

HOUSE BILL 74

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Andrea Reeb and Luis M. Terrazas

AN ACT

RELATING TO CRIMINAL SENTENCING; REMOVING THE TEN-YEAR
LIMITATION FROM THE DEFINITION OF "PRIOR FELONY CONVICTION" FOR
A HABITUAL OFFENDER.

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

SECTION 1. Section 31-18-17 NMSA 1978 (being Laws 1977, Chapter 216, Section 6, as amended) is amended to read:

"31-18-17. HABITUAL OFFENDERS--ALTERATION OF BASIC SENTENCE.--

A. A person convicted of a noncapital felony in this state whether within the Criminal Code or the Controlled Substances Act or not who has incurred one prior felony conviction that was part of a separate transaction or occurrence or conditional discharge under Section 31-20-13 NMSA 1978 is a habitual offender and [his] the habitual offender's

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1 basic sentence shall be increased by one year. The sentence
2 imposed pursuant to this subsection shall not be suspended or
3 deferred, unless the court makes a specific finding that the
4 prior felony conviction and the instant felony conviction are
5 both for nonviolent felony offenses and that justice will not
6 be served by imposing a mandatory sentence of imprisonment and
7 that there are substantial and compelling reasons, stated on
8 the record, for departing from the sentence imposed pursuant to
9 this subsection.

10 B. A person convicted of a noncapital felony in
11 this state whether within the Criminal Code or the Controlled
12 Substances Act or not who has incurred two prior felony
13 convictions that were parts of separate transactions or
14 occurrences or conditional discharge under Section 31-20-13
15 NMSA 1978 is a habitual offender and [his] the habitual
16 offender's basic sentence shall be increased by four years.
17 The sentence imposed by this subsection shall not be suspended
18 or deferred.

19 C. A person convicted of a noncapital felony in
20 this state whether within the Criminal Code or the Controlled
21 Substances Act or not who has incurred three or more prior
22 felony convictions that were parts of separate transactions or
23 occurrences or conditional discharge under Section 31-20-13
24 NMSA 1978 is a habitual offender and [his] the habitual
25 offender's basic sentence shall be increased by eight years.

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1 The sentence imposed by this subsection shall not be suspended
2 or deferred.

3 D. As used in this section, "prior felony
4 conviction" means:

5 (1) a conviction [when less than ten years
6 have passed prior to the instant felony conviction since the
7 person completed serving his sentence or period of probation or
8 parole for the prior felony, whichever is later] for a prior
9 felony committed within New Mexico, whether within the Criminal
10 Code or not, but not including a conviction for a felony
11 pursuant to the provisions of Section 66-8-102 NMSA 1978; or

12 (2) a prior felony [when less than ten years
13 have passed prior to the instant felony conviction since the
14 person completed serving his sentence or period of probation or
15 parole for the prior felony, whichever is later] for which the
16 person was convicted other than an offense triable by court
17 martial if:

18 (a) the conviction was rendered by a
19 court of another state, the United States, a territory of the
20 United States or the commonwealth of Puerto Rico;

21 (b) the offense was punishable, at the
22 time of conviction, by death or a maximum term of imprisonment
23 of more than one year; or

24 (c) the offense would have been
25 classified as a felony in this state at the time of conviction.

E. As used in this section, "nonviolent felony offense" means application of force, threatened use of force or a deadly weapon was not used by the offender in the commission of the offense."

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