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SENATE BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PAROLE; REVISING THE PAROLE BOARD'S PROCEDURE FOR
CONSIDERING, GRANTING OR DENYING PAROLE TO CERTAIN INMATES.

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

SECTION 1. Section 31-21-10 NMSA 1978 (being Laws 1980,
Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to
life imprisonment [~~becomes eligible for a parole hearing~~] shall
be paroled after the inmate has served thirty years of the
sentence [~~Before ordering the parole of an inmate sentenced to~~
~~life imprisonment~~] unless the board makes a finding that the
inmate is unable or unwilling to fulfill the obligations of a
law-abiding citizen. The board shall enter specific findings
in support of its decision after:

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1 (1) [~~interview~~] interviewing the inmate at the
2 institution where the inmate is committed; and

3 (2) [~~consider~~] considering all pertinent
4 information concerning the inmate, including

5 [~~(a) the circumstances of the offense;~~

6 [~~(b) mitigating and aggravating~~
7 ~~circumstances;~~

8 [~~(c) whether a deadly weapon was used in~~
9 ~~the commission of the offense;~~

10 [~~(d) whether the inmate is a habitual~~
11 ~~offender;~~

12 [~~(e) the reports filed under Section~~
13 ~~31-21-9 NMSA 1978; and~~

14 [~~(f) the~~] reports of [~~such physical and~~]
15 mental examinations [~~as have been~~] of the inmate made while the
16 inmate was held in an institution

17 [~~(3) make a finding that a parole is in the~~
18 ~~best interest of society and the inmate; and~~

19 [~~(4) make a finding that~~] and whether the
20 inmate is able and willing to fulfill the obligations of a law-
21 abiding citizen.

22 B. The board shall not deny parole to an inmate who
23 was sentenced to life imprisonment based solely on the fact
24 that the inmate intentionally took the life of another person.

25 C. If parole is denied, the inmate sentenced to

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1 life imprisonment shall again become entitled to a parole
2 hearing at two-year intervals. The board may, on its own
3 motion, reopen any case in which a hearing has already been
4 granted and parole denied.

5 ~~[B-]~~ D. Unless the board finds that it is in the
6 best interest of society and the parolee to reduce the period
7 of parole, a person who was sentenced to life imprisonment
8 shall be required to undergo a minimum period of parole of five
9 years. During the period of parole, the person shall be under
10 the guidance and supervision of the board.

11 ~~[G-]~~ E. Only an inmate of an institution who was
12 sentenced to life imprisonment without possibility of release
13 or parole is ~~[not eligible]~~ ineligible for parole and shall
14 remain incarcerated for the entirety of the inmate's natural
15 life.

16 ~~[D-]~~ F. Except for certain sex offenders as
17 provided in Section 31-21-10.1 NMSA 1978, an inmate who was
18 convicted of a first, second or third degree felony and who has
19 served the sentence of imprisonment imposed by the court in an
20 institution designated by the corrections department shall be
21 required to undergo a two-year period of parole. An inmate who
22 was convicted of a fourth degree felony and who has served the
23 sentence of imprisonment imposed by the court in an institution
24 designated by the corrections department shall be required to
25 undergo a one-year period of parole. During the period of

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1 parole, the person shall be under the guidance and supervision
2 of the board.

3 ~~[E-]~~ G. Every person while on parole shall remain
4 in the legal custody of the institution from which the person
5 was released but shall be subject to the orders of the board.
6 The board shall furnish to each inmate as a prerequisite to
7 release under its supervision a written statement of the
8 conditions of parole that shall be accepted and agreed to by
9 the inmate as evidenced by the inmate's signature affixed to a
10 duplicate copy to be retained in the files of the board. The
11 board shall also require as a prerequisite to release the
12 submission and approval of a parole plan. If an inmate refuses
13 to affix the inmate's signature to the written statement of the
14 conditions of parole or does not have an approved parole plan,
15 the inmate shall not be released and shall remain in the
16 custody of the institution in which the inmate has served the
17 inmate's sentence, excepting parole, until such time as the
18 period of parole the inmate was required to serve, less
19 meritorious deductions, if any, expires, at which time the
20 inmate shall be released from that institution without parole,
21 or until such time that the inmate evidences acceptance and
22 agreement to the conditions of parole as required or receives
23 approval for the inmate's parole plan or both. Time served
24 from the date that an inmate refuses to accept and agree to the
25 conditions of parole or fails to receive approval for the

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1 inmate's parole plan shall reduce the period, if any, to be
2 served under parole at a later date. If the district court has
3 ordered that the inmate make restitution to a victim as
4 provided in Section 31-17-1 NMSA 1978, the board shall include
5 restitution as a condition of parole. The board shall also
6 personally apprise the inmate of the conditions of parole and
7 the inmate's duties relating thereto.

8 ~~[F-]~~ H. When a person on parole has performed the
9 obligations of the person's release for the period of parole
10 provided in this section, the board shall make a final order of
11 discharge and issue the person a certificate of discharge.

12 ~~[G-]~~ I. Pursuant to the provisions of Section
13 31-18-15 NMSA 1978, the board shall require the inmate as a
14 condition of parole:

15 (1) to pay the actual costs of parole services
16 to the adult probation and parole division of the corrections
17 department for deposit to the corrections department intensive
18 supervision fund not exceeding one thousand eight hundred
19 dollars (\$1,800) annually to be paid in monthly installments of
20 not less than twenty-five dollars (\$25.00) and not more than
21 one hundred fifty dollars (\$150), as set by the appropriate
22 district supervisor of the adult probation and parole division,
23 based upon the financial circumstances of the defendant. The
24 defendant's payment of the supervised parole costs shall not be
25 waived unless the board holds an evidentiary hearing and finds

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1 that the defendant is unable to pay the costs. If the board
2 waives the defendant's payment of the supervised parole costs
3 and the defendant's financial circumstances subsequently change
4 so that the defendant is able to pay the costs, the appropriate
5 district supervisor of the adult probation and parole division
6 shall advise the board and the board shall hold an evidentiary
7 hearing to determine whether the waiver should be rescinded;
8 and

9 (2) to reimburse a law enforcement agency or
10 local crime stopper program for the amount of any reward paid
11 by the agency or program for information leading to the
12 inmate's arrest, prosecution or conviction.

13 [~~H.~~] J. The provisions of this section shall apply
14 to all inmates except geriatric, permanently incapacitated and
15 terminally ill inmates eligible for the medical and geriatric
16 parole program as provided by the Parole Board Act."

17 **SECTION 2. APPLICABILITY.**--The provisions of this act
18 apply to a person incarcerated on or after July 1, 2019.

19 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2019.