

HOUSE BILL 5

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

INTRODUCED BY

Paul A. Pacheco and John L. Zimmerman and William "Bill" Rehm

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT  
FELONIES IN THE CRIMINAL SENTENCING ACT FOR THE 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

.204834.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

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:~~

.204834.1

underscored material = new  
[bracketed material] = delete

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

3                    (2) voluntary or involuntary manslaughter, as  
4 provided in Section 30-2-3 NMSA 1978;

5                    (3) aggravated assault with intent to commit a  
6 violent felony, as provided in Section 30-3-3 NMSA 1978;

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

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

12                    [~~(b)~~] (6) 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                    (7) third degree aggravated battery against a  
16 household member, as provided in Section 30-3-16 NMSA 1978;

17                    [~~(c)~~] (8) kidnapping [~~resulting in great~~  
18 bodily harm inflicted upon the victim by the victim's captor],  
19 as provided in [~~Subsection B of~~] Section 30-4-1 NMSA 1978;

20                    (9) first degree abuse of a child, as provided  
21 in Section 30-6-1 NMSA 1978;

22                    [~~(d)~~] (10) aggravated, first, second or third  
23 degree criminal sexual penetration, as provided in [~~Subsection~~  
24 C or D or Paragraph (5) or (6) of Subsection E of] Section  
25 30-9-11 NMSA 1978; [and

.204834.1

underscored material = new  
[bracketed material] = delete

1                   ~~(e)~~] (11) second or third degree criminal  
2 sexual contact of a minor, as provided in Section 30-9-13 NMSA  
3 1978;

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

8                   (13) aggravated burglary, as provided in  
9 Section 30-16-4 NMSA 1978;

10                   (14) aggravated arson, as provided in Section  
11 30-17-6 NMSA 1978;

12                   (15) aggravated assault upon a peace officer,  
13 as provided in Section 30-22-22 NMSA 1978;

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

17                   (17) aggravated battery upon a peace officer,  
18 as provided in Section 30-22-25 NMSA 1978."

19           **SECTION 2. APPLICABILITY.**--The provisions of this act  
20 apply to persons who have been convicted on, before or after  
21 the effective date of this act of one of the violent felonies  
22 described in Section 1 of this act for the purpose of  
23 determining sentencing enhancements pursuant to that section  
24 for subsequent violent felony convictions on or after the  
25 effective date of this act.

.204834.1