

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 54

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

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

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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 the
21 person that creates a high probability of death or that causes
22 serious disfigurement or that results in permanent loss or
23 impairment of the function of any member or organ of the body;
24 and

25 (2) "violent felony" means:

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

3 (b) voluntary manslaughter, as provided
4 in Subsection A of Section 30-2-3 NMSA 1978;

5 (c) aggravated battery inflicting great
6 bodily harm, as provided in Subsection C of Section 30-3-5 NMSA
7 1978;

8 (d) shooting at a dwelling or occupied
9 building that results in great bodily harm to another person,
10 as provided in Subsection A of Section 30-3-8 NMSA 1978;

11 [~~(b)~~] (e) shooting at or from a motor
12 vehicle [resulting] that results in great bodily harm to
13 another person, as provided in Subsection B of Section 30-3-8
14 NMSA 1978;

15 (f) aggravated battery against a
16 household member by inflicting great bodily harm, with a deadly
17 weapon or in any manner whereby great bodily harm or death can
18 be inflicted, as provided in Subsection C of Section 30-3-16
19 NMSA 1978;

20 [~~(e)~~] (g) kidnapping [resulting] that
21 results in great bodily harm [inflicted upon the victim by the
22 victim's captor] of the victim, as provided in [Subsection B
23 of] Section 30-4-1 NMSA 1978;

24 (h) abuse of a child that results in
25 great bodily harm to the child, as provided in Subsection E of

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1 Section 30-6-1 NMSA 1978, and abuse of a child, as provided in
2 Subsections F, G and H of Section 30-6-1 NMSA 1978;

3 ~~[(d)]~~ (i) aggravated criminal sexual
4 penetration or criminal sexual penetration, as provided in
5 Subsection C or D [or Paragraph (5) or (6) of Subsection E] of
6 Section 30-9-11 NMSA 1978; [and

7 ~~(e)]~~ (j) robbery while armed with a
8 deadly weapon [resulting in great bodily harm], as provided in
9 Section 30-16-2 NMSA 1978 [and Subsection A of Section 30-1-12
10 NMSA 1978];

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

13 (l) aggravated assault upon a peace
14 officer, as provided in Paragraph (1) or (3) of Subsection A of
15 Section 30-22-22 NMSA 1978;

16 (m) assault with intent to commit a
17 violent felony upon a peace officer, as provided in Section
18 30-22-23 NMSA 1978; and

19 (n) aggravated battery upon a peace
20 officer inflicting great bodily harm, as provided in Subsection
21 C of Section 30-22-25 NMSA 1978."

22 **SECTION 2. APPLICABILITY.**--The provisions of this act
23 apply to persons who have been convicted on, before or after
24 the effective date of this act of one of the violent felonies
25 described in Section 1 of this act for the purpose of

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1 determining sentencing enhancements pursuant to that section
2 for subsequent violent felony convictions on or after the
3 effective date of this act.

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