AN ACT

RELATING TO PAROLE; AMENDING FACTORS TO BE CONSIDERED BY THE PAROLE BOARD WHEN CONSIDERING PAROLE OF AN INMATE SENTENCED TO LIFE IMPRISONMENT; AMENDING THE REQUIREMENTS FOR PER DIEM AND MILEAGE FOR PAROLE BOARD MEMBERS; PROVIDING FOR THE SCHEDULING OF HEARINGS.

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. Except as provided in Section 31-21-10.2 NMSA 1978, an inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence, which shall be construed as the retributive portion of the life sentence. Upon reaching eligibility, parole consideration for release shall focus on:

(1) risk and readiness for release, as demonstrated by the inmate substantially complying with the rules of the institution to which the inmate has been confined;

(2) whether the inmate has participated in or completed an educational, a vocational or another program, where available, while confined; and

(3) whether the inmate has demonstrated maturity, rehabilitation and a fitness to reenter society.

B. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

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

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

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

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

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

(c) the inmate's relevant criminal history;

(d) the reports filed pursuant to Section 31-21-9 NMSA 1978; and

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

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

(5) make a finding that the inmate is able

and willing to fulfill the obligations of a law-abiding citizen.

C. If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

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

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

F. Except for certain sex offenders as provided in Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in

an institution designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

G. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval

for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise the inmate of the conditions of parole and the inmate's duties relating to those conditions of parole.

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

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

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

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

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

"31-21-24. PAROLE BOARD--MEMBERS--APPOINTMENT--TERMS--QUALIFICATIONS--COMPENSATION--ORGANIZATION.--

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

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

C. Members of the parole board may be removed by the governor as provided in Article 5, Section 5 of the constitution of New Mexico. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term.

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

E. Members of the parole board shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act for a scheduled board meeting or hearing or any other reimbursable activity under that act and shall receive no other compensation, perquisite or

allowance.

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

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

SECTION 4. A new section of the Parole Board Act, Section 31-21-25.2 NMSA 1978, is enacted to read:

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