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SENATE BILL 63

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Ron 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**

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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 him.

25 D. Nothing in the implementation of the protocols

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1 developed pursuant to Subsection C of this section shall
2 require a medical doctor employed by the corrections
3 department or the parole board to participate against his will
4 in the program authorized by this section. "

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

7 "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

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

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

25 (1) interview the inmate at the institution

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1 where he is committed;

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

4 (a) the circumstances of the offense;

5 (b) mitigating and aggravating
6 circumstances;

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

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

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

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

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

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

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

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

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

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

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

24 [E.] F. Except as provided in Subsection A of this
25 section, when a person on parole has performed the obligations

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1 of his release for the period of parole provided in this
2 section, the board shall make a final order of discharge and
3 issue him a certificate of discharge.

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

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

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

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

24 Section 3. APPROPRIATION. -- Two hundred thousand dollars
25 (\$200,000) is appropriated from the general fund to the

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1 corrections department for expenditure in fiscal year 2003 for
2 the purpose of implementing a program of hormonal chemical
3 treatment for sex offenders released on parole on the
4 condition of participating in the program. Any unexpended or
5 unencumbered balance remaining at the end of fiscal year 2003
6 shall revert to the general fund.

7 Section 4. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2002.

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