

1 HOUSE BILL 246

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Zachary J. Cook

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10 AN ACT

11 RELATING TO PAROLE; ELIMINATING THE RIGHT TO A PAROLE HEARING
12 AT TWO-YEAR INTERVALS FOR INMATES WHO HAVE SERVED THIRTY YEARS
13 OF THEIR SENTENCE OF LIFE IMPRISONMENT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 31-21-10 NMSA 1978 (being Laws 1980,
17 Chapter 28, Section 1, as amended) is amended to read:

18 "31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

19 A. An inmate of an institution who was sentenced to
20 life imprisonment becomes eligible for a parole hearing after
21 the inmate has served thirty years of the sentence. Before
22 ordering the parole of an inmate sentenced to life
23 imprisonment, the board shall:

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

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- 1 (2) consider all pertinent information
2 concerning the inmate, including:
3 (a) the circumstances of the offense;
4 (b) mitigating and aggravating
5 circumstances;
6 (c) whether a deadly weapon was used in
7 the commission of the offense;
8 (d) whether the inmate is a habitual
9 offender;
10 (e) the reports filed under Section
11 31-21-9 NMSA 1978; and
12 (f) the reports of such physical and
13 mental examinations as have been made while in an institution;
14 (3) make a finding that a parole is in the
15 best interest of society and the inmate; and
16 (4) make a finding that the inmate is able and
17 willing to fulfill the obligations of a law-abiding citizen.

18 If parole is denied, [~~the inmate sentenced to life~~
19 ~~imprisonment shall again become entitled to a parole hearing at~~
20 ~~two-year intervals]~~ the board may, on its own motion, reopen
21 any case in which a hearing has already been granted and parole
22 denied.

23 B. Unless the board finds that it is in the best
24 interest of society and the parolee to reduce the period of
25 parole, a person who was sentenced to life imprisonment shall

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1 be required to undergo a minimum period of parole of five
2 years. During the period of parole, the person shall be under
3 the guidance and supervision of the board.

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

8 D. Except for certain sex offenders as provided in
9 Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a
10 first, second or third degree felony and who has served the
11 sentence of imprisonment imposed by the court in an institution
12 designated by the corrections department shall be required to
13 undergo a two-year period of parole. An inmate who was
14 convicted of a fourth degree felony and who has served the
15 sentence of imprisonment imposed by the court in an institution
16 designated by the corrections department shall be required to
17 undergo a one-year period of parole. During the period of
18 parole, the person shall be under the guidance and supervision
19 of the board.

20 E. Every person while on parole shall remain in the
21 legal custody of the institution from which the person was
22 released, but shall be subject to the orders of the board. The
23 board shall furnish to each inmate as a prerequisite to release
24 under its supervision a written statement of the conditions of
25 parole that shall be accepted and agreed to by the inmate as

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1 evidenced by the inmate's signature affixed to a duplicate copy
2 to be retained in the files of the board. The board shall also
3 require as a prerequisite to release the submission and
4 approval of a parole plan. If an inmate refuses to affix the
5 inmate's signature to the written statement of the conditions
6 of parole or does not have an approved parole plan, the inmate
7 shall not be released and shall remain in the custody of the
8 institution in which the inmate has served the inmate's
9 sentence, excepting parole, until such time as the period of
10 parole the inmate was required to serve, less meritorious
11 deductions, if any, expires, at which time the inmate shall be
12 released from that institution without parole, or until such
13 time that the inmate evidences acceptance and agreement to the
14 conditions of parole as required or receives approval for the
15 inmate's parole plan or both. Time served from the date that
16 an inmate refuses to accept and agree to the conditions of
17 parole or fails to receive approval for the inmate's parole
18 plan shall reduce the period, if any, to be served under parole
19 at a later date. If the district court has ordered that the
20 inmate make restitution to a victim as provided in Section
21 31-17-1 NMSA 1978, the board shall include restitution as a
22 condition of parole. The board shall also personally apprise
23 the inmate of the conditions of parole and the inmate's duties
24 relating thereto.

25 F. When a person on parole has performed the

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1 obligations of the person's release for the period of parole
2 provided in this section, the board shall make a final order of
3 discharge and issue the person a certificate of discharge.

4 G. Pursuant to the provisions of Section 31-18-15
5 NMSA 1978, the board shall require the inmate as a condition of
6 parole:

7 (1) to pay the actual costs of parole services
8 to the adult probation and parole division of the corrections
9 department for deposit to the corrections department intensive
10 supervision fund not exceeding one thousand eight hundred
11 dollars (\$1,800) annually to be paid in monthly installments of
12 not less than twenty-five dollars (\$25.00) and not more than
13 one hundred fifty dollars (\$150), as set by the appropriate
14 district supervisor of the adult probation and parole division,
15 based upon the financial circumstances of the defendant. The
16 defendant's payment of the supervised parole costs shall not be
17 waived unless the board holds an evidentiary hearing and finds
18 that the defendant is unable to pay the costs. If the board
19 waives the defendant's payment of the supervised parole costs
20 and the defendant's financial circumstances subsequently change
21 so that the defendant is able to pay the costs, the appropriate
22 district supervisor of the adult probation and parole division
23 shall advise the board and the board shall hold an evidentiary
24 hearing to determine whether the waiver should be rescinded;
25 and

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