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HOUSE BILL 46

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Rod Montoya

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING THE BASIC SENTENCE OF IMPRISONMENT FOR A SECOND DEGREE FELONY RESULTING IN THE DEATH OF A HUMAN BEING TO TWENTY YEARS AND FOR A THIRD DEGREE FELONY RESULTING IN THE DEATH OF A HUMAN BEING TO TWELVE YEARS.

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;

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

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

5 (4) for a second degree felony resulting in
6 the death of a human being, [~~fifteen~~] twenty years
7 imprisonment;

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

10 (6) for a second degree felony, nine years
11 imprisonment;

12 (7) for a third degree felony resulting in the
13 death of a human being, [~~six~~] twelve years imprisonment;

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

16 (9) for a third degree felony, three years
17 imprisonment; or

18 (10) for a fourth degree felony, eighteen
19 months imprisonment.

20 B. The appropriate basic sentence of imprisonment
21 shall be imposed upon a person convicted and sentenced pursuant
22 to Subsection A of this section, unless the court alters the
23 sentence pursuant to the provisions of the Criminal Sentencing
24 Act.

25 C. The court shall include in the judgment and

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1 sentence of each person convicted and sentenced to imprisonment
2 in a corrections facility designated by the corrections
3 department authority for a period of parole to be served in
4 accordance with the provisions of Section 31-21-10 NMSA 1978
5 after the completion of any actual time of imprisonment and
6 authority to require, as a condition of parole, the payment of
7 the costs of parole services and reimbursement to a law
8 enforcement agency or local crime stopper program in accordance
9 with the provisions of that section. The period of parole
10 shall be deemed to be part of the sentence of the convicted
11 person in addition to the basic sentence imposed pursuant to
12 Subsection A of this section together with alterations, if any,
13 pursuant to the provisions of the Criminal Sentencing Act.

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

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

3 (1) for a first degree felony resulting in the
4 death of a child, seventeen thousand five hundred dollars
5 (\$17,500);

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

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

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

14 (5) for a second degree felony for a sexual
15 offense against a child, twelve thousand five hundred dollars
16 (\$12,500);

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

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

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

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

25 F. When the court imposes a sentence of

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

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

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2016.

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