

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

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.

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.

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

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