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SENATE BILL 655

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO CRIMINAL SENTENCING; REVISING THE BASIC SENTENCE OF IMPRISONMENT FOR NONCAPITAL FELONIES TO ALLOW FOR A RANGE OF TIME WITHIN WHICH A JUDGE CAN SENTENCE A FELON; REPEALING A SECTION OF LAW THAT AUTHORIZES THE ALTERATION OF A BASIC SENTENCE DUE TO MITIGATING OR AGGRAVATING CIRCUMSTANCES.

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

Section 1. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
DEDUCTIONS.--

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

- (1) for a first degree felony resulting in the

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1 death of a child, life imprisonment;

2 (2) for a first degree felony for aggravated
3 criminal sexual penetration, life imprisonment;

4 (3) for a first degree felony, [~~eighteen~~] not
5 less than twelve and not more than twenty-four years
6 imprisonment;

7 (4) for a second degree felony resulting in
8 the death of a human being, [~~fifteen~~] not less than ten and not
9 more than twenty years imprisonment;

10 (5) for a second degree felony for a sexual
11 offense against a child, [~~fifteen~~] not less than ten and not
12 more than twenty years imprisonment;

13 (6) for a second degree felony, [~~nine~~] not
14 less than six and not more than twelve years imprisonment;

15 (7) for a third degree felony resulting in the
16 death of a human being, [~~six~~] not less than four and not more
17 than eight years imprisonment;

18 (8) for a third degree felony for a sexual
19 offense against a child, [~~six~~] not less than four and not more
20 than eight years imprisonment;

21 (9) for a third degree felony, [~~three~~] not
22 less than two and not more than four years imprisonment; or

23 (10) for a fourth degree felony, [~~eighteen~~
24 ~~months~~] not less than one and not more than two years
25 imprisonment.

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1 B. ~~[The appropriate basic sentence of imprisonment~~
2 ~~shall be imposed upon a person convicted and sentenced pursuant~~
3 ~~to Subsection A of this section, unless the court alters the~~
4 ~~sentence pursuant to the provisions of the Criminal Sentencing~~
5 ~~Act.] The court shall impose a definite term of imprisonment~~
6 within the ranges prescribed in Subsection A of this section;
7 provided that when the offender is a serious youthful offender
8 or a youthful offender, the court may impose a sentence less
9 than the minimum sentence prescribed.

10 C. The court shall include in the judgment and
11 sentence of each person convicted and sentenced to imprisonment
12 in a corrections facility designated by the corrections
13 department authority for a period of parole to be served in
14 accordance with the provisions of Section 31-21-10 NMSA 1978
15 after the completion of any actual time of imprisonment and
16 authority to require, as a condition of parole, the payment of
17 the costs of parole services and reimbursement to a law
18 enforcement agency or local crime stopper program in accordance
19 with the provisions of that section. The period of parole
20 shall be deemed to be part of the sentence of the convicted
21 person in addition to the basic sentence imposed pursuant to
22 Subsection A of this section together with alterations, if any,
23 pursuant to the provisions of the Criminal Sentencing Act.

24 D. When a court imposes a sentence of imprisonment
25 pursuant to the provisions of Section ~~[31-18-15.1]~~ 31-18-16

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1 ~~[31-18-16.1]~~ or 31-18-17 NMSA 1978 and suspends or defers the
2 basic sentence of imprisonment provided pursuant to the
3 provisions of Subsection A of this section, the period of
4 parole shall be served in accordance with the provisions of
5 Section 31-21-10 NMSA 1978 for the degree of felony ~~[for the~~
6 ~~basic sentence]~~ for which the inmate was convicted. For the
7 purpose of designating a period of parole, a court shall not
8 consider that the basic sentence of imprisonment was suspended
9 or deferred and that the inmate served a period of imprisonment
10 pursuant to the provisions of the Criminal Sentencing Act.

11 E. The court may, in addition to the imposition of
12 a basic sentence of imprisonment, impose a fine not to exceed:

13 (1) for a first degree felony resulting in the
14 death of a child, seventeen thousand five hundred dollars
15 (\$17,500);

16 (2) for a first degree felony for aggravated
17 criminal sexual penetration, seventeen thousand five hundred
18 dollars (\$17,500);

19 (3) for a first degree felony, fifteen
20 thousand dollars (\$15,000);

21 (4) for a second degree felony resulting in
22 the death of a human being, twelve thousand five hundred
23 dollars (\$12,500);

24 (5) for a second degree felony for a sexual
25 offense against a child, twelve thousand five hundred dollars

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1 (\$12,500);

2 (6) for a second degree felony, ten thousand
3 dollars (\$10,000);

4 (7) for a third degree felony resulting in the
5 death of a human being, five thousand dollars (\$5,000);

6 (8) for a third degree felony for a sexual
7 offense against a child, five thousand dollars (\$5,000); or

8 (9) for a third or fourth degree felony, five
9 thousand dollars (\$5,000).

10 F. When the court imposes a sentence of
11 imprisonment for a felony offense, the court shall indicate
12 whether or not the offense is a serious violent offense, as
13 defined in Section 33-2-34 NMSA 1978. The court shall inform
14 an offender that the offender's sentence of imprisonment is
15 subject to the provisions of Sections 33-2-34, 33-2-36,
16 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an
17 offender that the offender's sentence is subject to those
18 provisions or if the court provides the offender with erroneous
19 information regarding those provisions, the failure to inform
20 or the error shall not provide a basis for a writ of habeas
21 corpus.

22 G. No later than October 31 of each year, the
23 New Mexico sentencing commission shall provide a written report
24 to the secretary of corrections, all New Mexico criminal court
25 judges, the administrative office of the district attorneys and

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1 the chief public defender. The report shall specify the
2 average reduction in the sentence of imprisonment for serious
3 violent offenses and nonviolent offenses, as defined in Section
4 33-2-34 NMSA 1978, due to meritorious deductions earned by
5 prisoners during the previous fiscal year pursuant to the
6 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
7 NMSA 1978. The corrections department shall allow the
8 commission access to documents used by the department to
9 determine earned meritorious deductions for prisoners."

10 Section 2. REPEAL.--Section 31-18-15.1 NMSA 1978 (being
11 Laws 1979, Chapter 152, Section 2, as amended) is repealed.

12 Section 3. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2009.

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