

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 512

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

INTRODUCED BY

Rod Adair

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR TREATMENT OF CRIMINAL OFFENDERS CONVICTED OF CERTAIN SEXUAL OFFENSES AGAINST CHILDREN LESS THAN THIRTEEN YEARS OF AGE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. A new section of Chapter 31, Article 18 NMSA 1978 is enacted to read:

" NEW MATERIAL SENTENCING OF PERSONS CONVICTED OF CERTAIN SEXUAL OFFENSES AGAINST CHILDREN LESS THAN THIRTEEN YEARS OF AGE--TREATMENT WITH MEDROXYPROGESTERONE ACETATE OR ITS EQUIVALENT. --

A. A person convicted of criminal sexual penetration in the first degree when the victim is a child less than thirteen years of age shall, if paroled, undergo

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 medroxyprogesterone acetate treatment or its chemical
2 equivalent, in addition to any other treatment or punishment
3 prescribed for that offense by the sentencing court.

4 B. A person required to undergo treatment pursuant
5 to Subsection A of this section:

6 (1) shall be exempt from that treatment if he
7 has undergone or does undergo a permanent surgical alternative
8 to hormonal chemical treatment for sex offenders; and

9 (2) shall begin medroxyprogesterone acetate
10 treatment one week prior to his release on parole from the
11 physical custody of the corrections department or another
12 institution and shall remain on the treatment program unless
13 the parole board demonstrates to the satisfaction of the court
14 sentencing the person pursuant to this section that the
15 treatment is no longer necessary and the court enters an order
16 to that effect.

17 C. The federal centers for disease control and
18 prevention shall administer and implement the protocols
19 required by this section. These protocols shall include a
20 requirement that the person subject to treatment pursuant to
21 this section shall be informed in writing about the effect of
22 hormonal chemical treatment and any side effects that may
23 result from it. The person shall provide a receipt in writing
24 indicating that this information has been communicated to the
25 person.

. 135970. 1

underscored material = new
[bracketed material] = delete

1 D. Nothing in the implementation of the protocols
2 developed pursuant to Subsection C of this section shall
3 require a medical doctor employed by the corrections
4 department or the parole board to participate against his will
5 in the program authorized by this section. "

6 Section 2. Section 31-21-10 NMSA 1978 (being Laws 1980,
7 Chapter 28, Section 1, as amended) is amended to read:

8 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. - -

9 A. A person sentenced as the result of a
10 conviction for committing criminal sexual penetration in the
11 first degree, when the victim is a child less than thirteen
12 years of age, may be paroled pursuant to the applicable
13 provisions of law, but the term of parole shall be for the
14 natural life of the person paroled.

15 ~~[A.]~~ B. Except as provided in Subsection A of this
16 section, an inmate of an institution who was sentenced to life
17 imprisonment as the result of the commission of a capital
18 felony, who was convicted of three violent felonies and
19 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978
20 or who was convicted of two violent sexual offenses and
21 sentenced pursuant to Subsection A of Section 31-18-25 NMSA
22 1978 and Section 31-18-26 NMSA 1978 becomes eligible for a
23 parole hearing after he has served thirty years of his
24 sentence. Before ordering the parole of an inmate sentenced
25 to life imprisonment, the board shall:

. 135970. 1

underscored material = new
[bracketed material] = delete

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

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

5 (a) the circumstances of the offense;

6 (b) mitigating and aggravating
7 circumstances;

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

10 (d) whether the inmate is a habitual
11 offender;

12 (e) the reports filed under Section
13 31-21-9 NMSA 1978; and

14 (f) the reports of such physical and
15 mental examinations as have been made while in ~~[prison]~~ an
16 institution;

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

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

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

. 135970. 1

underscored material = new
[bracketed material] = delete

1 and parole denied.

2 [B-] C. Except as provided in Subsection A of this
3 section, unless the board finds that it is in the best
4 interest of society and the parolee to reduce the period of
5 parole, a person who was convicted of a capital felony shall
6 be required to undergo a minimum period of parole of five
7 years. During the period of parole, the person shall be under
8 the guidance and supervision of the board.

9 [C-] D. Except as provided in Subsection A of this
10 section, an inmate who was convicted of a first, second or
11 third degree felony and who has served the sentence of
12 imprisonment imposed by the court in [~~a corrections facility~~]
13 an institution designated by the corrections department shall
14 be required to undergo a two-year period of parole. An inmate
15 who was convicted of a fourth degree felony and who has served
16 the sentence of imprisonment imposed by the court in [~~a~~
17 ~~corrections facility~~] an institution designated by the
18 corrections department shall be required to undergo a one-year
19 period of parole. During the period of parole, the person
20 shall be under the guidance and supervision of the board.

21 [D-] E. Every person while on parole shall remain
22 in the legal custody of the institution from which he was
23 released, but shall be subject to the orders of the board.
24 The board shall furnish to each inmate as a prerequisite to
25 his release under its supervision a written statement of the

. 135970. 1

underscored material = new
[bracketed material] = delete

1 conditions of parole that shall be accepted and agreed to by
2 the inmate as evidenced by his signature affixed to a
3 duplicate copy to be retained in the files of the board. The
4 board shall also require as a prerequisite to release the
5 submission and approval of a parole plan. If an inmate
6 refuses to affix his signature to the written statement of the
7 conditions of his parole or does not have an approved parole
8 plan, he shall not be released and shall remain in the custody
9 of the [~~corrections facility~~] institution in which he has
10 served his sentence, excepting parole, until such time as the
11 period of parole he was required to serve, less meritorious
12 deductions, if any, expires, at which time he shall be
13 released from that [~~facility~~] institution without parole, or
14 until such time that he evidences his acceptance and agreement
15 to the conditions of parole as required or receives approval
16 for his parole plan or both. Time served from the date that
17 an inmate refuses to accept and agree to the conditions of
18 parole or fails to receive approval for his parole plan shall
19 reduce the period, if any, to be served under parole at a
20 later date. If the district court has ordered that the inmate
21 make restitution to a victim as provided in Section 31-17-1
22 NMSA 1978, the board shall include restitution as a condition
23 of parole. The board shall also personally apprise the inmate
24 of the conditions of parole and his duties relating thereto.

25 [E.] F. Except as provided in Subsection A of this

. 135970. 1

underscored material = new
[bracketed material] = delete

1 section, when a person on parole has performed the obligations
2 of his release for the period of parole provided in this
3 section, the board shall make a final order of discharge and
4 issue him a certificate of discharge.

5 ~~[F.]~~ G. Pursuant to the provisions of Section
6 31-18-15 NMSA 1978, the board shall require the inmate as a
7 condition of parole:

8 (1) to pay the actual costs of his parole
9 services to the adult probation and parole division of the
10 corrections department for deposit to the corrections
11 department intensive supervision fund not exceeding one
12 thousand twenty dollars (\$1,020) annually to be paid in
13 monthly installments of not less than fifteen dollars (\$15.00)
14 and not more than eighty-five dollars (\$85.00), subject to
15 modification by the adult probation and parole division on the
16 basis of changed financial circumstances; and

17 (2) to reimburse a law enforcement agency or
18 local crime stopper program for the amount of any reward paid
19 by the agency or program for information leading to his
20 arrest, prosecution or conviction.

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

25 Section 3. APPROPRIATION. -- Two hundred thousand dollars

. 135970. 1

1 (\$200,000) is appropriated from the general fund to the
2 corrections department for expenditure in fiscal year 2002 for
3 the purpose of implementing a program of hormonal chemical
4 treatment for sex offenders released on parole on the
5 condition of participating in the program. Any unexpended or
6 unencumbered balance remaining at the end of fiscal year 2002
7 shall revert to the general fund.

8 Section 4. EFFECTIVE DATE. --The effective date of the
9 provisions of this act is July 1, 2001.

10 - 8 -

underscored material = new
[bracketed material] = delete