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SENATE BILL 160

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO SENTENCING; ENHANCING THE BASIC SENTENCE FOR
VIOLENT CRIMES AGAINST THE ELDERLY OR DISABLED.

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:

"~~[NEW MATERIAL]~~ NONCAPITAL FELONIES AGAINST DISABLED
PERSONS OR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER-- ALTERATION
OF BASIC SENTENCE. --

A. When a separate finding of fact by the court or
jury shows that, in the commission of a noncapital felony, a
person sixty-five years of age or older or a person who is
disabled was intentionally injured, the basic sentence of
imprisonment prescribed for the offense shall be increased as
follows:

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (1) if the injury inflicted is not likely to
2 cause death or great bodily harm but does cause painful
3 temporary disfigurement or temporary loss or impairment of the
4 functions of any member or organ of the body, the basic
5 sentence shall be increased by one year; provided that when the
6 offender is a serious youthful offender or a youthful offender,
7 the sentence imposed by this paragraph may be increased by one
8 year; or

9 (2) if the injury inflicted causes great
10 bodily harm or is done with a deadly weapon or in a manner
11 whereby great bodily harm or death could have been inflicted,
12 the basic sentence shall be increased by two years; provided
13 that when the offender is a serious youthful offender or a
14 youthful offender, the sentence imposed by this paragraph may
15 be increased by two years.

16 B. If a prima facie case has been established
17 showing that, in the commission of the offense, a person sixty-
18 five years of age or older or a person who is disabled was
19 intentionally injured, the court shall:

20 (1) if the case is tried before a jury, submit
21 the issue to the jury by special interrogatory; or

22 (2) if the case is tried by the court, decide
23 and make a separate finding of fact on the issue.

24 C. Any alteration of the basic sentence of
25 imprisonment pursuant to the provisions of this section shall

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[bracketed material] = delete

1 be served concurrently with any other enhancement alteration of
2 the basic sentence pursuant to the provisions of the Criminal
3 Sentencing Act.

4 D. As used in this section, "disabled" means that
5 the person has a physical or mental impairment or condition
6 that substantially limits one or more of that person's
7 functions, such as understanding, caring for the self,
8 performing manual tasks, walking, seeing, hearing, speaking,
9 breathing, learning or working. "