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HOUSE BILL 44

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. David Pederson

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING A SECTION OF THE  
NMSA 1978 REGARDING A PLEA OF GUILTY BUT MENTALLY ILL.

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

Section 1. Section 31-9-3 NMSA 1978 (being Laws 1982,  
Chapter 55, Section 1) is amended to read:

"31-9-3. CRIMINAL TRIALS- - PLEA AND VERDICT OF GUILTY BUT  
MENTALLY ILL. - -

A. A person who at the time of the commission of a  
criminal offense was not insane but was suffering from a  
mental illness or who is currently suffering from a mental  
illness is not relieved of criminal responsibility for his  
conduct and may be found guilty but mentally ill. As used in  
this section, "mentally ill" means a substantial disorder of  
thought, mood or behavior which afflicted a person at the time

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1 of the commission of the offense and which impaired that  
2 person's judgment, but not to the extent that he did not know  
3 what he was doing or understand the consequences of his act or  
4 did not know that his act was wrong or could not prevent  
5 himself from committing the act.

6 B. A plea or finding of guilty but mentally ill is  
7 not an affirmative defense but an alternative plea or finding  
8 that may be accepted or made pursuant to appropriate evidence  
9 when the affirmative defense of insanity is raised or the plea  
10 of guilty but mentally ill is made.

11 C. A plea of guilty but mentally ill shall not be  
12 accepted until the defendant has undergone examination by a  
13 clinical psychologist or psychiatrist and the court has  
14 examined the psychological or psychiatric reports, held a  
15 hearing on the issue of the defendant's mental condition and  
16 is satisfied that there is a factual basis that the defendant  
17 was mentally ill at the time of the offense to which the plea  
18 is entered or is currently suffering from a mental illness.

19 D. When a defendant has asserted a defense of  
20 insanity or asserts that he is currently suffering from a  
21 mental illness, the court may find the defendant guilty but  
22 mentally ill if, after hearing all of the evidence, the court  
23 finds beyond a reasonable doubt that the defendant:

24 (1) is guilty of the offense charged;

25 (2) was mentally ill at the time of the

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1 commission of the offense; and either  
2 (3) was not legally insane at the time of the  
3 commission of the offense; or  
4 (4) is currently suffering from a mental  
5 illness.

6 E. When a defendant has asserted a defense of  
7 insanity or asserts that he is currently suffering from a  
8 mental illness, the court, where warranted by the evidence,  
9 shall provide the jury with a special verdict form of guilty  
10 but mentally ill and shall separately instruct the jury that a  
11 verdict of guilty but mentally ill may be returned instead of  
12 a verdict of guilty or not guilty and that such a verdict  
13 requires a finding by the jury beyond a reasonable doubt that  
14 the defendant committed the offense charged and that the  
15 defendant was not legally insane at the time of the commission  
16 of the offense but that he was mentally ill at that time or  
17 that he is currently suffering from a mental illness."

18 Section 2. EFFECTIVE DATE. --The effective date of the  
19 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 January 25, 1999  
7

8 Mr. Speaker:  
9

10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 44  
13

14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.  
16

17 Respectfully submitted,  
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24 R. David Pederson, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HJC/HB 44

Page 5

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

5 (Chief Clerk)

6 (Chief Clerk)

8 Date \_\_\_\_\_

9  
10 The roll call vote was 10 For 1 Against

11 Yes: 10

12 No: Godbey

13 Excused: Thompson

14 Absent: None

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16 J:\99BillsWP\H0044

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1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 February 16, 1999

5  
6  
7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE BILL 44

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.

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17 Respectfully submitted,

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23 Max Coll, Chairman  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 1 Against

Yes: 10

No: Pearce

Excused: Abeyta, Garcia, M H., Larrañaga, Picraux, Salazar, Watchman

Absent: None

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1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSION, 1999

HB 44/a

3  
4 March 14, 1999

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6 Mr. Presi dent:

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8 Your JUDI CIARY COMMI TTEE, to whom has been referred

9 HOUSE BILL 44

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

- 13  
14 1. On page 2, line 1, after "offense" insert "or is  
15 currently  
16 suffering from a mental illness".

17 Respectfully submi tted,

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23 Mi chael S. Sanchez, Chai rman

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FIRST SESSI ON, 1999

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Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chi ef Clerk)

(Chi ef Clerk)

Date \_\_\_\_\_

The roll call vote was  5  For  0  Against

Yes: 5

No: None

Excused: Aragon, Davi s, Lopez

Absent: None

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