

1 AN ACT

2 RELATING TO PAROLE; AMENDING FACTORS TO BE CONSIDERED BY THE
3 PAROLE BOARD WHEN CONSIDERING PAROLE OF AN INMATE SENTENCED
4 TO LIFE IMPRISONMENT; AMENDING THE PROCESS TO REMOVE A MEMBER
5 OF THE PAROLE BOARD; PROVIDING FOR THE CONSCIENTIOUS
6 SCHEDULING OF HEARINGS.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

11 "31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

12 A. Except as provided in Section 31-21-10.2
13 NMSA 1978, an inmate of an institution who was sentenced to
14 life imprisonment becomes eligible for a parole hearing after
15 the inmate has served thirty years of the sentence, which
16 shall be construed as the retributive portion of the life
17 sentence. Upon reaching eligibility, parole consideration
18 for release shall focus on risk and readiness for release, as
19 demonstrated by the inmate substantially complying with the
20 rules of the institution to which the inmate has been
21 confined, whether the inmate has participated in or completed
22 an educational, a vocational or another program, where
23 available, while confined and whether the inmate has
24 demonstrated maturity, rehabilitation and a fitness to
25 reenter society. Before ordering the parole of an inmate

1 sentenced to life imprisonment, the board shall:

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

4 (2) hear from the family or representative
5 of the victim, if the family or representative chooses to
6 participate;

7 (3) consider all pertinent information
8 concerning the inmate, including:

9 (a) the circumstances of the offense,
10 including mitigating and aggravating circumstances;

11 (b) whether a deadly weapon was used in
12 the commission of the offense;

13 (c) the inmate's relevant criminal
14 history;

15 (d) the reports filed under
16 Section 31-21-9 NMSA 1978; and

17 (e) the reports of such physical and
18 mental examinations as have been made while in an
19 institution;

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

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

25 If parole is denied, the inmate sentenced to life

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

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

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

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

1 and supervision of the board.

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

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

9 F. When a person on parole has performed the
10 obligations of the person's release for the period of parole
11 provided in this section, the board shall make a final order
12 of discharge and issue the person a certificate of discharge.

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

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

1 supervised parole costs shall not be waived unless the board
2 holds an evidentiary hearing and finds that the inmate is
3 unable to pay the costs. If the board waives the inmate's
4 payment of the supervised parole costs and the inmate's
5 financial circumstances subsequently change so that the
6 inmate is able to pay the costs, the appropriate district
7 supervisor of the adult probation and parole division shall
8 advise the board and the board shall hold an evidentiary
9 hearing to determine whether the waiver should be rescinded;
10 and

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

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

19 SECTION 2. Section 31-21-22 NMSA 1978 (being Laws 1975,
20 Chapter 194, Section 1) is amended to read:

21 "31-21-22. SHORT TITLE.--Sections 31-21-22 through
22 31-21-26 NMSA 1978 may be cited as the "Parole Board Act"."

23 SECTION 3. Section 31-21-24 NMSA 1978 (being Laws 1975,
24 Chapter 194, Section 3, as amended) is amended to read:

25 "31-21-24. PAROLE BOARD--MEMBERS--APPOINTMENT--TERMS--

1 QUALIFICATIONS--COMPENSATION--ORGANIZATION.--

2 A. The "parole board" is created, consisting of
3 fifteen members appointed by the governor with the consent of
4 the senate.

5 B. The terms of the members of the parole board
6 shall be six years. To provide for staggered terms, five
7 members shall be appointed every two years. Members serve
8 until their successors have been appointed and qualified.

9 C. Members of the parole board may be removed by
10 the governor only for incompetence, neglect of duty or
11 malfeasance in office after reasonable notice and a public
12 hearing, unless the notice and hearing are expressly waived
13 in writing by the member. Vacancies shall be filled by
14 appointment by the governor for the remainder of the
15 unexpired term.

16 D. Members of the parole board shall be persons
17 qualified by such academic training or professional
18 experience as is deemed necessary to render them fit to serve
19 as members of the board. No member of the board shall be an
20 official or employee of any other federal, state or local
21 government entity.

22 E. Members of the parole board shall receive per
23 diem and mileage as provided for nonsalaried public officers
24 in the Per Diem and Mileage Act for a scheduled board
25 meeting, hearing or any other reimbursable activity under the

1 act and shall receive no other compensation, perquisite or
2 allowance.

3 F. The governor shall designate one member of the
4 parole board to serve as chair, who in addition to other
5 duties shall coordinate with the corrections department in
6 the furnishing of services pursuant to Section 9-3-11
7 NMSA 1978.

8 G. A parole may be granted, denied or revoked by a
9 quorum of two on a panel consisting of three parole board
10 members appointed on a rotating basis by the chair of the
11 board."

12 SECTION 4. A new Section 31-21-25.2 NMSA 1978 is
13 enacted to read:

14 "31-21-25.2. CONSCIENTIOUS SCHEDULING OF HEARINGS IN
15 CASES OF HOMICIDE.--In cases of homicide, the parole board
16 shall not schedule a hearing on the anniversary of the birth
17 or death of the person or persons whose death is the basis for
18 the homicide conviction, when practicable." _____

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