

SENATE BILL 375

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Antonio Maestas

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PROBATION; REMOVING THE PAYMENT OF THE COST OF PAROLE SERVICES; ALLOWING A MINIMUM RISK DEFENDANT TO BE RELEASED FROM PROBATION IN CERTAIN CIRCUMSTANCES; CLARIFYING PROJECTED RELEASE DATES FOR MERITORIOUS DEDUCTIONS UPON ADMISSION TO A CORRECTIONAL FACILITY.

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

SECTION 1. Section 31-18-15 NMSA 1978 (being Laws 1977,

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Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--  
BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS  
DEDUCTIONS.--

A. As used in a statute that establishes a  
noncapital felony, the following defined felony classifications  
and associated basic sentences of imprisonment are as follows:

FELONY CLASSIFICATION	BASIC SENTENCE
first degree felony resulting in the death of a child	life imprisonment
first degree felony for aggravated criminal sexual penetration	life imprisonment
first degree felony second degree felony resulting in the death of a human being	eighteen years imprisonment eighteen years imprisonment
second degree felony for a sexual offense against a child	fifteen years imprisonment
second degree felony for sexual exploitation of children	twelve years imprisonment
second degree felony	nine years imprisonment

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third degree felony resulting  
in the death of a human being      six years imprisonment  
third degree felony for a  
sexual offense against a  
child      six years imprisonment  
third degree felony for sexual  
exploitation of children      eleven years imprisonment  
third degree felony      three years imprisonment  
fourth degree felony for  
sexual exploitation of  
children      ten years imprisonment  
fourth degree felony      eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for felony convictions wherein a person is sentenced to imprisonment of more than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be

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served in accordance with the provisions of Section 31-21-10 NMSA 1978 [~~after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section~~]. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

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(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars (\$17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);

(3) for a first degree felony, fifteen thousand dollars (\$15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(7) for a second degree felony, ten thousand dollars (\$10,000);

(8) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);

(9) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000);

(10) for a third degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(11) for a third or fourth degree felony, five

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thousand dollars (\$5,000); or

(12) for a fourth degree felony for sexual exploitation of children, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38

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NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

SECTION 2. Section 31-20-5 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-17, as amended) is amended to read:

"31-20-5. PLACING DEFENDANT ON PROBATION.--

A. When a person has been convicted of a crime for which a sentence of imprisonment is authorized and when the magistrate, metropolitan or district court has deferred or suspended sentence, it shall order the defendant to be placed on probation for all or some portion of the period of deferment or suspension if the defendant is in need of supervision, guidance or direction that is feasible for the corrections department to furnish. Except for sex offenders as provided in Section 31-20-5.2 NMSA 1978, the total period of probation for district court shall not exceed five years and the total period of probation for the magistrate or metropolitan courts shall be no longer than the maximum allowable incarceration time for the offense or as otherwise provided by law.

B. If a defendant is required to serve a period of probation subsequent to a period of incarceration:

(1) the period of probation shall be served subsequent to any required period of parole, with the time served on parole credited as time served on the period of probation and the conditions of probation imposed by the court

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deemed as additional conditions of parole; and

(2) in the event that the defendant violates any condition of that parole, the parole board shall cause ~~[him]~~ the defendant to be brought before it pursuant to the provisions of Section 31-21-14 NMSA 1978 and may make any disposition authorized pursuant to that section and, if parole is revoked, the period of parole served in the custody of a correctional facility shall not be credited as time served on probation.

C. A defendant shall automatically be released from probation if the defendant:

(1) is classified as a minimum level risk by a validated scoring instrument;

(2) has met all of the obligations of the defendant's probation; and

(3) has completed one-half or more of the period of probation."

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

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

A. Except as provided in Section 31-21-10.2 NMSA 1978, an inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence. Before ordering the parole of an inmate sentenced to life

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imprisonment, the board shall:

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

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

(a) the circumstances of the offense;

(b) mitigating and aggravating circumstances;

(c) whether a deadly weapon was used in the commission of the offense;

(d) whether the inmate is a habitual offender;

(e) the reports filed under Section 31-21-9 NMSA 1978; and

(f) the reports of such physical and mental examinations as have been made while in an institution;

(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

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

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B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was sentenced to life imprisonment shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

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

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

E. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The

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board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise

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the inmate of the conditions of parole and the inmate's duties relating to those conditions of parole.

F. When a person on parole has performed the obligations of the person's release for the period of parole provided in this section, the board shall make a final order of discharge and issue the person a certificate of discharge.

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

~~(1) to pay the actual costs of parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars (\$1,800) annually to be paid in monthly installments of not less than twenty-five dollars (\$25.00) and not more than one hundred fifty dollars (\$150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the inmate. The inmate's payment of the supervised parole costs shall not be waived unless the board holds an evidentiary hearing and finds that the inmate is unable to pay the costs. If the board waives the inmate's payment of the supervised parole costs and the inmate's financial circumstances subsequently change so that the inmate is able to pay the costs, the appropriate district supervisor of the adult probation and parole division~~

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~~shall advise the board and the board shall hold an evidentiary hearing to determine whether the waiver should be rescinded; and~~

~~(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the inmate's arrest, prosecution or conviction.~~

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

SECTION 4. Section 33-2-34 NMSA 1978 (being Laws 1999, Chapter 238, Section 1, as amended) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS DEDUCTIONS.--

A. ~~[To earn meritorious deductions]~~ A prisoner confined in a correctional facility designated by the corrections department ~~[must be an active participant]~~ may lose earned meritorious deductions if the prisoner fails to actively participate in programs recommended for the prisoner by the classification supervisor and approved by the warden or the warden's designee.

B. Meritorious deductions shall be awarded for the remainder of the sentence, after pre-sentence confinement has been deducted, upon admission to a correctional facility

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designated by the corrections department.

C. Meritorious deductions shall not exceed the following amounts:

(1) for a prisoner confined for committing a serious violent offense, [~~up to a maximum of~~] four days per month [~~of time served~~];

(2) for a prisoner confined for committing a nonviolent offense, [~~up to a maximum of~~] thirty days per month [~~of time served~~]; and

(3) for a prisoner confined following revocation of parole, [~~for the alleged commission of a new felony offense or for absconding from parole, up to a maximum of four days per month of time served during the parole term following revocation; and~~

~~(4) for a prisoner confined following revocation of parole for a reason other than the alleged commission of a new felony offense or absconding from parole:~~

~~(a) up to a maximum of eight days per month of time served during the parole term following revocation, if the prisoner was convicted of a serious violent offense or failed to pass a drug test administered as a condition of parole; or~~

~~(b) up to a maximum of thirty days per month of time served during the parole term following revocation, if the prisoner was convicted of a nonviolent~~

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offense] meritorious deductions will HJC→~~not be awarded~~←HJC  
HJC→be awarded commensurate with the classification of the  
offense←HJC .

[B.] D. A prisoner may [~~earn~~] lose meritorious deductions upon recommendation by the classification supervisor, based upon the prisoner's [~~active participation~~] failure to actively participate in approved programs and the quality of the prisoner's participation in those approved programs. A prisoner may not [~~earn~~] lose meritorious deductions unless the recommendation of the classification supervisor is approved by the warden or the warden's designee.

[C.] E. If a prisoner's active participation in approved programs is interrupted by a lockdown at a correctional facility, the prisoner may [~~continue to be awarded~~] not lose meritorious deductions, [~~at the rate the prisoner was earning meritorious deductions prior to the lockdown~~] unless the warden or the warden's designee determines that the prisoner's conduct contributed to the initiation or continuance of the lockdown.

[D.] F. A prisoner confined in a correctional facility designated by the corrections department is eligible for lump-sum meritorious deductions as follows:

(1) for successfully completing an approved vocational, substance abuse or mental health program, [~~one month~~] thirty days; except when the prisoner has a demonstrable physical, mental health or developmental disability that

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prevents the prisoner from successfully earning a high school equivalency credential, in which case, the prisoner shall be awarded [~~three months~~] ninety days;

(2) for earning a high school equivalency credential, [~~three months~~] ninety days;

(3) for earning an associate's degree, [~~four months~~] one hundred twenty days;

(4) for earning a bachelor's degree, [~~five months~~] one hundred fifty days;

(5) for earning a graduate qualification, [~~five months~~] one hundred fifty days; and

(6) for engaging in a heroic act of saving life or property, engaging in extraordinary conduct for the benefit of the state or the public that is at great expense or risk to or involves great effort on the part of the prisoner or engaging in extraordinary conduct far in excess of normal program assignments that demonstrates the prisoner's commitment to self-rehabilitation. The classification supervisor and the warden or the warden's designee may recommend the number of days to be awarded in each case based upon the particular merits, but any award shall be determined by the director of the adult institutions division of the corrections department or the director's designee.

[~~E.~~] G. Lump-sum meritorious deductions, provided in Paragraphs (1) through (6) of Subsection [~~D~~] F of this section,



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may be awarded in addition to the meritorious deductions provided in [~~Subsections A and B~~] Subsection C of this section. Lump-sum meritorious deductions shall not exceed one year per award and shall not exceed a total of one year for all lump-sum meritorious deductions awarded in any consecutive twelve-month period.

[~~F.~~] H. A prisoner [~~is not eligible to earn~~] may lose meritorious deductions if the prisoner:

- (1) disobeys an order to perform labor, pursuant to Section 33-8-4 NMSA 1978;
- (2) is in disciplinary segregation;
- (3) is confined for committing a serious violent offense and is within the first sixty days of receipt by the corrections department; or
- (4) is not an active participant in programs recommended and approved for the prisoner by the classification supervisor.

[~~G.~~] I. The provisions of this section shall not be interpreted as providing eligibility to earn meritorious deductions from a sentence of life imprisonment or a sentence of life imprisonment without possibility of release or parole.

[~~H.~~] J. The corrections department shall promulgate rules to implement the provisions of this section, and the rules shall be matters of public record. A concise summary of the rules shall be provided to each prisoner, and each prisoner

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shall receive a ~~[quarterly]~~ statement of the meritorious deductions earned upon initial award, if additional awards are given, if meritorious deductions are lost and upon request.

[~~I.~~] K. A New Mexico prisoner confined in a federal or out-of-state correctional facility is eligible to earn meritorious deductions for active participation in programs on the basis of the prisoner's conduct and program reports furnished by that facility to the corrections department. All decisions regarding the award and forfeiture of meritorious deductions at such facility are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.

[~~J.~~] L. In order to be eligible for meritorious deductions, a prisoner confined in a federal or out-of-state correctional facility designated by the corrections department must actively participate in programs that are available. If a federal or out-of-state correctional facility does not have programs available for a prisoner, the prisoner may be awarded meritorious deductions at the rate the prisoner could have earned meritorious deductions if the prisoner had actively participated in programs.

[~~K.~~] M. A prisoner confined in a correctional facility in New Mexico that is operated by a private company, pursuant to a contract with the corrections department, is eligible to earn meritorious deductions in the same manner as a

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prisoner confined in a state-run correctional facility. All decisions regarding the award or forfeiture of meritorious deductions at such facilities are subject to final approval by the director of the adult institutions division of the corrections department or the director's designee.

[L.] N. As used in this section:

(1) "active participant" means a prisoner who has begun, and is regularly engaged in, approved programs;

(2) "program" means work, vocational, educational, substance abuse and mental health programs, approved by the classification supervisor, that contribute to a prisoner's self-betterment through the development of personal and occupational skills. "Program" does not include recreational activities;

(3) "nonviolent offense" means any offense other than a serious violent offense; and

(4) "serious violent offense" means:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) voluntary manslaughter, as provided in Section 30-2-3 NMSA 1978;

(c) third degree aggravated battery, as provided in Section 30-3-5 NMSA 1978;

(d) third degree aggravated battery against a household member, as provided in Section 30-3-16 NMSA

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1978;

(e) first degree kidnapping, as provided in Section 30-4-1 NMSA 1978;

(f) first and second degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(g) second and third degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;

(h) first and second degree robbery, as provided in Section 30-16-2 NMSA 1978;

(i) second degree aggravated arson, as provided in Section 30-17-6 NMSA 1978;

(j) shooting at a dwelling or occupied building, as provided in Section 30-3-8 NMSA 1978;

(k) shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(l) aggravated battery upon a peace officer, as provided in Section 30-22-25 NMSA 1978;

(m) assault with intent to commit a violent felony upon a peace officer, as provided in Section 30-22-23 NMSA 1978;

(n) aggravated assault upon a peace officer, as provided in Section 30-22-22 NMSA 1978; or

(o) any of the following offenses, when the nature of the offense and the resulting harm are such that

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the court judges the crime to be a serious violent offense for the purpose of this section: 1) involuntary manslaughter, as provided in Section 30-2-3 NMSA 1978; 2) fourth degree aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3) third degree assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978; 4) fourth degree aggravated assault against a household member, as provided in Section 30-3-13 NMSA 1978; 5) third degree assault against a household member with intent to commit a violent felony, as provided in Section 30-3-14 NMSA 1978; 6) third and fourth degree aggravated stalking, as provided in Section 30-3A-3.1 NMSA 1978; 7) second degree kidnapping, as provided in Section 30-4-1 NMSA 1978; 8) second degree abandonment of a child, as provided in Section 30-6-1 NMSA 1978; 9) first, second and third degree abuse of a child, as provided in Section 30-6-1 NMSA 1978; 10) third degree dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978; 11) third and fourth degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; 12) fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978; 13) third degree robbery, as provided in Section 30-16-2 NMSA 1978; 14) third degree homicide by vehicle or great bodily harm by vehicle, as provided in Section 66-8-101 NMSA 1978; or 15) battery upon a peace officer, as provided in Section 30-22-24 NMSA 1978.

[M.] O. Except for sex offenders, as provided in

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Section 31-21-10.1 NMSA 1978, an offender sentenced to confinement in a correctional facility designated by the corrections department who has been released from confinement and who is serving a parole term may be awarded earned meritorious deductions of up to thirty days per month upon recommendation of the parole officer supervising the offender, with the final approval of the adult parole board. The offender must be in compliance with all the conditions of the offender's parole to be eligible for earned meritorious deductions. The adult parole board may remove earned meritorious deductions previously awarded if the offender later fails to comply with the conditions of the offender's parole. The offender shall be eligible to earn meritorious deductions while on parole in the community commensurate with the classification of the offense. The corrections department and the adult parole board shall promulgate rules to implement the provisions of this subsection. This subsection applies to offenders who are serving a parole term on or after July 1, 2004."