

HOUSE BILL 535

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

INTRODUCED BY

Rod Montoya

AN ACT

RELATING TO CRIMINAL SENTENCING; AMENDING THE BASIC SENTENCE OF IMPRISONMENT FOR A SECOND DEGREE FELONY RESULTING IN THE DEATH OF A HUMAN BEING TO TWENTY YEARS AND FOR A THIRD DEGREE FELONY RESULTING IN THE DEATH OF A HUMAN BEING TO TWELVE YEARS.

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

**SECTION 1.** Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES-- BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.--

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the death of a child, life imprisonment;

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1 (2) for a first degree felony for aggravated  
2 criminal sexual penetration, life imprisonment;

3 (3) for a first degree felony, eighteen years  
4 imprisonment;

5 (4) for a second degree felony resulting in  
6 the death of a human being, [~~fifteen~~] twenty years  
7 imprisonment;

8 (5) for a second degree felony for a sexual  
9 offense against a child, fifteen years imprisonment;

10 (6) for a second degree felony, nine years  
11 imprisonment;

12 (7) for a third degree felony resulting in the  
13 death of a human being, [~~six~~] twelve years imprisonment;

14 (8) for a third degree felony for a sexual  
15 offense against a child, six years imprisonment;

16 (9) for a third degree felony, three years  
17 imprisonment; or

18 (10) for a fourth degree felony, eighteen  
19 months imprisonment.

20 B. The appropriate basic sentence of imprisonment  
21 shall be imposed upon a person convicted and sentenced pursuant  
22 to Subsection A of this section, unless the court alters the  
23 sentence pursuant to the provisions of the Criminal Sentencing  
24 Act.

25 C. The court shall include in the judgment and

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1 sentence of each person convicted and sentenced to imprisonment  
2 in a corrections facility designated by the corrections  
3 department authority for a period of parole to be served in  
4 accordance with the provisions of Section 31-21-10 NMSA 1978  
5 after the completion of any actual time of imprisonment and  
6 authority to require, as a condition of parole, the payment of  
7 the costs of parole services and reimbursement to a law  
8 enforcement agency or local crime stopper program in accordance  
9 with the provisions of that section. The period of parole  
10 shall be deemed to be part of the sentence of the convicted  
11 person in addition to the basic sentence imposed pursuant to  
12 Subsection A of this section together with alterations, if any,  
13 pursuant to the provisions of the Criminal Sentencing Act.

14 D. When a court imposes a sentence of imprisonment  
15 pursuant to the provisions of Section 31-18-15.1, 31-18-16  
16 [~~31-18-16.1~~] or 31-18-17 NMSA 1978 and suspends or defers the  
17 basic sentence of imprisonment provided pursuant to the  
18 provisions of Subsection A of this section, the period of  
19 parole shall be served in accordance with the provisions of  
20 Section 31-21-10 NMSA 1978 for the degree of felony for the  
21 basic sentence for which the inmate was convicted. For the  
22 purpose of designating a period of parole, a court shall not  
23 consider that the basic sentence of imprisonment was suspended  
24 or deferred and that the inmate served a period of imprisonment  
25 pursuant to the provisions of the Criminal Sentencing Act.

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1           E. The court may, in addition to the imposition of  
2 a basic sentence of imprisonment, impose a fine not to exceed:

3                   (1) for a first degree felony resulting in the  
4 death of a child, seventeen thousand five hundred dollars  
5 (\$17,500);

6                   (2) for a first degree felony for aggravated  
7 criminal sexual penetration, seventeen thousand five hundred  
8 dollars (\$17,500);

9                   (3) for a first degree felony, fifteen  
10 thousand dollars (\$15,000);

11                   (4) for a second degree felony resulting in  
12 the death of a human being, twelve thousand five hundred  
13 dollars (\$12,500);

14                   (5) for a second degree felony for a sexual  
15 offense against a child, twelve thousand five hundred dollars  
16 (\$12,500);

17                   (6) for a second degree felony, ten thousand  
18 dollars (\$10,000);

19                   (7) for a third degree felony resulting in the  
20 death of a human being, five thousand dollars (\$5,000);

21                   (8) for a third degree felony for a sexual  
22 offense against a child, five thousand dollars (\$5,000); or

23                   (9) for a third or fourth degree felony, five  
24 thousand dollars (\$5,000).

25           F. When the court imposes a sentence of

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1 imprisonment for a felony offense, the court shall indicate  
2 whether or not the offense is a serious violent offense, as  
3 defined in Section 33-2-34 NMSA 1978. The court shall inform  
4 an offender that the offender's sentence of imprisonment is  
5 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37  
6 and 33-2-38 NMSA 1978. If the court fails to inform an  
7 offender that the offender's sentence is subject to those  
8 provisions or if the court provides the offender with erroneous  
9 information regarding those provisions, the failure to inform  
10 or the error shall not provide a basis for a writ of habeas  
11 corpus.

12 G. No later than October 31 of each year, the New  
13 Mexico sentencing commission shall provide a written report to  
14 the secretary of corrections, all New Mexico criminal court  
15 judges, the administrative office of the district attorneys and  
16 the chief public defender. The report shall specify the  
17 average reduction in the sentence of imprisonment for serious  
18 violent offenses and nonviolent offenses, as defined in Section  
19 33-2-34 NMSA 1978, due to meritorious deductions earned by  
20 prisoners during the previous fiscal year pursuant to the  
21 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38  
22 NMSA 1978. The corrections department shall allow the  
23 commission access to documents used by the department to  
24 determine earned meritorious deductions for prisoners."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2015.

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