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BILL

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

DISCUSSION DRAFT

FOR THE CRIMINAL JUSTICE REFORM SUBCOMMITTEE

AN ACT

RELATING TO SENTENCING AUTHORITY; CREATING THE SENTENCE OF HIGH MISDEMEANOR.

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

SECTION 1. Section 31-19-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-4, as amended) is amended to read:

"31-19-1. SENTENCING AUTHORITY--MISDEMEANORS--  
IMPRISONMENT AND FINES--PROBATION.--

A. Where the defendant has been convicted of a crime constituting a high misdemeanor, the judge shall sentence the person to be imprisoned for a definite term less than fifteen months or to the payment of a fine of not more than two thousand five hundred dollars (\$2,500) or to both such imprisonment and fine in the discretion of the judge.

~~A.~~ B. Where the defendant has been convicted of a

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1 crime constituting a misdemeanor, the judge shall sentence the  
2 person to be imprisoned in the county jail for a definite term  
3 less than one year or to the payment of a fine of not more than  
4 one thousand dollars (\$1,000) or to both such imprisonment and  
5 fine in the discretion of the judge.

6 ~~[B-]~~ C. Where the defendant has been convicted of a  
7 crime constituting a petty misdemeanor, the judge shall  
8 sentence the person to be imprisoned in the county jail for a  
9 definite term not to exceed six months or to the payment of a  
10 fine of not more than five hundred dollars (\$500) or to both  
11 such imprisonment and fine in the discretion of the judge.

12 ~~[G-]~~ D. When the court has deferred or suspended  
13 sentence, it shall order the defendant placed on supervised or  
14 unsupervised probation for all or some portion of the period of  
15 deferment or suspension."

16 **SECTION 2.** Section 35-3-4 NMSA 1978 (being Laws 1968,  
17 Chapter 62, Section 49, as amended by Laws 1985, Chapter 59,  
18 Section 1 and also by Laws 1985, Chapter 147, Section 1) is  
19 amended to read:

20 "35-3-4. JURISDICTION--CRIMINAL ACTIONS.--

21 A. Magistrates have jurisdiction in all cases of  
22 high misdemeanors, misdemeanors and petty misdemeanors,  
23 including offenses and complaints under ordinances of a county.  
24 Magistrates also have jurisdiction in any other criminal action  
25 where jurisdiction is specifically granted by law, and they may

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1 hold preliminary examinations in any criminal action where  
2 authorized by law.

3 B. Magistrates have jurisdiction over all offenses  
4 and complaints under ordinances of a municipality and may issue  
5 subpoenas and warrants and punish for contempt if that  
6 municipality has adopted an effective ordinance to provide for  
7 magistrate jurisdiction over municipal ordinances pursuant to  
8 the provisions of Subsection B of Section 35-14-1 NMSA 1978.

9 C. In any criminal action in the magistrate court  
10 [~~which~~] that is beyond the jurisdiction of the magistrate  
11 court, the magistrate may commit to jail, discharge or  
12 recognize the defendant to appear before the district court as  
13 provided by law. Whenever the defendant is bound over to the  
14 district court, the magistrate shall forthwith deliver to the  
15 clerk of the district court a transcript of all proceedings in  
16 the magistrate court in the action.

17 D. In any criminal action over which the magistrate  
18 has subject matter jurisdiction, as provided in Subsection A of  
19 this section, process may be served upon the defendant wherever  
20 [~~he~~] the defendant resides or may be found within the state."

21 SECTION 3. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2016.