five percent of the fund to~~] contract directly for
20 programs, including programs for New Mexico Indian tribes and
21 pueblos for diversion of state law offenders, [~~or to~~] and may
22 establish and operate adult community corrections programs
23 [~~operated by the department; provided, however, that the~~
24 ~~department may utilize up to sixty percent of the fund to~~
25 ~~operate adult community corrections programs if, after a~~

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

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

9 SECTION 2. Section 33-9-6 NMSA 1978 (being Laws 1983,
10 Chapter 202, Section 6, as amended) is amended to read:

11 "33-9-6. APPLICATION REVIEW PANEL.--The department shall
12 establish a panel to review all applications for ~~[funding]~~
13 grants under the Adult Community Corrections Act. The panel
14 shall make recommendations to the secretary of corrections
15 regarding each application. ~~[The panel shall be appointed by~~
16 ~~the secretary of corrections and shall include representatives~~
17 ~~of corrections, the judiciary, law enforcement, local and~~
18 ~~tribal government, interested organizations and the general~~
19 ~~public. The panel shall work jointly with any other panel~~
20 ~~established pursuant to Section 33-9A-4.]"~~

21 SECTION 3. Section 33-9-9 NMSA 1978 (being Laws 1983,
22 Chapter 202, Section 9, as amended) is amended to read:

23 "33-9-9. SENTENCING--PLACEMENT OF OFFENDER.--

24 A. In every case where the commitment of a person
25 to the department is contemplated by a sentencing judge and the

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1 offender meets criteria for placement in community corrections,
2 [~~a report shall be prepared by~~] the adult probation and parole
3 division of the department shall, at the request of the judge,
4 prepare a report containing a recommendation regarding a
5 community corrections placement or complete a diagnostic
6 evaluation [~~shall be completed by the department~~] containing
7 the recommendation of the department regarding that placement,
8 including a statement that the criminal offender has been
9 approved for a program [~~by the state or local selection panel~~].
10 The sentencing judge shall consider [~~that~~] the report or
11 evaluation prior to making [~~that~~] the commitment.

12 B. At a sentencing hearing, if a judge of a court
13 of competent jurisdiction determines that placement in
14 community corrections is appropriate, [~~he~~] the judge shall
15 defer or suspend the sentence and, as a condition of probation,
16 require an individual to serve a period of time in a community
17 corrections program.

18 C. The department may place an offender serving a
19 term of probation or parole into a community corrections
20 program if the offender meets the department's criteria for
21 such a placement and the sentencing judge or parole board has
22 not ordered otherwise."

23 SECTION 4. REPEAL.--Sections 33-9-7 and 33-9-8 NMSA 1978
24 (being Laws 1983, Chapter 202, Sections 7 and 8, as amended)
25 are repealed.

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SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.