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AN ACT

RELATING TO CRIMINAL SENTENCING; REMOVING THE MANDATORY
PAROLE PROVISION FOR PERSONS SENTENCED TO ONE YEAR OR LESS IN
PRISON; PROHIBITING THE IMPOSITION OF PAROLE IN CERTAIN
CIRCUMSTANCES.

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

SECTION 1. Section 31-18-15 NMSA 1978 (being Laws 1977,
Chapter 216, Section 4, as amended) is amended to read:

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

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

(1) for a first degree felony resulting in
the death of a child, life imprisonment;

(2) for a first degree felony for aggravated
criminal sexual penetration, life imprisonment;

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

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

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

(6) for a second degree felony, nine years

1 imprisonment;

2 (7) for a third degree felony resulting in
3 the death of a human being, six years imprisonment;

4 (8) for a third degree felony for a sexual
5 offense against a child, six years imprisonment;

6 (9) for a third degree felony, three years
7 imprisonment; or

8 (10) for a fourth degree felony, eighteen
9 months imprisonment.

10 B. The appropriate basic sentence of imprisonment
11 shall be imposed upon a person convicted and sentenced
12 pursuant to Subsection A of this section, unless the court
13 alters the sentence pursuant to the provisions of the
14 Criminal Sentencing Act.

15 C. A period of parole shall be imposed only for
16 felony convictions wherein a person is sentenced to
17 imprisonment of more than one year, unless the parties to a
18 proceeding agree that a period of parole should be imposed.
19 If a period of parole is imposed, the court shall include in
20 the judgment and sentence of each person convicted and
21 sentenced to imprisonment in a corrections facility
22 designated by the corrections department authority for a
23 period of parole to be served in accordance with the
24 provisions of Section 31-21-10 NMSA 1978 after the completion
25 of any actual time of imprisonment and authority to require,

1 as a condition of parole, the payment of the costs of parole
2 services and reimbursement to a law enforcement agency or
3 local crime stopper program in accordance with the provisions
4 of that section. If imposed, the period of parole shall be
5 deemed to be part of the sentence of the convicted person in
6 addition to the basic sentence imposed pursuant to Subsection
7 A of this section together with alterations, if any, pursuant
8 to the provisions of the Criminal Sentencing Act.

9 D. When a court imposes a sentence of imprisonment
10 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
11 31-18-17 NMSA 1978 and suspends or defers the basic sentence
12 of imprisonment provided pursuant to the provisions of
13 Subsection A of this section, the period of parole shall be
14 served in accordance with the provisions of Section 31-21-10
15 NMSA 1978 for the degree of felony for the basic sentence for
16 which the inmate was convicted. For the purpose of
17 designating a period of parole, a court shall not consider
18 that the basic sentence of imprisonment was suspended or
19 deferred and that the inmate served a period of imprisonment
20 pursuant to the provisions of the Criminal Sentencing Act.

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

24 (1) for a first degree felony resulting in
25 the death of a child, seventeen thousand five hundred dollars

1 (\$17,500);

2 (2) for a first degree felony for aggravated
3 criminal sexual penetration, seventeen thousand five hundred
4 dollars (\$17,500);

5 (3) for a first degree felony, fifteen
6 thousand dollars (\$15,000);

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

10 (5) for a second degree felony for a sexual
11 offense against a child, twelve thousand five hundred dollars
12 (\$12,500);

13 (6) for a second degree felony, ten thousand
14 dollars (\$10,000);

15 (7) for a third degree felony resulting in
16 the death of a human being, five thousand dollars (\$5,000);

17 (8) for a third degree felony for a sexual
18 offense against a child, five thousand dollars (\$5,000); or

19 (9) for a third or fourth degree felony,
20 five thousand dollars (\$5,000).

21 F. When the court imposes a sentence of
22 imprisonment for a felony offense, the court shall indicate
23 whether or not the offense is a serious violent offense, as
24 defined in Section 33-2-34 NMSA 1978. The court shall inform
25 an offender that the offender's sentence of imprisonment is

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

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

22 SECTION 2. Section 31-21-10 NMSA 1978 (being Laws 1980,
23 Chapter 28, Section 1, as amended) is amended to read:

24 "31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

25 A. An inmate of an institution who was sentenced

1 to life imprisonment becomes eligible for a parole hearing
2 after the inmate has served thirty years of the sentence.

3 Before ordering the parole of an inmate sentenced to life
4 imprisonment, the board shall:

5 (1) interview the inmate at the institution
6 where the inmate is committed;

7 (2) consider all pertinent information
8 concerning the inmate, including:

9 (a) the circumstances of the offense;

10 (b) mitigating and aggravating
11 circumstances;

12 (c) whether a deadly weapon was used in
13 the commission of the offense;

14 (d) whether the inmate is an habitual
15 offender;

16 (e) the reports filed under Section
17 31-21-9 NMSA 1978; and

18 (f) the reports of such physical and
19 mental examinations as have been made while in an
20 institution;

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

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

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

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

12 C. An inmate of an institution who was sentenced
13 to life imprisonment without possibility of release or parole
14 is not eligible for parole and shall remain incarcerated for
15 the entirety of the inmate's natural life.

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

1 designated by the corrections department that exceeds one
2 year or has agreed and been ordered to serve a period of
3 parole by the court shall be required to undergo a one-year
4 period of parole. During the period of parole, the person
5 shall be under the guidance and supervision of the board.

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

1 of parole as required or receives approval for the inmate's
2 parole plan or both. Time served from the date that an
3 inmate refuses to accept and agree to the conditions of
4 parole or fails to receive approval for the inmate's parole
5 plan shall reduce the period, if any, to be served under
6 parole at a later date. If the district court has ordered
7 that the inmate make restitution to a victim as provided in
8 Section 31-17-1 NMSA 1978, the board shall include
9 restitution as a condition of parole. The board shall also
10 apprise the inmate in person of the conditions of parole and
11 the inmate's duties relating thereto.

12 F. When a person on parole has performed the
13 obligations of the person's release for the period of parole
14 provided in this section, the board shall make a final order
15 of discharge and issue the person a certificate of discharge.

16 G. Pursuant to the provisions of Section 31-18-15
17 NMSA 1978, the board shall require the inmate as a condition
18 of parole:

19 (1) to pay the actual costs of parole
20 services to the adult probation and parole division of the
21 corrections department for deposit to the corrections
22 department intensive supervision fund not exceeding one
23 thousand eight hundred dollars (\$1,800) annually to be paid
24 in monthly installments of not less than twenty-five dollars
25 (\$25.00) and not more than one hundred fifty dollars (\$150),

1 as set by the appropriate district supervisor of the adult
2 probation and parole division, based upon the financial
3 circumstances of the defendant. The defendant's payment of
4 the supervised parole costs shall not be waived unless the
5 board holds an evidentiary hearing and finds that the
6 defendant is unable to pay the costs. If the board waives
7 the defendant's payment of the supervised parole costs and
8 the defendant's financial circumstances subsequently change
9 so that the defendant is able to pay the costs, the
10 appropriate district supervisor of the adult probation and
11 parole division shall advise the board and the board shall
12 hold an evidentiary hearing to determine whether the waiver
13 should be rescinded; and

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

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

22 SECTION 3. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2013. _____