

Juvenile Sentencing Reform Model Language for New Mexico

Section 1. New Statutory Section. Notwithstanding any other provision of law to the contrary, a person shall not be sentenced to life without parole for any offense the person committed while under the age of eighteen (18) years.

Section 2. New Statutory Section. In addition to other factors required by law to be considered prior to the imposition of a sentence, in determining the appropriate sentence for a person who was under the age of eighteen (18) years when he or she committed an offense, the court shall consider the following mitigating circumstances:

- (1) Age at the time of the offense;
- (2) Impetuosity;
- (3) Family and community environment;
- (4) Ability to appreciate the risks and consequences of the conduct;
- (5) Intellectual capacity;
- (6) The outcomes of a comprehensive mental health evaluation conducted by a mental health professional licensed to treat adolescents in the State of New Mexico: *Provided*, That no provision of this section may be construed to require that a comprehensive mental health evaluation be conducted;
- (7) Peer or familial pressure;
- (8) Whether and to what extent an adult was involved in the offense;
- (9) Ability to participate meaningfully in his or her defense;

- (10) Capacity for rehabilitation;
- (11) School records and special education evaluations;
- (12) Trauma history;
- (13) Faith and community involvement;
- (14) Involvement in the child welfare system; and
- (15) Any other mitigating factor or circumstances the court deems relevant.

Section 3. New Statutory Section. Parole eligibility for a person who was under the age of eighteen (18) years when he or she committed an offense or offenses that occurred before, on, or after the effective date of this act.

(a) Notwithstanding any other provision of law to the contrary, unless by law the person is eligible for earlier parole eligibility, a person who was convicted and sentenced for an offense or offenses that were committed before, on, or after the effective date of this act and before he or she was eighteen (18) years of age is eligible for release on parole as follows:

- (1) A person who was convicted and sentenced for any offense before he or she was eighteen (18) years of age and in which the death of another person did not occur is eligible for release on parole no later than after serving fifteen (15) years of incarceration, unless by law the person is eligible for earlier parole eligibility;
- (2) A person who was convicted and sentenced for any offense committed before he or she was eighteen (18) years of age, in which the death of another person occurred, and that was committed before, on, or after the effective date of this act is eligible for release on parole no later than after twenty (20) years of incarceration, unless by law the person is eligible for earlier parole eligibility.

(3) This section applies to any person whose crimes were committed before he or she was eighteen (18) years of age, regardless of the original sentence or combination of sentences that were imposed or the sentences the person is currently serving, including life imprisonment or life imprisonment without the possibility of parole.

(4) This section applies regardless of any mandatory minimums, sentencing enhancements, or multiple sentences ordered to be served consecutively or concurrently.

(b) This section shall apply retroactively to any person whose crimes were committed before he or she was eighteen (18) years of age, regardless of the original sentence or combination of sentences that were imposed.

(c) (1) The parole board shall hold a hearing to consider the parole of a person under this section. This hearing shall take into account how a youthful offender is different from an adult offender and shall provide the person with a meaningful opportunity to be released on parole based on demonstrated maturity and rehabilitation.

(2) During a parole hearing involving a person under this section, in addition to other factors required by law to be considered by the board, the board shall give great weight to the following mitigating circumstances:

- (A) The diminished culpability of minors as compared to that of adults;
- (B) The hallmark features of youth;
- (C) Age and immaturity of the person at the time of the offense;
- (D) Whether and to what extent an adult was involved in the offense;
- (E) The person's family and community circumstances at the time of the offense, including any history of abuse, trauma, and involvement in the child welfare system;

(F) Subsequent growth and increased maturity of the person during incarceration;

(G) The person's participation in available rehabilitative and educational programs while in prison, if those programs have been made available, or use of self-study for self-improvement;

(H) Other mitigating factors or circumstances the board deems relevant.

(3) A person eligible for parole consideration under this section may have an attorney present to represent him or her at the parole hearing.