SENATE BILL 1208

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

INTRODUCED BY

L. SKIP VERNON

AN ACT

RELATING TO CRIMINAL APPEALS; PROVIDING THAT A DEFENDANT
CONVICTED OF ABUSE OF A CHILD THAT RESULTS IN GREAT BODILY HARM
OR DEATH TO THE CHILD IS NOT ENTITLED TO RELEASE PENDING APPEAL;
AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 31-11-1 NMSA 1978 (being Laws 1917,
Chapter 43, Section 58, as amended) is amended to read:

"31-11-1. STAY OF EXECUTION--RELEASE.--

A. All appeals and writs of error in criminal cases
have the effect of a stay of execution of the sentence of the
district court until the decision of the supreme court or court
of appeals.

B. If a defendant is convicted of a capital or
violent offense and is sentenced to death or a term of

imprisonment not suspended in whole, he shall not be entitled to release pending appeal.

C.   If a defendant is convicted of a noncapital offense other than a violent offense and is sentenced to a term of imprisonment not suspended in whole, he shall not be entitled to release pending appeal unless the court finds:

(1)   by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and

(2)   that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

D.   As used in Subsections B and C of this section, "violent offense" means:

(1)   [kidnaping] kidnapping;

(2)   criminal sexual penetration in the first or second degree;

(3)   armed robbery;

(4)   murder in the second degree;

(5)   aggravated burglary;

(6)   aggravated arson; [or]

(7)   assault with intent to commit violent felony upon peace officer; or

(8)   abuse of a child that results in great bodily harm or death to the child.

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1   E.   In all parole and probation revocation
2   proceedings, where the alleged violation by the parolee or
3   probationer of the conditions of release poses a threat to
4   himself or others, the defendant shall not be entitled to be
5   released on bail pending the decision on revocation.   In those
6   instances where the state has failed to conduct a preliminary
7   parole revocation hearing on a parolee held for parole
8   violations within sixty days of arrest, the parolee shall be
9   eligible for bail.   In all cases, the final parole revocation
10   hearing shall be scheduled for hearing within sixty days of the
11   parolee's return to the penitentiary.   In the case of probation
12   violation, if the final probation revocation hearing is not
13   brought before the court within sixty days, then the probationer
14   shall be eligible for bail."
15   Section 2.   EFFECTIVE DATE.--The effective date of the
16   provisions of this act is July 1, 1997.

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FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

March 10, 1997

Mr. President:

　　Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 1208

has had it under consideration and reports same with

recommendation that it **DO PASS**.

Respectfully submitted,

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Fernando R. Macias, Chairman

Adopted_____　　Not Adopted_____

(Chief Clerk)　　　　　　　　　　　　(Chief Clerk)

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1   Date _____

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4   The roll call vote was 6 For 0 Against

5   Yes: 6

6   No: 0

7   Excused: Sanchez, Tsosie

8   Absent: None

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