

1 SENATE BILL 216

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Bill B. O'Neill

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7  
8 FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

9  
10 AN ACT

11 RELATING TO PAROLE; REVISING THE PAROLE BOARD'S PROCEDURE FOR  
12 CONSIDERING, GRANTING OR DENYING PAROLE TO CERTAIN INMATES.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

18 A. An inmate of an institution who was sentenced to  
19 life imprisonment [~~becomes eligible for a parole hearing~~] shall  
20 be paroled after the inmate has served thirty years of the  
21 sentence [~~Before ordering the parole of an inmate sentenced to~~  
22 ~~life imprisonment~~] unless the board makes a finding that the  
23 inmate is unable or unwilling to fulfill the obligations of a  
24 law-abiding citizen. The board shall enter specific findings  
25 in support of its decision after:

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1 (1) [~~interview~~] interviewing the inmate at the  
2 institution where the inmate is committed; and

3 (2) [~~consider~~] considering all pertinent  
4 information concerning the inmate, including

5 [~~(a) the circumstances of the offense;~~

6 [~~(b) mitigating and aggravating~~  
7 ~~circumstances;~~

8 [~~(c) whether a deadly weapon was used in~~  
9 ~~the commission of the offense;~~

10 [~~(d) whether the inmate is a habitual~~  
11 ~~offender;~~

12 [~~(e) the reports filed under Section~~  
13 ~~31-21-9 NMSA 1978; and~~

14 [~~(f) the~~] reports of [~~such physical and~~]  
15 mental examinations [~~as have been~~] of the inmate made while the  
16 inmate was held in an institution

17 [~~(3) make a finding that a parole is in the~~  
18 ~~best interest of society and the inmate; and~~

19 [~~(4) make a finding that the inmate is able and~~  
20 ~~willing to fulfill the obligations of a law-abiding citizen].~~

21 B. The board shall not deny parole to an inmate who  
22 was sentenced to life based solely on the fact that the inmate  
23 intentionally took the life of another person.

24 C. If parole is denied, the inmate sentenced to  
25 life imprisonment shall again become entitled to a parole

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1 hearing at two-year intervals. The board may, on its own  
2 motion, reopen any case in which a hearing has already been  
3 granted and parole denied.

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

10 ~~[G.]~~ E. Only an inmate of an institution who was  
11 sentenced to life imprisonment without possibility of release  
12 or parole is ~~[not eligible]~~ ineligible for parole and shall  
13 remain incarcerated for the entirety of the inmate's natural  
14 life.

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

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1 of the board.

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

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1 served under parole at a later date. If the district court has  
2 ordered that the inmate make restitution to a victim as  
3 provided in Section 31-17-1 NMSA 1978, the board shall include  
4 restitution as a condition of parole. The board shall also  
5 personally apprise the inmate of the conditions of parole and  
6 the inmate's duties relating thereto.

7 ~~[F-]~~ H. When a person on parole has performed the  
8 obligations of the person's release for the period of parole  
9 provided in this section, the board shall make a final order of  
10 discharge and issue the person a certificate of discharge.

11 ~~[G-]~~ I. Pursuant to the provisions of Section  
12 31-18-15 NMSA 1978, the board shall require the inmate as a  
13 condition of parole:

14 (1) to pay the actual costs of parole services  
15 to the adult probation and parole division of the corrections  
16 department for deposit to the corrections department intensive  
17 supervision fund not exceeding one thousand eight hundred  
18 dollars (\$1,800) annually to be paid in monthly installments of  
19 not less than twenty-five dollars (\$25.00) and not more than  
20 one hundred fifty dollars (\$150), as set by the appropriate  
21 district supervisor of the adult probation and parole division,  
22 based upon the financial circumstances of the defendant. The  
23 defendant's payment of the supervised parole costs shall not be  
24 waived unless the board holds an evidentiary hearing and finds  
25 that the defendant is unable to pay the costs. If the board

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1 waives the defendant's payment of the supervised parole costs  
2 and the defendant's financial circumstances subsequently change  
3 so that the defendant is able to pay the costs, the appropriate  
4 district supervisor of the adult probation and parole division  
5 shall advise the board and the board shall hold an evidentiary  
6 hearing to determine whether the waiver should be rescinded;  
7 and

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

12 ~~[H.]~~ J. The provisions of this section shall apply  
13 to all inmates except geriatric, permanently incapacitated and  
14 terminally ill inmates eligible for the medical and geriatric  
15 parole program as provided by the Parole Board Act."

16 **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
17 provisions of this act is July 1, 2017.