

HOUSE BILL 164

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING A SECTION OF THE
CRIMINAL CODE TO DEFINE "COMMUNITY SERVICE" AS LABOR DEVOTED TO
REMOVING DEBRIS, RUBBISH AND TRASH TO BEAUTIFY NEW MEXICO.

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

SECTION 1. Section 31-20-6 NMSA 1978 (being Laws 1963,
Chapter 303, Section 29-18, as amended) is amended to read:

"31-20-6. CONDITIONS OF ORDER DEFERRING OR SUSPENDING
SENTENCE.--The magistrate, metropolitan or district court shall
attach to its order deferring or suspending sentence reasonable
conditions as it may deem necessary to ensure that the
defendant will observe the laws of the United States and the
various states and the ordinances of any municipality. The
defendant upon conviction shall be required to reimburse a law
enforcement agency or local crime stopper program for the

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1 amount of any reward paid by the agency or program for
2 information leading to the defendant's arrest, prosecution or
3 conviction, but in no event shall reimbursement to the crime
4 stopper program preempt restitution to victims pursuant to the
5 provisions of Section 31-17-1 NMSA 1978. The defendant upon
6 conviction shall be required to pay the actual costs of the
7 defendant's supervised probation service to the adult probation
8 and parole division of the corrections department or
9 appropriate responsible agency for deposit to the corrections
10 department intensive supervision fund not exceeding one
11 thousand eight hundred dollars (\$1,800) annually to be paid in
12 monthly installments of not less than twenty-five dollars
13 (\$25.00) and not more than one hundred fifty dollars (\$150), as
14 set by the appropriate district supervisor of the adult
15 probation and parole division, based upon the financial
16 circumstances of the defendant. The defendant's payment of the
17 supervised probation costs shall not be waived unless the court
18 holds an evidentiary hearing and finds that the defendant is
19 unable to pay the costs. If the court waives the defendant's
20 payment of the supervised probation costs and the defendant's
21 financial circumstances subsequently change so that the
22 defendant is able to pay the costs, the appropriate district
23 supervisor of the adult probation and parole division shall
24 advise the court and the court shall hold an evidentiary
25 hearing to determine whether the waiver should be rescinded.

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1 The court may also require the defendant to:

2 A. provide for the support of persons for whose
3 support the defendant is legally responsible;

4 B. undergo available medical or psychiatric
5 treatment and enter and remain in a specified institution when
6 required for that purpose;

7 C. be placed on probation under the supervision,
8 guidance or direction of the adult probation and parole
9 division for a term not to exceed five years;

10 D. serve a period of time in volunteer labor to be
11 known as "community service" [~~The type of labor and period of~~
12 ~~service shall be at the sole discretion of the court~~]; provided
13 that a person receiving community service shall be immune from
14 any civil liability other than gross negligence arising out of
15 the community service, and a person who performs community
16 service pursuant to court order or a criminal diversion program
17 shall not be entitled to wages, shall not be considered an
18 employee and shall not be entitled to workers' compensation,
19 unemployment benefits or any other benefits otherwise provided
20 by law. As used in this subsection, "community service" means
21 labor [~~that benefits the public at large or a public,~~
22 ~~charitable or educational entity or institution~~] in cleanup
23 projects to remove debris, rubbish or trash to beautify New
24 Mexico that may:

25 (1) be pursuant to joint powers agreements

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1 between the courts and municipal governments, county
2 governments or the tourism department pursuant to the Litter
3 Control and Beautification Act; or

4 (2) benefit private property if implemented
5 pursuant to proposals submitted by private entities, with New
6 Mexico businesses receiving preference;

7 E. make a contribution of not less than ten dollars
8 (\$10.00) and not more than one hundred dollars (\$100), to be
9 paid in monthly installments of not less than five dollars
10 (\$5.00), to a local crime stopper program, a local domestic
11 violence prevention or treatment program or a local drug abuse
12 resistance education program that operates in the territorial
13 jurisdiction of the court; and

14 F. satisfy any other conditions reasonably related
15 to the defendant's rehabilitation."

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