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HOUSE BILL 254

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Justine Fox-Young

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT
FELONIES IN THE CRIMINAL SENTENCING ACT FOR PURPOSES OF
MANDATORY LIFE IMPRISONMENT FOR THREE VIOLENT FELONY
CONVICTIONS.

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

Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a third violent
felony, and each violent felony conviction is part of a
separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant
shall, in addition to the sentence imposed for the third

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1 violent conviction when that sentence does not result in death,
2 be punished by a sentence of life imprisonment. The life
3 imprisonment sentence shall be subject to parole pursuant to
4 the provisions of Section 31-21-10 NMSA 1978.

5 B. The sentence of life imprisonment shall be
6 imposed after a sentencing hearing, separate from the trial or
7 guilty plea proceeding resulting in the third violent felony
8 conviction, pursuant to the provisions of Section 31-18-24 NMSA
9 1978.

10 C. For the purpose of this section, a violent
11 felony conviction incurred by a defendant before ~~[he]~~ the
12 defendant reaches the age of eighteen shall not count as a
13 violent felony conviction.

14 D. When a defendant has a felony conviction from
15 another state, the felony conviction shall be considered a
16 violent felony for the purposes of the Criminal Sentencing Act
17 if that crime would be considered a violent felony in New
18 Mexico.

19 E. In a proceeding to enhance a defendant's
20 sentence pursuant to this section, each violent felony must
21 have been committed after the defendant's conviction for the
22 preceding violent felony.

23 ~~[E.]~~ F. As used in the Criminal Sentencing Act,
24 ~~[(1) "great bodily harm" means an injury to~~
25 ~~the person that creates a high probability of death or that~~

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1 ~~causes serious disfigurement or that results in permanent loss~~
2 ~~or impairment of the function of any member or organ of the~~
3 ~~body; and~~

4 ~~(2)~~ "violent felony" means:

5 ~~(a)~~ (1) murder in the first or second
6 degree, as provided in Section 30-2-1 NMSA 1978;

7 (2) voluntary manslaughter, as provided in
8 Section 30-2-3 NMSA 1978;

9 (3) third degree aggravated battery, as
10 provided in Section 30-3-5 NMSA 1978;

11 (4) third degree aggravated battery against a
12 household member, as provided in Section 30-3-16 NMSA 1978;

13 (5) second or third degree shooting at a
14 dwelling or occupied building, as provided in Section 30-3-8
15 NMSA 1978;

16 ~~(b)~~ (6) second or third degree shooting at
17 or from a motor vehicle [resulting in great bodily harm], as
18 provided in [Subsection B of] Section 30-3-8 NMSA 1978;

19 ~~(c)~~ (7) first degree kidnapping [resulting
20 in great bodily harm inflicted upon the victim by his captor],
21 as provided in [Subsection B of] Section 30-4-1 NMSA 1978; [and

22 ~~(d)~~ (8) first or second degree criminal
23 sexual penetration, as provided in [Subsection C or Paragraph
24 (5) or (6) of Subsection D of] Section 30-9-11 NMSA 1978; [and

25 ~~(e)~~ (9) second or third degree criminal

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1 sexual contact of a minor, as provided in Section 30-9-13 NMSA
2 1978;

3 (10) first or second degree robbery, [while
4 armed with a deadly weapon resulting in great bodily harm] as
5 provided in Section 30-16-2 NMSA 1978 [and Subsection A of
6 Section 30-1-12 NMSA 1978];

7 (11) second degree aggravated arson, as
8 provided in Section 30-17-6 NMSA 1978;

9 (12) third degree aggravated battery upon a
10 peace officer, as provided in Section 30-22-25 NMSA 1978;

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

14 (14) aggravated assault upon a peace officer,
15 as provided in Section 30-22-22 NMSA 1978."

16 Section 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2008.