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HOUSE MEMORIAL 26

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

INTRODUCED BY

Antonio "Moe" Maestas

A MEMORIAL

REQUESTING THE NEW MEXICO SENTENCING COMMISSION TO COLLABORATE WITH THE PUBLIC DEFENDER DEPARTMENT, THE DISTRICT ATTORNEYS AND THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP A PROCESS OF NOTIFICATION OF THE COLLATERAL CONSEQUENCES OF CRIMINAL CHARGES AND TO IDENTIFY REMEDIES TO EMPLOYMENT BARRIERS.

WHEREAS, collateral consequences are the results of arrest, prosecution or conviction for a crime and are not part of the sentence imposed; and

WHEREAS, these consequences may be unintended and unforeseen by the defendant or may be direct consequences intended by the judge; and

WHEREAS, beyond the terms of a sentence, a defendant may experience many far-reaching and unexpected effects, including employment barriers, disenfranchisement, loss of access to

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1 federal educational loans, loss of professional licenses and
2 eviction from public housing; and

3 WHEREAS, the collective effect of these collateral
4 consequences is to create substantial barriers to an
5 individual's ability to reenter and become a productive member
6 of society; and

7 WHEREAS, collateral consequences may result in punishment
8 far beyond the sentence prescribed by law and more severe than
9 was intended or warranted; and

10 WHEREAS, the American bar association standards for
11 criminal justice require a court to ensure, before accepting a
12 plea of guilty, that the defendant has been informed of the
13 collateral consequences of conviction and that failure of a
14 court to inform a defendant of applicable collateral
15 consequences shall not be a basis for withdrawing a plea of
16 guilty; and

17 WHEREAS, a system of justice that is fair and equitable
18 should provide adequate information to guide the courts and
19 defendants prior to the entering of a plea;

20 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
21 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico
22 sentencing commission be requested to collaborate with the
23 public defender department, the district attorneys and the
24 administrative office of the courts to develop a process of
25 notification of the collateral consequences of criminal charges

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1 and to identify remedies to employment barriers; and

2 BE IT FURTHER RESOLVED that a mechanism be recommended for
3 developing and disseminating a current list of collateral
4 consequences to the courts; and

5 BE IT FURTHER RESOLVED that the New Mexico sentencing
6 commission explore actions taken by other states and existing
7 programs available to convicted felons to assist them in
8 obtaining employment and develop recommendations for potential
9 implementation in New Mexico; and

10 BE IT FURTHER RESOLVED that findings and recommendations
11 regarding collateral consequences notification and remedies to
12 employment barriers be presented to the appropriate interim
13 legislative committee by November 1, 2009; and

14 BE IT FURTHER RESOLVED that a copy of this memorial be
15 transmitted to the New Mexico sentencing commission.

16 - 3 -