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SENATE BILL 617

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

ROD ADAIR

AN ACT

RELATING TO CRIMES; PROVIDING FOR PUNISHMENT OF OFFENDERS
CONVICTED OF CERTAIN CHILD SEXUAL ABUSE OFFENSES.

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

Section 1. A new section of Chapter 31, Article 18 NMSA
1978 is enacted to read:

"[NEW MATERIAL] SENTENCING OF PERSONS CONVICTED OF CERTAIN
CHILD SEXUAL ABUSE OFFENSES--TREATMENT WITH MEDROXYPROGESTERONE
ACETATE OR ITS EQUIVALENT. --

A. A person convicted of criminal sexual penetration
in the first degree when the victim is a child less than
thirteen years old shall, if paroled, undergo
medroxyprogesterone acetate treatment or its chemical
equivalent, in addition to any other punishment prescribed for
that offense.

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1 B. A person required to undergo treatment pursuant
2 to Subsection A of this section:

3 (1) shall be exempt from that treatment if he
4 has undergone or does undergo a permanent surgical alternative
5 to hormonal chemical treatment for sex offenders; and

6 (2) shall begin medroxyprogesterone acetate
7 treatment one week prior to his release on parole from the
8 physical custody of the corrections department or another
9 institution and shall remain on the treatment program until
10 released from parole unless before that date the parole board
11 demonstrates to the satisfaction of the court sentencing the
12 person pursuant to this section that the treatment is no longer
13 necessary and the court enters an order to that effect.

14 C. The federal centers for disease control and
15 prevention shall administer and implement the protocols required
16 by this section. These protocols shall include a requirement
17 that the person subject to treatment pursuant to this section
18 shall be informed in writing about the effect of hormonal
19 chemical treatment and any side effects that may result from it.
20 The person shall provide a receipt in writing indicating that
21 this information has been communicated to the person.

22 D. Nothing in the implementation of the protocols
23 developed pursuant to Subsection C of this section shall require
24 a medical doctor employed by the corrections department or the
25 parole board to participate against his will in the program

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1 authorized by this section. "

2 Section 2. Section 31-21-10 NMSA 1978 (being Laws 1980,
3 Chapter 28, Section 1, as amended) is amended to read:

4 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

5 A. A person in the custody of the corrections
6 department or another institution after being sentenced as a
7 result of a conviction of committing criminal sexual penetration
8 in the first degree when the victim is a child less than
9 thirteen years old may be paroled pursuant to the applicable
10 provisions of law, but the term of parole shall be for the life
11 of the person paroled.

12 [~~A.~~] B. Except as provided in Subsection A of this
13 section, an inmate of an institution who was sentenced to life
14 imprisonment as the result of the commission of a capital
15 felony, who was convicted of three violent felonies and
16 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978,
17 or who was convicted of two violent sexual offenses and
18 sentenced pursuant to Sections 31-18-25 and 31-18-26 NMSA 1978
19 becomes eligible for a parole hearing after he has served thirty
20 years of his sentence. Before ordering the parole of an inmate
21 sentenced to life imprisonment, the board shall:

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

24 (2) consider all pertinent information
25 concerning the inmate, including:

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

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

21 ~~[B-]~~ C. Except as provided in Subsection A of this
22 section, unless the board finds that it is in the best interest
23 of society and the parolee to reduce the period of parole, a
24 person who was convicted of a capital felony shall be required
25 to undergo a minimum period of parole of five years. During the

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1 period of parole, the person shall be under the guidance and
2 supervision of the board.

3 ~~[C-]~~ D. Except as provided in Subsection A of this
4 section, an inmate who was convicted of a first, second or third
5 degree felony and who has served the sentence of imprisonment
6 imposed by the court in a corrections facility designated by the
7 corrections department shall be required to undergo a two-year
8 period of parole. An inmate who was convicted of a fourth
9 degree felony and who has served the sentence of imprisonment
10 imposed by the court in a corrections facility designated by the
11 corrections department shall be required to undergo a one-year
12 period of parole. During the period of parole, the person shall
13 be under the guidance and supervision of the board.

14 ~~[D-]~~ E. Every person while on parole shall remain in
15 the legal custody of the institution from which he was released,
16 but shall be subject to the orders of the board. The board
17 shall furnish to each inmate as a prerequisite to his release
18 under its supervision a written statement of the conditions of
19 parole that shall be accepted and agreed to by the inmate as
20 evidenced by his signature affixed to a duplicate copy to be
21 retained in the files of the board. The board shall also
22 require as a prerequisite to release the submission and approval
23 of a parole plan. If an inmate refuses to affix his signature
24 to the written statement of the conditions of his parole or does
25 not have an approved parole plan, he shall not be released and

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1 shall remain in the custody of the corrections facility in which
2 he has served his sentence, excepting parole, until such time as
3 the period of parole he was required to serve, less meritorious
4 deductions, if any, expires, at which time he shall be released
5 from that facility without parole, or until such time that he
6 evidences his acceptance and agreement to the conditions of
7 parole as required or receives approval for his parole plan or
8 both. Time served from the date that an inmate refuses to
9 accept and agree to the conditions of parole or fails to receive
10 approval for his parole plan shall reduce the period, if any, to
11 be served under parole at a later date. If the district court
12 has ordered that the inmate make restitution to a victim as
13 provided in Section 31-17-1 NMSA 1978, the board shall include
14 restitution as a condition of parole. The board shall also
15 personally apprise the inmate of the conditions of parole and
16 his duties relating thereto.

17 ~~[E.]~~ F. Except as provided in Subsection A of this
18 section. when a person on parole has performed the obligations
19 of his release for the period of parole provided in this
20 section, the board shall make a final order of discharge and
21 issue him a certificate of discharge.

22 ~~[F.]~~ G. Pursuant to the provisions of Section
23 31-18-15 NMSA 1978, the board shall require the inmate as a
24 condition of parole:

- 25 (1) to pay the actual costs of his parole

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1 services to the adult probation and parole division of the
2 corrections department for deposit to the corrections department
3 intensive supervision fund not exceeding one thousand twenty
4 dollars (\$1,020) annually to be paid in monthly installments of
5 not less than fifteen dollars (\$15.00) and not more than eighty-
6 five dollars (\$85.00), subject to modification by the adult
7 probation and parole division on the basis of changed financial
8 circumstances; and

9 (2) to reimburse a law enforcement agency or
10 local crime stopper program for the amount of any reward paid by
11 the agency or program for information leading to his arrest,
12 prosecution or conviction.

13 [~~G.~~] H. The provisions of this section shall apply
14 to all inmates except geriatric, permanently incapacitated and
15 terminally ill inmates eligible for the medical and geriatric
16 parole program as provided by the Parole Board Act. "

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SB 617/a

March 12, 1997

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

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has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, line 24, after "equivalent" insert "and any other treatment deemed medically necessary".
2. On page 2, line 7, after "treatment" insert "or its chemical equivalent and any other treatment deemed medically necessary at least".
3. On page 2, line 10, after the first occurrence of "parole"

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FIRST SESSION, 1997

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insert a period and strike the remainder of the line.

4. On page 2, strike all of lines 11 through 13.

5. On page 2, strike all of lines 14 through 21 and insert in lieu thereof:

"C. The corrections department shall administer and pay for the medroxyprogesterone acetate treatment or its chemical equivalent, pursuant to Subsection A of this section and shall follow the federal centers for disease control and prevention guidelines and protocols. As one condition of parole, a person undergoing hormonal chemical treatment may be placed in the corrections department's intensive supervision program pursuant to Section 31-21-13.1 NMSA 1978."

6. On page 3, line 10, strike ", but the" and insert "The".

7. On page 3, line 11, after "paroled" insert ", unless it can be demonstrated to the satisfaction of the sentencing court that the chemical treatment is no longer necessary and the court enters an order to that effect".

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15 Respectfully submitted,

16 _____
17 Fernando R. Macias, Chairman

18 Adopted _____ Not Adopted _____
19 (Chief Clerk) (Chief Clerk)

20
21 Date _____

22 The roll call vote was 5 For 3 Against

23 Yes: 5

24 No: Lopez, Sanchez, Tsosie

25 Excused: None

Absent: None

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FIRST SESSION, 1997

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