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**HOUSE BILL 919**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**W. Ken Martinez**

**AN ACT**

**RELATING TO CRIMINAL SENTENCING; AMENDING THE HABITUAL  
OFFENDER STATUTE WITH REGARD TO FELONY CONVICTIONS FOR  
POSSESSION OF CONTROLLED SUBSTANCES.**

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

**Section 1. Section 31-18-17 NMSA 1978 (being Laws 1977,  
Chapter 216, Section 6, as amended by Laws 1993, Chapter 77,  
Section 9 and also by Laws 1993, Chapter 283, Section 1) is  
amended to read:**

**"31-18-17. HABITUAL OFFENDERS-- ALTERATION OF BASIC  
SENTENCE. --**

**A. For the purposes of this section, "prior felony  
conviction" means:**

**(1) a conviction for a prior felony committed  
within New Mexico whether within the Criminal Code or not; or**

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1 (2) any prior felony for which the person was  
2 convicted other than an offense triable by court martial if:

3 (a) the conviction was rendered by a  
4 court of another state, the United States, a territory of the  
5 United States or the commonwealth of Puerto Rico;

6 (b) the offense was punishable, at the  
7 time of conviction, by death or a maximum term of imprisonment  
8 of more than one year; or

9 © the offense would have been  
10 classified as a felony in this state at the time of  
11 conviction.

12 B. Any person convicted of a noncapital felony in  
13 this state whether within the Criminal Code [~~or the Controlled~~  
14 ~~Substances Act~~] or not who has incurred one prior felony  
15 conviction which was part of a separate transaction or  
16 occurrence or conditional discharge under Section [~~31-20-7~~]  
17 31-20-13 NMSA 1978 is a habitual offender and his basic  
18 sentence shall be increased by one year, and the sentence  
19 imposed [by] pursuant to this subsection shall not be  
20 suspended or deferred; provided that when the instant felony  
21 conviction or a prior felony conviction is a felony conviction  
22 for possession of a controlled substance, as provided in the  
23 Controlled Substances Act, the sentence imposed pursuant to  
24 this subsection may be increased by one year.

25 C. Any person convicted of a noncapital felony in

underscored material = new  
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1 this state whether within the Criminal Code [~~or the Controlled~~  
2 ~~Substances Act~~] or not who has incurred two prior felony  
3 convictions which were parts of separate transactions or  
4 occurrences or conditional discharge under Section [~~31-20-7~~]  
5 31-20-13 NMSA 1978 is a habitual offender and his basic  
6 sentence shall be increased by four years, and the sentence  
7 imposed [~~by~~] pursuant to this subsection shall not be  
8 suspended or deferred; provided that when the instant felony  
9 conviction or a prior felony conviction is a felony conviction  
10 for possession of a controlled substance, as provided in the  
11 Controlled Substances Act, the sentence imposed pursuant to  
12 this subsection may be increased by four years.

13 D. Any person convicted of a noncapital felony in  
14 this state whether within the Criminal Code [~~or the Controlled~~  
15 ~~Substances Act~~] or not who has incurred three or more prior  
16 felony convictions [~~which~~] that were parts of separate  
17 transactions or occurrences or conditional discharge under  
18 Section [~~31-20-7~~] 31-20-13 NMSA 1978 is a habitual offender  
19 and his basic sentence shall be increased by eight years, and  
20 the sentence imposed [~~by~~] pursuant to this subsection shall  
21 not be suspended or deferred; provided that when the instant  
22 felony conviction or a prior felony conviction is a felony  
23 conviction for possession of a controlled substance, as  
24 provided in the Controlled Substances Act, the sentence  
25 imposed pursuant to this subsection may be increased by eight

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years. "

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001.

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