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HOUSE BILL 204

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

INTRODUCED BY

James R.J. Strickler

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT FELONIES FOR PURPOSES OF MANDATORY LIFE IMPRISONMENT FOR THREE VIOLENT FELONY CONVICTIONS; CLARIFYING THAT VIOLENT FELONIES INCLUDE THOSE COMMITTED IN OTHER JURISDICTIONS.

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, be punished by a sentence of life
2 imprisonment. The life imprisonment sentence shall be subject
3 to parole pursuant to the provisions of Section 31-21-10 NMSA
4 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 the defendant
12 reaches the age of eighteen shall not count as a violent felony
13 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. As used in the Criminal Sentencing Act,
20 [~~(1) "great bodily harm" means an injury to~~
21 ~~the person that creates a high probability of death or that~~
22 ~~causes serious disfigurement or that results in permanent loss~~
23 ~~or impairment of the function of any member or organ of the~~
24 ~~body; and~~

25 ~~(2)] "violent felony" means any of the~~

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1 following felonies, or their equivalents in any other
2 jurisdiction:

3 [~~a~~] (1) murder in the first or second
4 degree, as provided in Section 30-2-1 NMSA 1978;

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

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

9 (4) second or third degree shooting at a
10 dwelling or occupied building, as provided in Section 30-3-8
11 NMSA 1978;

12 [~~b~~] (5) second or third degree shooting at
13 or from a motor vehicle [~~resulting in great bodily harm~~], as
14 provided in [~~Subsection B of~~] Section 30-3-8 NMSA 1978;

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

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

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

25 (9) second or third degree criminal sexual

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1 contact of a minor, as provided in Section 30-9-13 NMSA 1978;
2 ~~[(e)]~~ (10) first or second degree robbery,
3 ~~[while armed with a deadly weapon resulting in great bodily~~
4 ~~harm]~~ as provided in Section 30-16-2 NMSA 1978 ~~[and Subsection~~
5 ~~A of Section 30-1-12 NMSA 1978];~~
6 (11) second degree aggravated arson, as
7 provided in Section 30-17-6 NMSA 1978;
8 (12) aggravated assault upon a peace officer,
9 as provided in Section 30-22-22 NMSA 1978;
10 (13) assault with intent to commit a violent
11 felony upon a peace officer, as provided in Section 30-22-23
12 NMSA 1978; and
13 (14) third degree aggravated battery upon a
14 peace officer, as provided in Section 30-22-25 NMSA 1978."

15 SECTION 2. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2011.