

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING INCREASES IN A BASIC SENTENCE OF IMPRISONMENT WHEN A CRIME IS INTENTIONALLY COMMITTED AGAINST CERTAIN PERSONS OR THEIR PROPERTY; ENACTING A NEW SECTION OF THE CRIMINAL SENTENCING ACT.

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

Section 1. A new section of the Criminal Sentencing Act is enacted to read:

"NONCAPITAL FELONIES, MISDEMEANORS OR PETTY MISDEMEANORS AGAINST A PERSON OR HIS PROPERTY BECAUSE OF THE ACTUAL OR PERCEIVED RACE, RELIGION, COLOR, NATIONAL ORIGIN, ANCESTRY, GENDER OR SEXUAL ORIENTATION OF THE PERSON-- ALTERATION OF BASIC SENTENCE--SUSPENSION AND DEFERRAL LIMITED.--

A. When a separate finding of fact by the court or jury shows that an offender committed a petty misdemeanor in which a person was intentionally injured or his property was intentionally damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may be increased by thirty days not to exceed one hundred eighty days. The sentence imposed pursuant to the provisions of this subsection shall be the first thirty days served and may be suspended or deferred.

B. When an offender commits a second or subsequent petty misdemeanor in which a person was intentionally injured or his property was intentionally

damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may be increased by sixty days not to exceed one hundred eight days. The sentence imposed pursuant to the provisions of this subsection shall be the first sixty days served and may be suspended or deferred.

C. When a separate finding of fact by the court or jury shows that an offender committed a misdemeanor in which a person was intentionally injured or his property was intentionally damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may be increased by ninety days not to exceed three hundred sixty-four days. The sentence imposed pursuant to the provisions of this subsection shall be the first ninety days served and may be suspended or deferred.

D. When an offender commits a second or subsequent misdemeanor in which a person was intentionally injured or his property was intentionally damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-19-1 NMSA 1978 may be

increased by one hundred eighty days not to exceed three hundred sixty-four days. The sentence imposed pursuant to the provisions of this subsection shall be the first one hundred eighty days served and may be suspended or deferred.

E. When a separate finding of fact by the court or jury shows that an offender committed a noncapital felony in which a person was intentionally injured or his property was intentionally damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by one year. The sentence imposed pursuant to the provisions of this subsection shall be the first year served and may be suspended or deferred. When the offender is a youthful offender, the sentence imposed pursuant to the provisions of this subsection may be increased by one year.

F. When an offender commits a second or subsequent noncapital felony in which a person was intentionally injured or his property was intentionally damaged because of the actual or perceived race, religion, color, national origin, ancestry, gender or sexual orientation of that person, whether or not the offender's belief or perception was correct, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 may be increased by three years. The sentence imposed pursuant to the provisions of this subsection shall be the first three years served and may be suspended or deferred. When the offender is a youthful offender, the

