

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

February 10, 2020

HOUSE FLOOR AMENDMENT number 1 to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE BILLS
6, 35 & 113

Amendment sponsored by Representative *Miguel P. Garcia*

1. On page 1, line 16, after "FELONY", insert "; PROVIDING THAT CERTAIN INMATES BE PLACED ON PAROLE".

2. On page 8, between lines 9 and 10, insert the following new section:

"SECTION 4. 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;

(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;

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

HF1/HJC/HB 6, 35 & 113

Page 2

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

C. An inmate of an institution who was sentenced to life imprisonment without possibility of release or parole is not eligible for parole and shall remain incarcerated for the entirety of the inmate's natural life.

D. Except as provided in Subsection E of this section and 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 shall be required to undergo a two-year period of parole. An inmate

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

HF1/HJC/HB 6, 35 & 113

Page 3

who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department 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. If a person is sentenced for a third degree felony pursuant to Section 30-7-16 NMSA 1978 to a term of twenty-five years or more or a person's basic sentence is increased pursuant to Section 31-18-16 NMSA 1978 to a term of twenty-five years or more, then a current inmate in an institution shall be placed on parole; provided that:

(1) the inmate has served twenty-five years or more in an institution;

(2) the inmate has twenty-five or more years left to serve in an institution;

(3) the inmate is not a sex offender as provided in Section 31-21-10.1 NMSA 1978;

(4) the inmate has demonstrated rehabilitation by complying with conditions during the inmate's time in an institution; and

(5) the parole shall commence and operate in accordance with the provisions of this section.

[E-] F. 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 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

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

HF1/HJC/HB 6, 35 & 113

Page 4

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 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 of the conditions of parole and the inmate's duties relating thereto.

[F.] G. 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.] H. 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

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

HF1/HJC/HB 6, 35 & 113

Page 5

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 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.] I. 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."".

3. Renumber the succeeding sections accordingly.

4. On page 10, between lines 7 and 8, insert the following new section:

"SECTION 6. APPLICABILITY.--The provisions of Section 4 of this act apply to individuals in an institution serving a sentence or sentences totaling more than fifty years on or after July 1, 2020.".

5. Renumber the succeeding section accordingly.

State of New Mexico
House of Representatives

FIFTY-FOURTH LEGISLATURE
SECOND SESSION

HF1/HJC/HB 6, 35 & 113

Page 6



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(Chief Clerk)

Not Adopted _____
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Date _____