

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 2, 3, 4, 5 & 8

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

AN ACT

RELATING TO SEX OFFENDERS; CREATING A SEX OFFENDER MANAGEMENT BOARD WITHIN THE NEW MEXICO SENTENCING COMMISSION; PROVIDING DUTIES; REVISING THE ELEMENTS OF THE CRIME OF KIDNAPPING; PROVIDING INCREASED PENALTIES FOR CRIMINAL SEXUAL PENETRATION IN THE SECOND OR THIRD DEGREE WHEN THE VICTIM IS A CHILD THIRTEEN TO EIGHTEEN YEARS OF AGE; CREATING A NEW OFFENSE KNOWN AS CRIMINAL SEXUAL CONTACT OF A MINOR IN THE SECOND DEGREE; PROVIDING INCREASED PENALTIES FOR CRIMINAL SEXUAL CONTACT OF A MINOR IN THE THIRD DEGREE; PROVIDING MINIMUM, MANDATORY PENALTIES; PROVIDING THAT A SEX OFFENDER MAY BE PLACED ON PROBATION FOR A PERIOD OF UP TO TWENTY YEARS; ESTABLISHING FACTORS FOR THE DISTRICT COURT TO CONSIDER WHEN DETERMINING THE DURATION, TERMS AND CONDITIONS OF PROBATION; PROVIDING THAT A SEX OFFENDER MAY BE PLACED ON PAROLE FOR A PERIOD OF UP TO TWENTY YEARS; ESTABLISHING FACTORS FOR THE PAROLE BOARD TO

. 148607. 4

underscored material = new
[bracketed material] = delete

HJC/HB 2, 3, 4, 5 & 8

1 CONSIDER WHEN DETERMINING THE DURATION, TERMS AND CONDITIONS OF
2 PAROLE; PROVIDING CONFORMING AMENDMENTS TO EXISTING LAWS;
3 AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. A new section of Chapter 9, Article 3 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] SEX OFFENDER MANAGEMENT BOARD-- CREATION--
9 MEMBERSHIP-- DUTIES. --

10 A. There is created within the New Mexico
11 sentencing commission the "sex offender management board".
12 Members of the sex offender management board who are not
13 members of the New Mexico sentencing commission, whose
14 membership is set forth in Section 9-3-10 NMSA 1978, shall not
15 be voting members of the New Mexico sentencing commission.

16 B. The sex offender management board shall be
17 composed of the following members or their designees:

- 18 (1) the attorney general;
19 (2) a district attorney appointed by the
20 district attorneys association of New Mexico;
21 (3) the chief public defender;
22 (4) a district court judge appointed by the
23 district court judge's association of New Mexico;
24 (5) the secretary of corrections;
25 (6) the secretary of health;

. 148607. 4

1 (7) the secretary of children, youth and
2 families;

3 (8) one public member appointed by the
4 governor who is a board member of a New Mexico victims
5 organization;

6 (9) two representatives appointed by the
7 governor who are mental health professionals licensed to
8 practice in New Mexico. One of the mental health professionals
9 shall be a member of the association for the treatment of
10 sexual abusers and one shall be a juvenile sex offender
11 treatment specialist;

12 (10) a representative appointed by the
13 governor from the adult probation and parole division of the
14 corrections department who has expertise in the supervision of
15 sex offenders;

16 (11) a representative appointed by the
17 governor from the law enforcement community who has expertise
18 regarding sex offender community notification, registration,
19 tracking and monitoring;

20 (12) a representative appointed by the
21 governor who is affiliated with a civil liberties organization;
22 and

23 (13) a representative appointed by the
24 governor who is affiliated with a faith-based organization.

25 C. The sex offender management board shall report

. 148607. 4

1 its findings and recommendations to the New Mexico sentencing
2 commission on a quarterly basis. The New Mexico sentencing
3 commission shall vote to approve, disapprove or revise the
4 recommendations of the board.

5 D. The sex offender management board shall:

6 (1) hold meetings at times and for periods as
7 the board deems necessary to accomplish its objectives, but
8 shall meet at least eight times a year;

9 (2) develop and prescribe a standard procedure
10 for the identification and evaluation of convicted sex
11 offenders. The procedure shall include behavior management,
12 monitoring, treatment and program compliance for sex offenders.
13 The board shall develop and recommend measures of success;

14 (3) develop and recommend guidelines and
15 standards for the treatment of sex offenders that can be
16 utilized by offenders who are placed on probation, incarcerated
17 with the corrections department, placed on parole or placed in
18 a community corrections program. The guidelines and standards
19 shall include a monitoring process and a plan for developing
20 treatment programs for sex offenders, including determining the
21 duration, terms and conditions of probation and parole for sex
22 offenders;

23 (4) create a risk assessment-screening tool
24 and program to assist sentencing of sex offenders, including
25 determining the duration, terms and conditions of probation and

1 parole for sex offenders;

2 (5) develop guidelines and standards for
3 monitoring sex offenders who are undergoing evaluation or
4 treatment, including behavioral monitoring;

5 (6) develop criteria for measuring a sex
6 offender's progress in treatment programs. The parole board
7 shall use the criteria approved by the New Mexico sentencing
8 commission to determine whether a sex offender may
9 appropriately be discharged from parole;

10 (7) develop a standardized procedure for the
11 identification and evaluation of juvenile sex offenders. The
12 procedure shall include behavior management, monitoring,
13 treatment and program compliance for juvenile sex offenders.
14 The board shall develop and implement measures of success;

15 (8) develop and recommend guidelines and
16 standards for the treatment of juvenile sex offenders who are
17 placed on probation, committed to a state agency, placed on
18 parole or placed in a community corrections program;

19 (9) research and analyze safety issues raised
20 when sex offenders live in a community;

21 (10) study and consider the viability and
22 legality of a civil commitment program for sex offenders;

23 (11) research and determine the feasibility
24 and legality of implementing indeterminate sentencing for sex
25 offenders;

. 148607. 4

1 (12) study the use of clinical polygraph
2 testing as a means to evaluate sex offenders;

3 (13) evaluate sex offender treatment programs
4 administered by state agencies and recommend changes, if
5 needed, in those treatment programs; and

6 (14) review the provisions of the Sex Offender
7 Notification and Registration Act and recommend changes, if
8 needed, to that act.

9 E. The members of the sex offender management board
10 shall be paid pursuant to the Per Diem and Mileage Act and
11 shall receive no other perquisite, compensation or allowance. "

12 Section 2. Section 30-4-1 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 4-1, as amended) is amended to read:

14 "30-4-1. KIDNAPPING. --

15 A. Kidnapping is the unlawful taking, restraining,
16 transporting or confining of a person, by force, intimidation
17 or deception, with intent:

18 (1) that the victim be held for ransom;

19 (2) that the victim be held as a hostage or
20 shield and confined against his will;

21 (3) that the victim be held to service against
22 the victim's will; or

23 (4) to inflict death, physical injury or a
24 sexual offense on the victim.

25 B. Whoever commits kidnapping is guilty of a first

1 degree felony, except that he is guilty of a second degree
2 felony when he voluntarily frees the victim in a safe place and
3 does not inflict [~~great bodily harm~~] physical injury or a
4 sexual offense upon the victim."

5 Section 3. Section 30-9-11 NMSA 1978 (being Laws 1975,
6 Chapter 109, Section 2, as amended) is amended to read:

7 "30-9-11. CRIMINAL SEXUAL PENETRATION. --

8 A. Criminal sexual penetration is the unlawful and
9 intentional causing of a person to engage in sexual
10 intercourse, cunnilingus, fellatio or anal intercourse or the
11 causing of penetration, to any extent and with any object, of
12 the genital or anal openings of another, whether or not there
13 is any emission.

14 B. Criminal sexual penetration does not include
15 medically indicated procedures.

16 C. Criminal sexual penetration in the first degree
17 consists of all sexual penetration perpetrated:

- 18 (1) on a child under thirteen years of age; or
19 (2) by the use of force or coercion that
20 results in great bodily harm or great mental anguish to the
21 victim.

22 Whoever commits criminal sexual penetration in the first
23 degree is guilty of a first degree felony.

24 D. Criminal sexual penetration in the second degree
25 consists of all criminal sexual penetration perpetrated:

. 148607. 4

1 (1) on a child thirteen to eighteen years of
2 age when the perpetrator is in a position of authority over the
3 child and uses this authority to coerce the child to submit;

4 (2) on an inmate confined in a correctional
5 facility or jail when the perpetrator is in a position of
6 authority over the inmate;

7 (3) by the use of force or coercion that
8 results in personal injury to the victim;

9 (4) by the use of force or coercion when the
10 perpetrator is aided or abetted by one or more persons;

11 (5) in the commission of any other felony; or

12 (6) when the perpetrator is armed with a
13 deadly weapon.

14 Whoever commits criminal sexual penetration in the second
15 degree, is guilty of a second degree felony. Whoever commits
16 criminal sexual penetration in the second degree when the
17 victim is a child who is thirteen to eighteen years of age is
18 guilty of a second degree felony for a sexual offense against a
19 child and, notwithstanding the provisions of Section 31-18-15
20 NMSA 1978, shall be sentenced to a minimum term of imprisonment
21 of three years, which shall not be suspended or deferred. The
22 imposition of a minimum, mandatory term of imprisonment
23 pursuant to the provisions of this subsection shall not be
24 interpreted to preclude the imposition of sentencing
25 enhancements pursuant to the provisions of Sections 31-18-17,

. 148607. 4

1 31-18-25 and 31-18-26 NMSA 1978.

2 E. Criminal sexual penetration in the third degree
3 consists of all criminal sexual penetration perpetrated through
4 the use of force or coercion.

5 Whoever commits criminal sexual penetration in the third
6 degree is guilty of a third degree felony. Whoever commits
7 criminal sexual penetration in the third degree when the victim
8 is a child who is thirteen to eighteen years of age is guilty
9 of a third degree felony for a sexual offense against a child.

10 F. Criminal sexual penetration in the fourth degree
11 consists of all criminal sexual penetration:

12 (1) not defined in Subsections C through E of
13 this section perpetrated on a child thirteen to sixteen years
14 of age when the perpetrator is at least eighteen years of age
15 and is at least four years older than the child and not the
16 spouse of that child; or

17 (2) perpetrated on a child thirteen to
18 eighteen years of age when the perpetrator, who is a licensed
19 school employee, an unlicensed school employee, a school
20 contract employee, a school health service provider or a school
21 volunteer, and who is at least eighteen years of age and is at
22 least four years older than the child and not the spouse of
23 that child, learns while performing services in or for a school
24 that the child is a student in a school.

25 Whoever commits criminal sexual penetration in the fourth

. 148607. 4

1 degree is guilty of a fourth degree felony."

2 Section 4. Section 30-9-13 NMSA 1978 (being Laws 1975,
3 Chapter 109, Section 4, as amended) is amended to read:

4 "30-9-13. CRIMINAL SEXUAL CONTACT OF A MINOR. --

5 A. Criminal sexual contact of a minor is the
6 unlawful and intentional touching of or applying force to the
7 intimate parts of a minor or the unlawful and intentional
8 causing of a minor to touch one's intimate parts. For the
9 purposes of this section, "intimate parts" means the primary
10 genital area, groin, buttocks, anus or breast.

11 B. Criminal sexual contact of a minor in the second
12 degree consists of all criminal sexual contact of the unclothed
13 intimate parts of a minor perpetrated:

14 (1) on a child under thirteen years of age; or

15 (2) on a child thirteen to eighteen years of
16 age when:

17 (a) the perpetrator is in a position of
18 authority over the child and uses that authority to coerce the
19 child to submit;

20 (b) the perpetrator uses force or
21 coercion that results in personal injury to the child;

22 (c) the perpetrator uses force or
23 coercion and is aided or abetted by one or more persons; or

24 (d) the perpetrator is armed with a
25 deadly weapon.

1 Whoever commits criminal sexual contact of a minor in the
2 second degree is guilty of a second degree felony for a sexual
3 offense against a child and, notwithstanding the provisions of
4 Section 31-18-15 NMSA 1978, shall be sentenced to a minimum
5 term of imprisonment of three years, which shall not be
6 suspended or deferred. The imposition of a minimum, mandatory
7 term of imprisonment pursuant to the provisions of this
8 subsection shall not be interpreted to preclude the imposition
9 of sentencing enhancements pursuant to the provisions of
10 Sections 31-18-17, 31-18-25 and 31-18-26 NMSA 1978.

11 [A-] C. Criminal sexual contact of a minor in the
12 third degree consists of all criminal sexual contact of a minor
13 perpetrated:

14 (1) on a child under thirteen years of age; or

15 (2) on a child thirteen to eighteen years of
16 age when:

17 (a) the perpetrator is in a position of
18 authority over the child and uses this authority to coerce the
19 child to submit;

20 (b) the perpetrator uses force or
21 coercion which results in personal injury to the child;

22 (c) the perpetrator uses force or
23 coercion and is aided or abetted by one or more persons; or

24 (d) the perpetrator is armed with a
25 deadly weapon.

. 148607. 4

1 Whoever commits criminal sexual contact of a minor in the
2 third degree is guilty of a third degree felony for a sexual
3 offense against a child.

4 ~~[B.]~~ D. Criminal sexual contact of a minor in the
5 fourth degree consists of all criminal sexual contact:

6 (1) not defined in Subsection [A] C of this
7 section, of a child thirteen to eighteen years of age
8 perpetrated with force or coercion; or

9 (2) of a minor perpetrated on a child thirteen
10 to eighteen years of age when the perpetrator, who is a
11 licensed school employee, an unlicensed school employee, a
12 school contract employee, a school health service provider or a
13 school volunteer, and who is at least eighteen years of age and
14 is at least four years older than the child and not the spouse
15 of that child, learns while performing services in or for a
16 school that the child is a student in a school.

17 Whoever commits criminal sexual contact in the fourth
18 degree is guilty of a fourth degree felony. "

19 Section 5. Section 31-18-15 NMSA 1978 (being Laws 1977,
20 Chapter 216, Section 4, as amended) is amended to read:

21 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
22 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
23 DEDUCTIONS. --

24 A. If a person is convicted of a noncapital felony,
25 the basic sentence of imprisonment is as follows:

1 (1) for a first degree felony, eighteen years
2 imprisonment;

3 (2) for a second degree felony resulting in
4 the death of a human being, fifteen years imprisonment;

5 (3) for a second degree felony for a sexual
6 offense against a child, fifteen years imprisonment;

7 [~~(3)~~] (4) for a second degree felony, nine
8 years imprisonment;

9 [~~(4)~~] (5) for a third degree felony resulting
10 in the death of a human being, six years imprisonment;

11 (6) for a third degree felony for a sexual
12 offense against a child, six years imprisonment;

13 [~~(5)~~] (7) for a third degree felony, three
14 years imprisonment; or

15 [~~(6)~~] (8) for a fourth degree felony, eighteen
16 months imprisonment.

17 B. The appropriate basic sentence of imprisonment
18 shall be imposed upon a person convicted [~~of a first, second,~~
19 ~~third or fourth degree felony or a second or third degree~~
20 ~~felony resulting in the death of a human being]~~ and sentenced
21 pursuant to Subsection A of this section, unless the court
22 alters [~~such~~] the sentence pursuant to the provisions of
23 Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978.

24 C. The court shall include in the judgment and
25 sentence of each person convicted [~~of a first, second, third or~~

. 148607. 4

1 ~~fourth degree felony or a second or third degree felony~~
2 ~~resulting in the death of a human being]~~ and sentenced to
3 imprisonment in a corrections facility designated by the
4 corrections department authority for a period of parole to be
5 served in accordance with the provisions of Section 31-21-10
6 NMSA 1978 after the completion of any actual time of
7 imprisonment and authority to require, as a condition of
8 parole, the payment of the costs of parole services and
9 reimbursement to a law enforcement agency or local crime
10 stopper program in accordance with the provisions of that
11 section. The period of parole shall be deemed to be part of
12 the sentence of the convicted person in addition to the basic
13 sentence imposed pursuant to Subsection A of this section
14 together with alterations, if any, pursuant to the provisions
15 of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA
16 1978.

17 D. When a court imposes a sentence of imprisonment
18 pursuant to the provisions of Section 31-18-15.1, 31-18-16,
19 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the
20 basic sentence of imprisonment provided pursuant to the
21 provisions of Subsection A of this section, the period of
22 parole shall be served in accordance with the provisions of
23 Section 31-21-10 NMSA 1978 for the degree of felony for the
24 basic sentence for which the inmate was convicted. For the
25 purpose of designating a period of parole, a court shall not

1 consider that the basic sentence of imprisonment was suspended
2 or deferred and that the inmate served a period of imprisonment
3 pursuant to the provisions of Section 31-18-15.1, 31-18-16,
4 31-18-16.1 or 31-18-17 NMSA 1978.

5 E. The court may, in addition to the imposition of
6 a basic sentence of imprisonment, impose a fine not to exceed:

7 (1) for a first degree felony, fifteen
8 thousand dollars (\$15,000);

9 (2) for a second degree felony resulting in
10 the death of a human being, twelve thousand five hundred
11 dollars (\$12,500);

12 (3) for a second degree felony for a sexual
13 offense against a child, twelve thousand five hundred dollars
14 (\$12,500);

15 [~~(3)~~] (4) for a second degree felony, ten
16 thousand dollars (\$10,000);

17 [~~(4)~~] (5) for a third degree felony resulting
18 in the death of a human being, five thousand dollars (\$5,000);

19 [or]

20 (6) for a third degree felony for a sexual
21 offense against a child, five thousand dollars (\$5,000); or

22 [~~(5)~~] (7) for a third or fourth degree felony,
23 five thousand dollars (\$5,000).

24 F. When the court imposes a sentence of
25 imprisonment for a felony offense, the court shall indicate

1 whether or not the offense is a serious violent offense, as
2 defined in Section 33-2-34 NMSA 1978. The court shall inform
3 an offender that the offender's sentence of imprisonment is
4 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
5 and 33-2-38 NMSA 1978. If the court fails to inform an
6 offender that the offender's sentence is subject to those
7 provisions or if the court provides the offender with erroneous
8 information regarding those provisions, the failure to inform
9 or the error shall not provide a basis for a writ of habeas
10 corpus.

11 G. No later than October 31 of each year, the New
12 Mexico sentencing commission shall provide a written report to
13 the secretary of corrections, all New Mexico criminal court
14 judges, the administrative office of the district attorneys and
15 the chief public defender. The report shall specify the
16 average reduction in the sentence of imprisonment for serious
17 violent offenses and nonviolent offenses, as defined in Section
18 33-2-34 NMSA 1978, due to meritorious deductions earned by
19 prisoners during the previous fiscal year pursuant to the
20 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
21 NMSA 1978. The corrections department shall allow the
22 commission access to documents used by the department to
23 determine earned meritorious deductions for prisoners. "

24 Section 6. Section 31-20-5 NMSA 1978 (being Laws 1963,
25 Chapter 303, Section 29-17, as amended) is amended to read:

. 148607. 4

1 "31-20-5. PLACING DEFENDANT ON PROBATION. --

2 A. When a person has been convicted of a crime for
3 which a sentence of imprisonment is authorized and when the
4 magistrate, metropolitan or district court has deferred or
5 suspended sentence, it shall order the defendant to be placed
6 on probation for all or some portion of the period of deferment
7 or suspension if the defendant is in need of supervision,
8 guidance or direction that is feasible for the [~~field services~~
9 ~~division of the~~] corrections department to furnish [~~provided,~~
10 ~~however~~]. Except for sex offenders as provided in Section
11 31-20-5.2 NMSA 1978, the total period of probation for district
12 court shall not exceed five years and the total period of
13 probation for the magistrate or metropolitan courts shall be no
14 longer than the maximum allowable incarceration time for the
15 offense or as otherwise provided by law.

16 B. If a defendant is required to serve a period of
17 probation subsequent to a period of incarceration:

18 (1) the period of probation shall be served
19 subsequent to any required period of parole, with the time
20 served on parole credited as time served on the period of
21 probation and the conditions of probation imposed by the court
22 deemed as additional conditions of parole; and

23 (2) in the event that the defendant violates
24 any condition of that parole, the parole board shall cause him
25 to be brought before it pursuant to the provisions of Section

. 148607. 4

1 31-21-14 NMSA 1978 and may make any disposition authorized
2 pursuant to that section and, if parole is revoked, the period
3 of parole served in the custody of a correctional facility
4 shall not be credited as time served on probation. "

5 Section 7. A new section, Section 31-20-5.2 NMSA 1978, is
6 enacted to read:

7 "31-20-5.2. [NEW MATERIAL] SEX OFFENDERS-- PERIOD OF
8 PROBATION-- TERMS AND CONDITIONS OF PROBATION. --

9 A. Prior to placing a sex offender on probation,
10 the district court shall conduct a hearing to determine the
11 duration, terms and conditions of probation for the sex
12 offender. A sex offender's initial period of probation shall
13 be for a period not to exceed twenty years. The district court
14 may consider any relevant factors, including:

15 (1) the nature and circumstances of the
16 offense for which the sex offender was convicted or
17 adjudicated;

18 (2) the nature and circumstances of a prior
19 sex offense committed by the sex offender;

20 (3) rehabilitation efforts engaged in by the
21 sex offender, including participation in treatment programs
22 while incarcerated or elsewhere;

23 (4) the danger to the community posed by the
24 sex offender; and

25 (5) a risk and needs assessment regarding the

1 sex offender, developed by the sex offender management board of
2 the New Mexico sentencing commission or another appropriate
3 entity, to be used by appropriate district court personnel.

4 B. The district court shall review the terms and
5 conditions of a sex offender's probation at two and one-half
6 year intervals. During a review hearing, the state shall bear
7 the burden of proving to the district court that a sex offender
8 should remain on probation. The district court may decide to
9 continue a sex offender's probation, but may determine that
10 certain terms and conditions of probation are no longer
11 necessary.

12 C. The district court may order a sex offender
13 placed on probation to abide by reasonable terms and conditions
14 of probation, including:

15 (1) being subject to intensive supervision by
16 a probation officer of the corrections department;

17 (2) participating in an outpatient or
18 inpatient sex offender treatment program;

19 (3) a probationary agreement by the sex
20 offender not to use alcohol or drugs;

21 (4) a probationary agreement by the sex
22 offender not to have contact with certain persons or classes of
23 persons; and

24 (5) being subject to alcohol testing, drug
25 testing or polygraph examinations used to determine if the sex

1 offender is in compliance with the terms and conditions of his
2 probation.

3 D. The district court shall notify the sex
4 offender's counsel of record of an upcoming probation hearing
5 for a sex offender, and the sex offender's counsel of record
6 shall represent the sex offender at the probation hearing.
7 When a sex offender's counsel of record provides the court with
8 good cause that the counsel of record should not represent the
9 sex offender at the probation hearing and the sex offender is
10 subsequently unable to obtain counsel, the district court shall
11 notify the chief public defender of the upcoming probation
12 hearing and the chief public defender shall make representation
13 available to the sex offender at that hearing.

14 E. If the district court finds that a sex offender
15 has violated the terms and conditions of his probation, the
16 district court may revoke his probation or may order additional
17 terms and conditions of probation.

18 F. As used in this section, "sex offender" means a
19 person who is convicted of, pleads guilty to or pleads nolo
20 contendere to any one of the following offenses:

21 (1) kidnapping, as provided in Section 30-4-1
22 NMSA 1978, when committed with intent to inflict a sexual
23 offense upon the victim;

24 (2) criminal sexual penetration in the first,
25 second or third degree, as provided in Section 30-9-11 NMSA

1 1978;

2 (3) criminal sexual contact of a minor in the
3 second or third degree, as provided in Section 30-9-13 NMSA
4 1978;

5 (4) sexual exploitation of children in the
6 second degree, as provided in Section 30-6A-3 NMSA 1978; or

7 (5) sexual exploitation of children by
8 prostitution in the first or second degree, as provided in
9 Section 30-6A-4 NMSA 1978. "

10 Section 8. Section 31-21-10 NMSA 1978 (being Laws 1980,
11 Chapter 28, Section 1, as amended) is amended to read:

12 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

13 A. An inmate of an institution who was sentenced to
14 life imprisonment as the result of the commission of a capital
15 felony, who was convicted of three violent felonies and
16 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978
17 or who was convicted of two violent sexual offenses and
18 sentenced pursuant to Subsection A of Section 31-18-25 NMSA
19 1978 and Section 31-18-26 NMSA 1978 becomes eligible for a
20 parole hearing after he has served thirty years of his
21 sentence. Before ordering the parole of an inmate sentenced to
22 life imprisonment, the board shall:

23 (1) interview the inmate at the institution
24 where he is committed;

25 (2) consider all pertinent information

. 148607. 4

1 concerning the inmate, including:

2 (a) the circumstances of the offense;

3 (b) mitigating and aggravating
4 circumstances;

5 (c) whether a deadly weapon was used in
6 the commission of the offense;

7 (d) whether the inmate is a habitual
8 offender;

9 (e) the reports filed under Section
10 31-21-9 NMSA 1978; and

11 (f) the reports of such physical and
12 mental examinations as have been made while in [~~prison~~] an
13 institution;

14 (3) make a finding that a parole is in the
15 best interest of society and the inmate; and

16 (4) make a finding that the inmate is able and
17 willing to fulfill the obligations of a law-abiding citizen.

18 If parole is denied, the inmate sentenced to life
19 imprisonment shall again become entitled to a parole hearing at
20 two-year intervals. The board may, on its own motion, reopen
21 any case in which a hearing has already been granted and parole
22 denied.

23 B. Unless the board finds that it is in the best
24 interest of society and the parolee to reduce the period of
25 parole, a person who was convicted of a capital felony shall be

1 required to undergo a minimum period of parole of five years.
 2 During the period of parole, the person shall be under the
 3 guidance and supervision of the board.

4 C. Except for sex offenders as provided in Section
 5 31-21-10.1 NMSA 1978, an inmate who was convicted of a first,
 6 second or third degree felony and who has served the sentence
 7 of imprisonment imposed by the court in [~~a corrections~~
 8 ~~facility~~] an institution designated by the corrections
 9 department shall be required to undergo a two-year period of
 10 parole. An inmate who was convicted of a fourth degree felony
 11 and who has served the sentence of imprisonment imposed by the
 12 court in [~~a corrections facility~~] an institution designated by
 13 the corrections department shall be required to undergo a one-
 14 year period of parole. During the period of parole, the person
 15 shall be under the guidance and supervision of the board.

16 D. Every person while on parole shall remain in the
 17 legal custody of the institution from which he was released,
 18 but shall be subject to the orders of the board. The board
 19 shall furnish to each inmate as a prerequisite to his release
 20 under its supervision a written statement of the conditions of
 21 parole that shall be accepted and agreed to by the inmate as
 22 evidenced by his signature affixed to a duplicate copy to be
 23 retained in the files of the board. The board shall also
 24 require as a prerequisite to release the submission and
 25 approval of a parole plan. If an inmate refuses to affix his

. 148607. 4

1 signature to the written statement of the conditions of his
2 parole or does not have an approved parole plan, he shall not
3 be released and shall remain in the custody of the [~~corrections~~
4 ~~facility~~] institution in which he has served his sentence,
5 excepting parole, until such time as the period of parole he
6 was required to serve, less meritorious deductions, if any,
7 expires, at which time he shall be released from that
8 [~~facility~~] institution without parole, or until such time that
9 he evidences his acceptance and agreement to the conditions of
10 parole as required or receives approval for his parole plan or
11 both. Time served from the date that an inmate refuses to
12 accept and agree to the conditions of parole or fails to
13 receive approval for his parole plan shall reduce the period,
14 if any, to be served under parole at a later date. If the
15 district court has ordered that the inmate make restitution to
16 a victim as provided in Section 31-17-1 NMSA 1978, the board
17 shall include restitution as a condition of parole. The board
18 shall also personally apprise the inmate of the conditions of
19 parole and his duties relating thereto.

20 E. When a person on parole has performed the
21 obligations of his release for the period of parole provided in
22 this section, the board shall make a final order of discharge
23 and issue him a certificate of discharge.

24 F. Pursuant to the provisions of Section 31-18-15
25 NMSA 1978, the board shall require the inmate as a condition of

1 parole:

2 (1) to pay the actual costs of his parole
3 services to the adult probation and parole division of the
4 corrections department for deposit to the corrections
5 department intensive supervision fund not exceeding one
6 thousand twenty dollars (\$1,020) annually to be paid in monthly
7 installments of not less than fifteen dollars (\$15.00) and not
8 more than eighty-five dollars (\$85.00), subject to modification
9 by the adult probation and parole division on the basis of
10 changed financial circumstances; and

11 (2) to reimburse a law enforcement agency or
12 local crime stopper program for the amount of any reward paid
13 by the agency or program for information leading to his arrest,
14 prosecution or conviction.

15 G. The provisions of this section shall apply to
16 all inmates except geriatric, permanently incapacitated and
17 terminally ill inmates eligible for the medical and geriatric
18 parole program as provided by the Parole Board Act. "

19 Section 9. A new section of the Probation and Parole Act,
20 Section 31-21-10.1 NMSA 1978, is enacted to read:

21 "31-21-10.1. [NEW MATERIAL] SEX OFFENDERS--PERIOD OF
22 PAROLE--TERMS AND CONDITIONS OF PAROLE.--

23 A. Prior to the release on parole of a sex
24 offender, the board shall conduct a hearing to determine the
25 duration, terms and conditions of parole for the sex offender.

. 148607. 4

1 A sex offender's initial period of parole shall be for a period
2 not to exceed twenty years. The board may consider any
3 relevant factors, including:

4 (1) the nature and circumstances of the
5 offense for which the sex offender was incarcerated;

6 (2) the nature and circumstances of a prior
7 sex offense committed by the sex offender;

8 (3) rehabilitation efforts engaged in by the
9 sex offender, including participation in treatment programs
10 while incarcerated or elsewhere;

11 (4) the danger to the community posed by the
12 sex offender; and

13 (5) a risk and needs assessment regarding the
14 sex offender, developed by the sex offender management board of
15 the New Mexico sentencing commission or another appropriate
16 entity, to be used by appropriate parole board personnel.

17 B. The board shall review the terms and conditions
18 of a sex offender's parole at two and one-half year intervals.
19 During a review hearing, the state shall bear the burden of
20 proving to the board that a sex offender should remain on
21 parole. The board may decide to continue a sex offender's
22 parole, but may determine that certain terms and conditions of
23 parole are no longer necessary.

24 C. The board may order a sex offender released on
25 parole to abide by reasonable terms and conditions of parole,

1 including:

2 (1) being subject to intensive supervision by
3 a parole officer of the corrections department;

4 (2) participating in an outpatient or
5 inpatient sex offender treatment program;

6 (3) a parole agreement by the sex offender not
7 to use alcohol or drugs;

8 (4) a parole agreement by the sex offender not
9 to have contact with certain persons or classes of persons; and

10 (5) being subject to alcohol testing, drug
11 testing or polygraph examinations used to determine if the sex
12 offender is in compliance with the terms and conditions of his
13 parole.

14 D. The board shall notify the chief public defender
15 of an upcoming parole hearing for a sex offender, and the chief
16 public defender shall make representation available to the sex
17 offender at the parole hearing.

18 E. If the board finds that a sex offender has
19 violated the terms and conditions of his parole, the board may
20 revoke his parole or may order additional terms and conditions
21 of parole.

22 F. The provisions of this section shall apply to
23 all sex offenders, except geriatric, permanently incapacitated
24 and terminally ill inmates eligible for the medical and
25 geriatric parole program as provided by the Parole Board Act.

. 148607. 4

1 G. As used in this section, "sex offender" means a
2 person who is convicted of, pleads guilty to or pleads nolo
3 contendere to any one of the following offenses:

4 (1) kidnapping, as provided in Section 30-4-1
5 NMSA 1978, when committed with intent to inflict a sexual
6 offense upon the victim;

7 (2) criminal sexual penetration in the first,
8 second or third degree, as provided in Section 30-9-11 NMSA
9 1978;

10 (3) criminal sexual contact of a minor in the
11 second or third degree, as provided in Section 30-9-13 NMSA
12 1978;

13 (4) sexual exploitation of children in the
14 second degree, as provided in Section 30-6A-3 NMSA 1978; or

15 (5) sexual exploitation of children by
16 prostitution in the first or second degree, as provided in
17 Section 30-6A-4 NMSA 1978. "

18 Section 10. Section 29-11A-3 NMSA 1978 (being Laws 1995,
19 Chapter 106, Section 3, as amended) is amended to read:

20 "29-11A-3. DEFINITIONS.--As used in the Sex Offender
21 Registration and Notification Act:

22 A. "sex offender" means a person eighteen years of
23 age or older who:

24 (1) is a resident of New Mexico who is
25 convicted of a sex offense in New Mexico;

1 (2) changes his residence to New Mexico, when
2 that person has been convicted of a sex offense in another
3 state pursuant to state, federal or military law;

4 (3) is a resident of New Mexico who is
5 convicted of a sex offense pursuant to federal or military law;
6 or

7 (4) is a resident of another state and who has
8 been convicted of a sex offense pursuant to state, federal or
9 military law, but who is:

10 (a) employed full time or part time in
11 New Mexico for a period of time exceeding fourteen days or for
12 an aggregate period of time exceeding thirty days during any
13 calendar year; or

14 (b) enrolled on a full-time or part-time
15 basis in a private or public school in New Mexico, including a
16 secondary school, a trade school, a professional institution or
17 an institution of higher education; and

18 B. "sex offense" means:

19 (1) criminal sexual penetration in the first,
20 second, third or fourth degree, as provided in Section 30-9-11
21 NMSA 1978;

22 (2) criminal sexual contact in the fourth
23 degree, as provided in Section 30-9-12 NMSA 1978;

24 (3) criminal sexual contact of a minor in the
25 second, third or fourth degree, as provided in Section 30-9-13

1 NMSA 1978;

2 (4) sexual exploitation of children, as
3 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
4 1978;

5 (5) sexual exploitation of children by
6 prostitution, as provided in Section 30-6A-4 NMSA 1978;

7 (6) kidnapping, as provided in Section 30-4-1
8 NMSA 1978 when the victim is less than eighteen years of age
9 and the offender is not a parent of the victim;

10 (7) false imprisonment, as provided in Section
11 30-4-3 NMSA 1978, when the victim is less than eighteen years
12 of age and the offender is not a parent of the victim;

13 (8) solicitation to commit criminal sexual
14 contact of a minor in the second, third or fourth degree, as
15 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

16 (9) attempt to commit any of the sex offenses
17 set forth in Paragraphs (1) through (7) of this subsection, as
18 provided in Section 30-28-1 NMSA 1978. "

19 Section 11. Section 29-11A-5 NMSA 1978 (being Laws 1995,
20 Chapter 106, Section 5, as amended) is amended to read:

21 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
22 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN
23 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

24 A. A county sheriff shall maintain a local registry
25 of sex offenders in his jurisdiction required to register

1 pursuant to the provisions of the Sex Offender Registration and
2 Notification Act.

3 B. The county sheriff shall forward registration
4 information obtained from sex offenders to the department of
5 public safety. The initial registration information and any
6 new registration information subsequently obtained from a sex
7 offender shall be forwarded by the county sheriff no later than
8 ten working days after the information is obtained from a sex
9 offender. If the department of public safety receives
10 information regarding a sex offender from a governmental entity
11 other than a county sheriff, the department shall send that
12 information to the [~~county~~] sheriff for the county in which the
13 sex offender resides.

14 C. The department of public safety shall maintain a
15 central registry of sex offenders required to register pursuant
16 to the provisions of the Sex Offender Registration and
17 Notification Act. The department shall participate in the
18 national sex offender registry administered by the United
19 States department of justice. The department shall send
20 conviction information and fingerprints for all sex offenders
21 registered in New Mexico to the national sex offender registry
22 administered by the United States department of justice and to
23 the federal bureau of investigation.

24 D. The department of public safety shall retain
25 registration information regarding sex offenders convicted for

. 148607. 4

underscored material = new
[bracketed material] = delete

1 the following sex offenses for a period of twenty years
2 following the sex offender's conviction, release from prison or
3 release from probation or parole, whichever occurs later:

4 (1) criminal sexual penetration in the first
5 or second degree, as provided in Section 30-9-11 NMSA 1978;

6 (2) criminal sexual contact of a minor in the
7 second or third degree, as provided in Section 30-9-13 NMSA
8 1978;

9 (3) sexual exploitation of children, as
10 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
11 1978;

12 (4) kidnapping, as provided in Section 30-4-1
13 NMSA 1978 when the victim is less than eighteen years of age
14 and the offender is not a parent of the victim; or

15 (5) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (4) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 E. The department of public safety shall retain
19 registration information regarding sex offenders convicted for
20 the following offenses for a period of ten years following the
21 sex offender's conviction, release from prison or release from
22 probation or parole, whichever occurs later:

23 (1) criminal sexual penetration in the third
24 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

25 (2) criminal sexual contact in the fourth

1 degree, as provided in Section 30-9-12 NMSA 1978;

2 (3) criminal sexual contact of a minor in the
3 fourth degree, as provided in Section 30-9-13 NMSA 1978;

4 (4) sexual exploitation of children by
5 prostitution, as provided in Section 30-6A-4 NMSA 1978;

6 (5) false imprisonment, as provided in Section
7 30-4-3 NMSA 1978, when the victim is less than eighteen years
8 of age and the offender is not a parent of the victim;

9 (6) solicitation to commit criminal sexual
10 contact of a minor in the second, third or fourth degree, as
11 provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

12 (7) attempt to commit any of the sex offenses
13 set forth in Paragraphs (1) through (5) of this subsection, as
14 provided in Section 30-28-1 NMSA 1978.

15 F. The department of public safety shall adopt
16 rules necessary to carry out the provisions of the Sex Offender
17 Registration and Notification Act. "

18 Section 12. Section 29-11A-5.1 NMSA 1978 (being Laws
19 1999, Chapter 19, Section 8, as amended) is amended to read:

20 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
21 CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY
22 NOTIFICATION--INTERNET WEB SITE. --

23 A. If a sex offender is convicted of one of the
24 following sex offenses, the county sheriff shall forward
25 registration information obtained from the sex offender to the

. 148607. 4

1 district attorney for the judicial district in which the sex
2 offender resides and, if the sex offender is a resident of a
3 municipality, the chief law enforcement officer for the
4 municipality in which the sex offender resides:

5 (1) criminal sexual penetration in the first
6 or second degree, as provided in Section 30-9-11 NMSA 1978;

7 (2) criminal sexual contact of a minor in the
8 second, third or fourth degree, as provided in Section 30-9-13
9 NMSA 1978;

10 (3) sexual exploitation of children, as
11 provided in [~~Subsection A, B or C of~~] Section 30-6A-3 NMSA
12 1978;

13 (4) sexual exploitation of children by
14 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

15 (5) attempt to commit any of the sex offenses
16 set forth in Paragraphs (1) through (4) of this subsection, as
17 provided in Section 30-28-1 NMSA 1978.

18 B. A person who wants to obtain registration
19 information regarding sex offenders described in Subsection A
20 of this section may request that information from the:

21 (1) [~~county~~] sheriff for the county in which
22 the sex offenders reside;

23 (2) chief law enforcement officer for the
24 municipality in which the sex offenders reside;

25 (3) district attorney for the judicial

1 district in which the sex offenders reside; or

2 (4) secretary of public safety.

3 C. Upon receiving a request for registration
4 information regarding sex offenders described in Subsection A
5 of this section, the county sheriff, chief municipal law
6 enforcement officer, district attorney or secretary of public
7 safety shall provide that registration information, with the
8 exception of a sex offender's social security number, within a
9 reasonable period of time, and no later than seven days after
10 receiving the request.

11 D. Within seven days of receiving registration
12 information from a sex offender described in Subsection A of
13 this section, the county sheriff shall contact every licensed
14 daycare center, elementary school, middle school and high
15 school within a one-mile radius of the sex offender's residence
16 and provide them with the sex offender's registration
17 information, with the exception of the sex offender's social
18 security number.

19 E. The department of public safety may establish
20 and manage an internet web site that provides the public with
21 registration information regarding sex offenders described in
22 Subsection A of this section. The registration information
23 provided to the public pursuant to this subsection shall not
24 include a sex offender's social security number or a sex
25 offender's place of employment, unless the sex offender's

. 148607. 4

1 employment requires him to have direct contact with children. "

2 Section 13. Section 33-2-34 NMSA 1978 (being Laws 1999,
3 Chapter 238, Section 1) is amended to read:

4 "33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
5 DEDUCTIONS. --

6 A. To earn meritorious deductions, a prisoner
7 confined in a correctional facility designated by the
8 corrections department must be an active participant in
9 programs recommended for the prisoner by the classification
10 committee and approved by the warden. Meritorious deductions
11 shall not exceed the following amounts:

12 (1) for a prisoner confined for committing a
13 serious violent offense, up to a maximum of four days per month
14 of time served;

15 (2) for a prisoner confined for committing a
16 nonviolent offense, up to a maximum of thirty days per month of
17 time served;

18 (3) for a prisoner confined following
19 revocation of parole for the alleged commission of a new felony
20 offense or for absconding from parole, up to a maximum of four
21 days per month of time served during the parole term following
22 revocation; and

23 (4) for a prisoner confined following
24 revocation of parole for a reason other than the alleged
25 commission of a new felony offense or absconding from parole,

1 up to a maximum of eight days per month of time served during
2 the parole term following revocation.

3 B. A prisoner may earn meritorious deductions upon
4 recommendation by the classification committee, based upon the
5 prisoner's active participation in approved programs and the
6 quality of the prisoner's participation in those approved
7 programs. A prisoner may not earn meritorious deductions
8 unless the recommendation of the classification committee is
9 approved by the warden.

10 C. If a prisoner's active participation in approved
11 programs is interrupted by a lockdown at a correctional
12 facility, he may continue to be awarded meritorious deductions
13 at the rate he was earning meritorious deductions prior to the
14 lockdown, unless the warden determines that the prisoner's
15 conduct contributed to the initiation or continuance of the
16 lockdown.

17 D. A prisoner confined in a correctional facility
18 designated by the corrections department is eligible for lump-
19 sum meritorious deductions as follows:

20 (1) for successfully completing an approved
21 vocational, substance abuse or mental health program, one
22 month; except when the prisoner has a demonstrable physical,
23 mental health or developmental disability that prevents the
24 prisoner from successfully earning a general education diploma,
25 in which case the prisoner shall be awarded three months;

. 148607. 4

1 (2) for earning a general education diploma,
2 three months;

3 (3) for earning an associate's degree, four
4 months;

5 (4) for earning a bachelor's degree, five
6 months;

7 (5) for earning a graduate qualification, five
8 months; and

9 (6) for engaging in a heroic act of saving
10 life or property, engaging in extraordinary conduct for the
11 benefit of the state or the public that is at great expense,
12 risk or effort on behalf of the inmate, or engaging in
13 extraordinary conduct far in excess of normal program
14 assignments that demonstrates the prisoner's commitment to
15 rehabilitate himself. The classification committee and the
16 warden may recommend the number of days to be awarded in each
17 case based upon the particular merits, but any award shall be
18 determined by the director of the adult institutions division
19 of the corrections department.

20 E. Lump-sum meritorious deductions, provided in
21 Paragraphs (1) through (6) of Subsection D of this section, may
22 be awarded in addition to the meritorious deductions provided
23 in Subsections A and B of this section. Lump-sum meritorious
24 deductions shall not exceed one year per award and shall not
25 exceed a total of one year for all lump-sum meritorious

1 deductions awarded in any consecutive twelve-month period.

2 F. A prisoner is not eligible to earn meritorious
3 deductions if the prisoner:

4 (1) disobeys an order to perform labor,
5 pursuant to Section 33-8-4 NMSA 1978;

6 (2) is in disciplinary segregation;

7 (3) is within the first sixty days of receipt
8 by the corrections department; or

9 (4) is not an active participant in programs
10 recommended and approved for him by the classification
11 committee.

12 G. The provisions of this section shall not be
13 interpreted as providing eligibility to earn meritorious
14 deductions from a sentence of life imprisonment or a sentence
15 of death.

16 H. The corrections department shall promulgate
17 rules to implement the provisions of this section, and the
18 rules shall be matters of public record. A concise summary of
19 the rules shall be provided to each prisoner, and each prisoner
20 shall receive a quarterly statement of the meritorious
21 deductions earned.

22 I. A New Mexico prisoner confined in a federal or
23 out-of-state correctional facility is eligible to earn
24 meritorious deductions for active participation in programs on
25 the basis of the prisoner's conduct and program reports

. 148607. 4

1 furnished by that facility to the corrections department. All
2 decisions regarding the award and forfeiture of meritorious
3 deductions at such facility are subject to final approval by
4 the director of the adult institutions division of the
5 corrections department or [~~his~~] the director's designee.

6 J. In order to be eligible for meritorious
7 deductions, a prisoner confined in a federal or out-of-state
8 correctional facility designated by the corrections department
9 must actively participate in programs that are available. If a
10 federal or out-of-state correctional facility does not have
11 programs available for a prisoner, the prisoner may be awarded
12 meritorious deductions at the rate the prisoner could have
13 earned meritorious deductions if the prisoner had actively
14 participated in programs.

15 K. A prisoner confined in a correctional facility
16 in New Mexico that is operated by a private company, pursuant
17 to a contract with the corrections department, is eligible to
18 earn meritorious deductions in the same manner as a prisoner
19 confined in state-run correctional facilities. All decisions
20 regarding the award or forfeiture of meritorious deductions at
21 such facilities are subject to final approval by the director
22 of the adult institutions division of the corrections
23 department or [~~his~~] the director's designee.

24 L. As used in this section:

25 (1) "active participant" means a prisoner who

1 has begun, and is regularly engaged in, approved programs;

2 (2) "program" means work, vocational,
3 educational, substance abuse and mental health programs,
4 approved by the classification committee, that contribute to a
5 prisoner's self-betterment through the development of personal
6 and occupational skills. "Program" does not include
7 recreational activities;

8 (3) "nonviolent offense" means any offense
9 other than a serious violent offense; and

10 (4) "serious violent offense" means:

11 (a) second degree murder, as provided in
12 Section 30-2-1 NMSA 1978;

13 (b) voluntary manslaughter, as provided
14 in Section 30-2-3 NMSA 1978;

15 (c) third degree aggravated battery, as
16 provided in Section 30-3-5 NMSA 1978;

17 (d) first degree kidnapping, as provided
18 in Section 30-4-1 NMSA 1978;

19 (e) first and second degree criminal
20 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

21 (f) second and third degree criminal
22 sexual contact of a minor, as provided in Section 30-9-13 NMSA
23 1978;

24 (g) first and second degree robbery, as
25 provided in Section 30-16-2 NMSA 1978;

. 148607. 4

1 (h) second degree aggravated arson, as
2 provided in Section 30-17-6 NMSA 1978;

3 (i) shooting at a dwelling or occupied
4 building, as provided in Section 30-3-8 NMSA 1978;

5 (j) shooting at or from a motor vehicle,
6 as provided in Section 30-3-8 NMSA 1978;

7 (k) aggravated battery upon a peace
8 officer, as provided in Section 30-22-25 NMSA 1978;

9 (l) assault with intent to commit a
10 violent felony upon a peace officer, as provided in Section
11 30-22-23 NMSA 1978;

12 (m) aggravated assault upon a peace
13 officer, as provided in Section 30-22-22 NMSA 1978; and

14 (n) any of the following offenses, when
15 the nature of the offense and the resulting harm are such that
16 the court judges the crime to be a serious violent offense for
17 the purpose of this section: 1) involuntary manslaughter, as
18 provided in Section 30-2-3 NMSA 1978; 2) fourth degree
19 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)
20 third degree assault with intent to commit a violent felony, as
21 provided in Section 30-3-3 NMSA 1978; 4) third and fourth
22 degree aggravated stalking, as provided in Section 30-3A-3.1
23 NMSA 1978; 5) second degree kidnapping, as provided in Section
24 30-4-1 NMSA 1978; 6) second degree abandonment of a child, as
25 provided in Section 30-6-1 NMSA 1978; 7) first, second and

1 third degree abuse of a child, as provided in Section 30-6-1
2 NMSA 1978; 8) third degree dangerous use of explosives, as
3 provided in Section 30-7-5 NMSA 1978; 9) third and fourth
4 degree criminal sexual penetration, as provided in Section
5 30-9-11 NMSA 1978; 10) fourth degree criminal sexual contact of
6 a minor, as provided in Section 30-9-13 NMSA 1978; 11) third
7 degree robbery, as provided in Section 30-16-2 NMSA 1978; 12)
8 third degree homicide by vehicle or great bodily injury by
9 vehicle, as provided in Section 66-8-101 NMSA 1978; and 13)
10 battery upon a peace officer, as provided in Section 30-22-24
11 NMSA 1978. "

12 Section 14. SEVERABILITY.--If any part or application of
13 this act is held invalid, the remainder or its application to
14 other situations or persons shall not be affected.

15 - 43 -
16
17
18
19
20
21
22
23
24
25