

1 SENATE BILL 276

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO SENTENCING; PROVIDING THAT PROBATION SHALL BE
12 SERVED INSTEAD OF PAROLE IN CERTAIN CIRCUMSTANCES; PROVIDING
13 THAT THE COURT SHALL NOT ORDER A DEFENDANT TO BE PLACED ON
14 PROBATION FOR A LONGER PERIOD THAN THE MAXIMUM ALLOWABLE
15 INCARCERATION TIME.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 31-18-15 NMSA 1978 (being Laws 1977,
19 Chapter 216, Section 4, as amended) is amended to read:

20 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
21 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
22 DEDUCTIONS.--

23 A. As used in a statute that establishes a
24 noncapital felony, the following defined felony classifications
25 and associated basic sentences of imprisonment are as follows:

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1	FELONY CLASSIFICATION	BASIC SENTENCE
2	first degree felony	
3	resulting in the death	
4	of a child	life imprisonment
5	first degree felony for	
6	aggravated criminal sexual	
7	penetration	life imprisonment
8	first degree felony	eighteen years imprisonment
9	second degree felony	
10	resulting in the death of	
11	a human being	fifteen years imprisonment
12	second degree felony for a	
13	sexual offense against a	
14	child	fifteen years imprisonment
15	second degree felony for	
16	sexual exploitation of	
17	children	twelve years imprisonment
18	second degree felony	nine years imprisonment
19	third degree felony resulting	
20	in the death of a human being	six years imprisonment
21	third degree felony for a	
22	sexual offense against a	
23	child	six years imprisonment
24	third degree felony for sexual	
25	exploitation of children	eleven years imprisonment

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1 third degree felony three years imprisonment
2 fourth degree felony for
3 sexual exploitation of
4 children ten years imprisonment
5 fourth degree felony eighteen months imprisonment.

6 B. The appropriate basic sentence of imprisonment
7 shall be imposed upon a person convicted and sentenced pursuant
8 to Subsection A of this section, unless the court alters the
9 sentence pursuant to the provisions of the Criminal Sentencing
10 Act.

11 C. A period of parole shall be imposed only for
12 felony convictions wherein a person is sentenced to
13 imprisonment of more than one year, unless the parties to a
14 proceeding agree that a period of parole should be imposed. If
15 a period of parole is imposed, the court shall include in the
16 judgment and sentence of each person convicted and sentenced to
17 imprisonment in a corrections facility designated by the
18 corrections department authority for a period of parole to be
19 served in accordance with the provisions of Section 31-21-10
20 NMSA 1978 after the completion of any actual time of
21 imprisonment and authority to require, as a condition of
22 parole, the payment of the costs of parole services and
23 reimbursement to a law enforcement agency or local crime
24 stopper program in accordance with the provisions of that
25 section. If imposed, the period of parole shall be deemed to

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1 be part of the sentence of the convicted person in addition to
2 the basic sentence imposed pursuant to Subsection A of this
3 section together with alterations, if any, pursuant to the
4 provisions of the Criminal Sentencing Act.

5 D. When a court imposes a sentence of imprisonment
6 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
7 31-18-17 NMSA 1978 and suspends or defers the basic sentence of
8 imprisonment provided pursuant to the provisions of Subsection
9 A of this section, the period of parole shall be served in
10 accordance with the provisions of Section 31-21-10 NMSA 1978
11 for the degree of felony for the basic sentence for which the
12 inmate was convicted. For the purpose of designating a period
13 of parole, a court shall not consider that the basic sentence
14 of imprisonment was suspended or deferred and that the inmate
15 served a period of imprisonment pursuant to the provisions of
16 the Criminal Sentencing Act. Parole shall not be required if a
17 partially suspended sentence involving probation would be
18 concurrent.

19 E. The court may, in addition to the imposition of
20 a basic sentence of imprisonment, impose a fine not to exceed:

21 (1) for a first degree felony resulting in the
22 death of a child, seventeen thousand five hundred dollars
23 (\$17,500);

24 (2) for a first degree felony for aggravated
25 criminal sexual penetration, seventeen thousand five hundred

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1 dollars (\$17,500);

2 (3) for a first degree felony, fifteen
3 thousand dollars (\$15,000);

4 (4) for a second degree felony resulting in
5 the death of a human being, twelve thousand five hundred
6 dollars (\$12,500);

7 (5) for a second degree felony for a sexual
8 offense against a child, twelve thousand five hundred dollars
9 (\$12,500);

10 (6) for a second degree felony for sexual
11 exploitation of children, five thousand dollars (\$5,000);

12 (7) for a second degree felony, ten thousand
13 dollars (\$10,000);

14 (8) for a third degree felony resulting in the
15 death of a human being, five thousand dollars (\$5,000);

16 (9) for a third degree felony for a sexual
17 offense against a child, five thousand dollars (\$5,000);

18 (10) for a third degree felony for sexual
19 exploitation of children, five thousand dollars (\$5,000);

20 (11) for a third or fourth degree felony, five
21 thousand dollars (\$5,000); or

22 (12) for a fourth degree felony for sexual
23 exploitation of children, five thousand dollars (\$5,000).

24 F. When the court imposes a sentence of
25 imprisonment for a felony offense, the court shall indicate

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1 whether or not the offense is a serious violent offense as
2 defined in Section 33-2-34 NMSA 1978. The court shall inform
3 an offender that the offender's sentence of imprisonment is
4 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
5 and 33-2-38 NMSA 1978. If the court fails to inform an
6 offender that the offender's sentence is subject to those
7 provisions or if the court provides the offender with erroneous
8 information regarding those provisions, the failure to inform
9 or the error shall not provide a basis for a writ of habeas
10 corpus.

11 G. No later than October 31 of each year, the
12 New Mexico sentencing commission shall provide a written report
13 to the secretary of corrections, all New Mexico criminal court
14 judges, the administrative office of the district attorneys and
15 the chief public defender. The report shall specify the
16 average reduction in the sentence of imprisonment for serious
17 violent offenses and nonviolent offenses, as defined in Section
18 33-2-34 NMSA 1978, due to meritorious deductions earned by
19 prisoners during the previous fiscal year pursuant to the
20 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
21 NMSA 1978. The corrections department shall allow the
22 commission access to documents used by the department to
23 determine earned meritorious deductions for prisoners."

24 SECTION 2. Section 31-20-5 NMSA 1978 (being Laws 1963,
25 Chapter 303, Section 29-17, as amended) is amended to read:

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1 "31-20-5. PLACING DEFENDANT ON PROBATION.--

2 A. When a person has been convicted of a crime for
3 which a sentence of imprisonment is authorized and when the
4 magistrate, metropolitan or district court has deferred or
5 suspended sentence, it shall order the defendant to be placed
6 on probation for all or some portion of the period of deferment
7 or suspension if the defendant is in need of supervision,
8 guidance or direction that is feasible for the corrections
9 department to furnish. Except for sex offenders as provided in
10 Section 31-20-5.2 NMSA 1978, the total period of probation for
11 district, [~~court shall not exceed five years and the total~~
12 ~~period of probation for the~~] magistrate or metropolitan courts
13 shall be no longer than the maximum allowable incarceration
14 time for the offense or as otherwise provided by law. The time
15 period for probation shall not exceed the jurisdiction of the
16 court.

17 B. If a defendant is required to serve a period of
18 probation subsequent to a period of incarceration, [~~(1)~~] the
19 period of probation shall be served [~~subsequent to~~] instead of
20 any required period of parole. [~~with the time served on parole~~
21 ~~credited as time served on the period of probation and the~~
22 ~~conditions of probation imposed by the court deemed as~~
23 ~~additional conditions of parole; and~~

24 (2) ~~in the event that the defendant violates~~
25 ~~any condition of that parole, the parole board shall cause him~~

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1 ~~to be brought before it pursuant to the provisions of Section~~
2 ~~31-21-14 NMSA 1978 and may make any disposition authorized~~
3 ~~pursuant to that section and, if parole is revoked, the period~~
4 ~~of parole served in the custody of a correctional facility~~
5 ~~shall not be credited as time served on probation]"~~

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