

1 HOUSE BILL 242

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Jane E. Powdrell-Culbert

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10 AN ACT

11 RELATING TO CRIMINAL SENTENCING; LIMITING THE REDUCTION,  
12 DEFERMENT OR SUSPENSION OF SENTENCES OR THE GRANTING OF  
13 CONDITIONAL DISCHARGES FOR CERTAIN CRIMES.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 30-16-2 NMSA 1978 (being Laws 1963,  
17 Chapter 303, Section 16-2, as amended) is amended to read:

18 "30-16-2. ROBBERY.--Robbery consists of the theft of  
19 anything of value from the person of another or from the  
20 immediate control of another by use or threatened use of force  
21 or violence.

22 Whoever commits robbery is guilty of a third degree  
23 felony.

24 Whoever commits robbery while armed with a deadly weapon  
25 is, for the first offense, guilty of a second degree felony

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1 and, notwithstanding the provisions of Section 31-18-15 NMSA  
2 1978, shall be sentenced to a minimum term of imprisonment of  
3 three years, which shall not be suspended or deferred; and for  
4 second and subsequent offenses, [~~is~~] guilty of a first degree  
5 felony and, notwithstanding the provisions of Section 31-18-15  
6 NMSA 1978, shall be sentenced to a minimum term of imprisonment  
7 of six years, which shall not be suspended or deferred."

8 SECTION 2. Section 30-16-4 NMSA 1978 (being Laws 1963,  
9 Chapter 303, Section 16-4) is amended to read:

10 "30-16-4. AGGRAVATED BURGLARY.--Aggravated burglary  
11 consists of the unauthorized entry of [~~any~~] a vehicle,  
12 watercraft, aircraft, dwelling or other structure, movable or  
13 immovable, with intent to commit [~~any~~] a felony or theft  
14 [~~therein~~] in it and the person either:

15 A. is armed with a deadly weapon;

16 B. after entering, [~~arms himself~~] is armed with a  
17 deadly weapon; or

18 C. commits a battery upon [~~any~~] a person while in  
19 [~~such~~] the place or in entering or leaving [~~such~~] the place.

20 Whoever commits aggravated burglary is guilty of a second  
21 degree felony and, notwithstanding the provisions of Section  
22 31-18-15 NMSA 1978, shall be sentenced to a minimum term of  
23 imprisonment of three years, which shall not be suspended or  
24 deferred."

25 SECTION 3. Section 31-20-13 NMSA 1978 (being Laws 1993,

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1 Chapter 283, Section 2, as amended) is amended to read:

2 "31-20-13. CONDITIONAL DISCHARGE ORDER--EXCEPTION.--

3 A. When a person who has not been previously  
4 convicted of a felony offense is found guilty of a crime for  
5 which a deferred or suspended sentence is authorized, the court  
6 may, without entering an adjudication of guilt, enter a  
7 conditional discharge order and place the person on probation  
8 on terms and conditions authorized by Sections 31-20-5 and  
9 31-20-6 NMSA 1978. A conditional discharge order may only be  
10 made available once with respect to any person.

11 B. If the person violates any of the conditions of  
12 probation, the court may enter an adjudication of guilt and  
13 proceed as otherwise provided by law.

14 C. The court shall not enter a conditional  
15 discharge order for a person found guilty of driving a motor  
16 vehicle while under the influence of intoxicating liquor or  
17 drugs pursuant to the provisions of Section 66-8-102 NMSA 1978.

18 D. The court shall not enter a conditional  
19 discharge order for a person found guilty of robbery while  
20 armed with a deadly weapon or aggravated burglary as set forth  
21 in Sections 30-16-2 and 30-16-4 NMSA 1978."

22 SECTION 4. APPLICABILITY.--The provisions of this act  
23 apply to persons who are convicted on or after July 1, 2018.

24 SECTION 5. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2018.

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