

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

February 23, 2001

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred  
HOUSE BILL 328

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

1. On pages 1 through 3, strike Section 1 in its entirety.
2. Renumber the succeeding section accordingly.
3. On page 3, line 18, strike "possessed" and insert in lieu thereof "carried".
4. On page 3, line 21, remove the brackets and line through "one year" and strike "five years".
5. On page 3, line 22, remove the brackets and line through "year" and on line 23, strike "years".
6. On page 4, line 1, remove the brackets and line through "one year" and strike "five years".
7. On page 4, remove the brackets and lines through lines 2 through 9.
8. On page 4, between lines 9 and 10, insert the following new subsection:

"C. When a separate finding of fact by the court or jury shows that a firearm was used or carried with the intent to use in the commission of a noncapital violent felony, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by five years, and the sentence imposed by this section shall be the first years served and shall not be suspended or deferred; provided that when the offender is a serious youthful offender or a youthful offender, the sentence imposed by this subsection may be increased by five years. For purposes of this subsection, "noncapital violent felony" means:

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

HJC/HB 328

Page 2

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

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

(3) criminal sexual penetration, as provided in Subsection C of Section 30-9-11 NMSA 1978;

(4) second and subsequent offenses of robbery, as provided in Section 30-16-2 NMSA 1978; and

(5) aggravated assault, as provided in Section 30-3-2 NMSA 1978. "

9. On page 4, strike line 10 through "B. " and insert in lieu thereof "D. ".

10. On page 4, line 12, after "used" insert "or carried",

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
W. Ken Martinez, Chairman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

FORTY-FIFTH LEGISLATURE  
FIRST SESSION, 2001

HJC/HB 328

Page 3

The roll call vote was 5 For 4 Against  
Yes: 5  
No: Beam, Garcia, Martinez, Rios  
Excused: Godbey, Stewart  
Absent: None

. 137202. 2

C:\MyFiles\Committee Reports\H0328JC1