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HOUSE BILL 398

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Joe Mohorovic

AN ACT

RELATING TO CRIMINAL SENTENCING; REQUIRING A CAPITAL FELONY
OFFENDER OR A REPEAT VIOLENT SEXUAL OFFENDER TO REMAIN
INCARCERATED FOR THE ENTIRETY OF HIS NATURAL LIFE; AMENDING A
SECTION OF THE NMSA 1978.

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

Section 1. 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 as the result of the commission of a
capital felony [~~who was convicted of three violent felonies
and sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA
1978~~] or who was convicted of two violent sexual offenses and
sentenced pursuant to Subsection A of Section 31-18-25 NMSA

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1 1978 and Section 31-18-26 NMSA 1978 [~~becomes eligible for a~~
2 ~~parole hearing after he has served thirty years of his~~
3 ~~sentence. Before ordering the parole of an inmate sentenced~~
4 ~~to life imprisonment, the board shall]~~ is not eligible for
5 parole and shall remain incarcerated for the entirety of his
6 natural life.

7 B. An inmate of an institution who was convicted
8 of three violent felonies and sentenced to life imprisonment
9 pursuant to the provisions of Sections 31-18-23 and 31-18-24
10 NMSA 1978 is eligible for a parole hearing after he has served
11 thirty years of his sentence. Before ordering the parole of
12 an inmate sentenced to life imprisonment pursuant to the
13 provisions of Sections 31-18-23 and 31-18-24 NMSA 1978, the
14 board shall:

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

17 (2) consider all pertinent information
18 concerning the inmate, including:

19 (a) the circumstances of the [~~offense~~]
20 offenses;

21 (b) mitigating and aggravating
22 circumstances;

23 (c) whether a deadly weapon was used in
24 the commission of the [~~offense~~] offenses;

25 [~~(d) whether the inmate is a habitual~~

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1 undergo a two-year period of parole. An inmate who was
2 convicted of a fourth degree felony and who has served the
3 sentence of imprisonment imposed by the court in a corrections
4 facility designated by the corrections department shall be
5 required to undergo a one-year period of parole. During the
6 period of parole, the person shall be under the guidance and
7 supervision of the board.

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

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1 his acceptance and agreement to the conditions of parole as
2 required or receives approval for his parole plan or both.
3 Time served from the date that an inmate refuses to accept and
4 agree to the conditions of parole or fails to receive approval
5 for his parole plan shall reduce the period, if any, to be
6 served under parole at a later date. If the district court
7 has ordered that the inmate make restitution to a victim as
8 provided in Section 31-17-1 NMSA 1978, the board shall include
9 restitution as a condition of parole. The board shall also
10 personally apprise the inmate of the conditions of parole and
11 his duties relating thereto.

12 E. When a person on parole has performed the
13 obligations of his release for the period of parole provided
14 in this section, the board shall make a final order of
15 discharge and issue him a certificate of discharge.

16 F. Pursuant to the provisions of Section 31-18-15
17 NMSA 1978, the board shall require the inmate as a condition
18 of parole:

- 19 (1) to pay the actual costs of his parole
- 20 services to the adult probation and parole division of the
- 21 corrections department for deposit to the corrections
- 22 department intensive supervision fund not exceeding one
- 23 thousand twenty dollars (\$1,020) annually to be paid in
- 24 monthly installments of not less than fifteen dollars (\$15.00)
- 25 and not more than eighty-five dollars (\$85.00), subject to

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1 modification by the adult probation and parole division on the
2 basis of changed financial circumstances; and

3 (2) to reimburse a law enforcement agency
4 or local crime stopper program for the amount of any reward
5 paid by the agency or program for information leading to his
6 arrest, prosecution or conviction.

7 G. The provisions of this section shall apply to
8 all inmates except geriatric, permanently incapacitated and
9 terminally ill inmates eligible for the medical and geriatric
10 parole program as provided by the Parole Board Act. "

11 Section 2. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 1999.