

FIFTY-FOURTH LEGISLATURE
FIRST SESSION, 2019

HB 564/a

March 6, 2019

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE BILL 564, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike House Judiciary Committee Amendments 1 and 2.
2. On page 2, lines 5 through 7, remove the brackets and line-through.
3. On page 3, line 9, after "person", insert ", except a person convicted of a sex offense provided in Subsection I of Section 29-11A-3 NMSA 1978 or a serious violent offense provided in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978," and on line 10, after "probation", insert "by a district or magistrate court judge".
4. On page 8, line 20, through page 13, line 14, strike Section 5 in its entirety and insert in lieu thereof the following new section:

"SECTION 5. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:

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

A. An inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

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

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(2) consider all pertinent information concerning the inmate [~~including:~~

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

~~(b) mitigating and aggravating circumstances;~~

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

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

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

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

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

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

B. After a hearing, the board shall enter specific findings in support of its decision and deliver the findings in writing to the inmate.

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

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

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of parole, the person shall be under the guidance and supervision of the board.

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

~~[D.]~~ F. Except for certain sex offenders as provided in Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department that exceeds one year or has agreed and been ordered to serve a period of parole by the court shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served ~~[the]~~ a sentence of imprisonment imposed by the court in an institution designated by the corrections department that exceeds one year or has agreed and been ordered to serve a period of parole by the court shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

~~[E.]~~ G. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The board shall consult a validated risk and needs assessment, if provided by the corrections department, when deciding what conditions of parole to impose. The board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall

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remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also [~~personally~~] apprise the inmate in person of the conditions of parole and the inmate's duties relating thereto.

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

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

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

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

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

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

5. On page 15, lines 2 through 5, remove the brackets and line-through and on line 5, before the period, insert ", only if a validated risk and needs assessment has been provided to the judge and considered in the decision to impose an intensive supervision program".

6. On page 15, lines 5, 6 and 7, strike the underscored language.

7. On page 19, line 18, strike the colon and insert in lieu thereof a comma, strike lines 19 through 22 in their entirety and on line 23, strike the paragraph designation "(2)".

8. On page 20, line 5, after "violation", strike the remainder of the line, strike line 6 up to the period and insert in lieu thereof "hearing".

9. On page 20, line 8, after the comma, insert "the sanction for the technical violation shall be commensurate with the seriousness of the violation and not a punishment for the offense

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for which the probationer was placed on probation, and".

10. On page 27, between lines 2 and 3, insert the following new sections:

"SECTION 13. APPLICABILITY.--The provisions of Section 5 of this act apply to a person serving a term of incarceration on January 1, 2020 and to a person whose term of incarceration commences on or after January 1, 2020.

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020.".,

and thence referred to the **FINANCE COMMITTEE**.

Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 3 Against

Yes: 7

No: Baca, Griggs, Moores

Excused: Lopez

Absent: None