

HOUSE BILL 453

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT
FELONIES IN THE CRIMINAL SENTENCING ACT FOR THE PURPOSES OF
MANDATORY LIFE IMPRISONMENT FOR THREE VIOLENT FELONY
CONVICTIONS.

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

SECTION 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a third violent
felony, and each violent felony conviction is part of a
separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant
shall, in addition to the sentence imposed for the third

.198774.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 violent conviction, be punished by a sentence of life
2 imprisonment. The life imprisonment sentence shall be subject
3 to parole pursuant to the provisions of Section 31-21-10 NMSA
4 1978.

5 B. The sentence of life imprisonment shall be
6 imposed after a sentencing hearing, separate from the trial or
7 guilty plea proceeding resulting in the third violent felony
8 conviction, pursuant to the provisions of Section 31-18-24 NMSA
9 1978.

10 C. For the purpose of this section, a violent
11 felony conviction incurred by a defendant before the defendant
12 reaches the age of eighteen shall not count as a violent felony
13 conviction.

14 D. When a defendant has a felony conviction from
15 another state, the felony conviction shall be considered a
16 violent felony for the purposes of the Criminal Sentencing Act
17 if that crime would be considered a violent felony in New
18 Mexico.

19 E. As used in the Criminal Sentencing Act,
20 [~~(1) "great bodily harm" means an injury to~~
21 ~~the person that creates a high probability of death or that~~
22 ~~causes serious disfigurement or that results in permanent loss~~
23 ~~or impairment of the function of any member or organ of the~~
24 ~~body; and~~

25 ~~(2)] "violent felony" means:~~

.198774.1

underscored material = new
[bracketed material] = delete

1 ~~[(a)]~~ (1) murder in the first or second
2 degree, as provided in Section 30-2-1 NMSA 1978;

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

5 (3) third degree aggravated battery, as
6 provided in Section 30-3-5 NMSA 1978;

7 (4) third degree aggravated battery against a
8 household member, as provided in Section 30-3-16 NMSA 1978;

9 (5) second or third degree shooting at a
10 dwelling or occupied building, as provided in Section 30-3-8
11 NMSA 1978;

12 ~~[(b)]~~ (6) second or third degree shooting at
13 or from a motor vehicle ~~[resulting in great bodily harm]~~, as
14 provided in ~~[Subsection B of]~~ Section 30-3-8 NMSA 1978;

15 ~~[(c)]~~ (7) first degree kidnapping ~~[resulting~~
16 ~~in great bodily harm inflicted upon the victim by the victim's~~
17 ~~captor]~~, as provided in ~~[Subsection B of]~~ Section 30-4-1 NMSA
18 1978;

19 ~~[(d)]~~ (8) aggravated or first or second degree
20 criminal sexual penetration, as provided in ~~[Subsection C or D~~
21 ~~or Paragraph (5) or (6) of Subsection E of]~~ Section 30-9-11
22 NMSA 1978; ~~[and~~

23 ~~(e)]~~ (9) second or third degree criminal
24 sexual contact of a minor, as provided in Section 30-9-13 NMSA
25 1978;

.198774.1

underscoring material = new
[bracketed material] = delete

1 (10) first or second degree robbery [~~while~~
2 ~~armed with a deadly weapon resulting in great bodily harm~~], as
3 provided in Section 30-16-2 NMSA 1978 [~~and Subsection A of~~
4 ~~Section 30-1-12 NMSA 1978~~];

5 (11) aggravated arson, as provided in Section
6 30-17-6 NMSA 1978;

7 (12) third degree aggravated battery upon a
8 peace officer, as provided in Section 30-22-25 NMSA 1978;

9 (13) assault with intent to commit a violent
10 felony upon a peace officer, as provided in Section 30-22-23
11 NMSA 1978; and

12 (14) aggravated assault upon a peace officer,
13 as provided in Section 30-22-22 NMSA 1978."

14 SECTION 2. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2015.