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SENATE BILL 192

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Daniel A. Ivey-Soto

AN ACT

RELATING TO INCARCERATION; PROVIDING FOR JUDICIAL DISCRETION TO
RELEASE INMATES WHO ARE PREGNANT OR LACTATING.

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

SECTION 1. [NEW MATERIAL] RELEASE OF INMATES WHO ARE
PREGNANT OR LACTATING.--

A. The court shall consider an incarcerated
person's pregnancy or lactation status when determining whether
the inmate is eligible for release or bond and in the
computation of good time credit. At the court's discretion, a
person who is due to give birth may be granted release from
incarceration in a prison or jail prior to the presumptive
birth date of the child and for up to eighteen months after the
birth of the child, or for as long as medically indicated,
unless the court makes a finding that the inmate's release

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1 would present a flight risk or a danger to public safety that
2 outweighs the benefits of release to the incarcerated person
3 and the child. A presumption shall be made in favor of release
4 for an incarcerated person who is pregnant or lactating. For
5 the duration of release, an incarcerated person released
6 pursuant to this section shall be placed on the least
7 restrictive conditions of release necessary to ensure return to
8 custody. After the period of release, the incarcerated person
9 shall serve any remaining portion of the person's sentence.

10 B. As used in this section, "release" means:

11 (1) custodial release, which is release under
12 such court-imposed restrictions as to satisfy the court that
13 the person remains in custody while released; and

14 (2) noncustodial release, which is release
15 under such conditions that are not considered custodial.

16 SECTION 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019.