

1 SENATE BILL 5
2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2024**

3 INTRODUCED BY
4 Craig W. Brandt and Mark Moores and Gregory A. Baca
5 and Crystal R. Brantley
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10 AN ACT
11 RELATING TO CRIME; AMENDING THE RACKETEERING ACT; ADDING
12 CERTAIN CRIMES TO THE DEFINITION OF "RACKETEERING"; DEFINING
13 "CRIMINAL GANG"; CREATING CRIMES; PRESCRIBING PENALTIES.
14

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

16 SECTION 1. Section 30-42-1 NMSA 1978 (being Laws 1980,
17 Chapter 40, Section 1) is amended to read:

18 "30-42-1. SHORT TITLE.--~~[This act]~~ Chapter 30, Article 42
19 NMSA 1978 may be cited as the "Racketeering Act"."

20 SECTION 2. Section 30-42-3 NMSA 1978 (being Laws 1980,
21 Chapter 40, Section 3, as amended) is amended to read:

22 "30-42-3. DEFINITIONS.--As used in the Racketeering Act:

23 A. "racketeering" means any act that is chargeable
24 or indictable under the laws of New Mexico and punishable by
25 imprisonment for more than one year, involving any of the

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1 following cited offenses:

2 (1) murder, as provided in Section 30-2-1 NMSA
3 1978;

4 (2) robbery, as provided in Section 30-16-2
5 NMSA 1978;

6 (3) kidnapping, as provided in Section 30-4-1
7 NMSA 1978;

8 (4) forgery, as provided in Section 30-16-10
9 NMSA 1978;

10 (5) larceny, as provided in Section 30-16-1
11 NMSA 1978;

12 (6) fraud, as provided in Section 30-16-6 NMSA
13 1978;

14 (7) embezzlement, as provided in Section
15 30-16-8 NMSA 1978;

16 (8) receiving stolen property, as provided in
17 Section 30-16-11 NMSA 1978;

18 (9) bribery, as provided in Sections 30-24-1
19 through 30-24-3.1 NMSA 1978;

20 (10) gambling, as provided in Sections
21 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

22 (11) illegal kickbacks, as provided in
23 Sections 30-41-1 and 30-41-2 NMSA 1978;

24 (12) extortion, as provided in Section 30-16-9
25 NMSA 1978;

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1 (13) trafficking in controlled substances, as
2 provided in Section 30-31-20 NMSA 1978;

3 (14) arson and aggravated arson, as provided
4 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
5 1978;

6 (15) promoting prostitution, as provided in
7 Section 30-9-4 NMSA 1978;

8 (16) criminal solicitation, as provided in
9 Section 30-28-3 NMSA 1978;

10 (17) fraudulent securities practices, as
11 provided in the New Mexico Uniform Securities Act;

12 (18) loan sharking, as provided in Sections
13 30-43-1 through 30-43-5 NMSA 1978;

14 (19) distribution of controlled substances or
15 controlled substance analogues, as provided in Sections
16 30-31-21 and 30-31-22 NMSA 1978;

17 (20) [~~a violation of the provisions of~~] money
18 laundering, as provided in Section 30-51-4 NMSA 1978;

19 (21) unlawful taking of a vehicle or motor
20 vehicle, as provided in Section 30-16D-1 NMSA 1978;

21 (22) embezzlement of a vehicle or motor
22 vehicle, as provided in Section 30-16D-2 NMSA 1978;

23 (23) fraudulently obtaining a vehicle or motor
24 vehicle, as provided in Section 30-16D-3 NMSA 1978;

25 (24) receiving or transferring stolen vehicles

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1 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;

2 (25) altering or changing the serial number,
3 engine number, decal or other numbers or marks of a vehicle or
4 motor vehicle, as provided in Section 30-16D-6 NMSA 1978; [~~and~~]

5 (26) trafficking cannabis products, as
6 provided in Section 26-2C-28 NMSA 1978;

7 (27) sexual exploitation of children, as
8 provided in Sections 30-6A-3 and 30-6A-4 NMSA 1978;

9 (28) criminal sexual penetration, as provided
10 in Section 30-9-11 NMSA 1978;

11 (29) criminal sexual contact, as provided in
12 Sections 30-9-12 and 30-9-13 NMSA 1978;

13 (30) dog fighting and cockfighting, as
14 provided in Section 30-18-9 NMSA 1978;

15 (31) escape from jail, as provided in Section
16 30-22-8 NMSA 1978;

17 (32) escape from penitentiary, as provided in
18 Section 30-22-9 NMSA 1978;

19 (33) assisting escape, as provided in Section
20 30-22-11 NMSA 1978;

21 (34) bringing contraband into places of
22 imprisonment, as provided in Section 30-22-14 NMSA 1978;

23 (35) tampering with public records, as
24 provided in Section 30-26-1 NMSA 1978;

25 (36) impersonating a peace officer, as

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1 provided in Section 30-27-2.1 NMSA 1978; and

2 (37) human trafficking, as provided in Section
3 30-52-1 NMSA 1978;

4 B. "person" means an individual or entity capable
5 of holding a legal or beneficial interest in property;

6 C. "enterprise" means a sole proprietorship,
7 partnership, corporation, business, labor union, association or
8 other legal entity or a group of ~~[individuals]~~ persons,
9 including criminal gangs, associated in fact although not a
10 legal entity and includes illicit as well as licit entities;
11 ~~[and]~~

12 D. "criminal gang" means three or more persons
13 having a common identifying sign or symbol or an identifiable
14 leadership and who continuously or regularly associate in the
15 commission of criminal activities; and

16 ~~[D-]~~ E. "pattern of racketeering activity" means
17 engaging in at least two incidents of racketeering with the
18 intent of accomplishing any of the prohibited activities set
19 forth in Subsections A through [D] F of Section 30-42-4 NMSA
20 1978; provided at least one of the incidents occurred after
21 February 28, 1980 and the last incident occurred within five
22 years after the commission of a prior incident of
23 racketeering."

24 **SECTION 3.** Section 30-42-4 NMSA 1978 (being Laws 1980,
25 Chapter 40, Section 4, as amended) is amended to read:

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1 "30-42-4. PROHIBITED ACTIVITIES--PENALTIES.--

2 A. It is unlawful for a person who has received
3 proceeds derived, directly or indirectly, from a pattern of
4 racketeering activity in which the person has participated, to
5 use or invest, directly or indirectly, any part of the proceeds
6 or the proceeds derived from the investment or use in the
7 acquisition of an interest in, or the establishment or
8 operation of, an enterprise. [~~Whoever~~] A person who violates
9 this subsection is guilty of a second degree felony.

10 B. It is unlawful for a person to engage in a
11 pattern of racketeering activity in order to acquire or
12 maintain, directly or indirectly, an interest in or control of
13 an enterprise. [~~Whoever~~] A person who violates this subsection
14 is guilty of a second degree felony.

15 C. It is unlawful for a person employed by or
16 associated with an enterprise to conduct or participate,
17 directly or indirectly, in the conduct of the enterprise's
18 affairs by engaging in a pattern of racketeering activity.
19 [~~Whoever~~] A person who violates this subsection is guilty of a
20 second degree felony.

21 D. It is unlawful for a person to solicit or coerce
22 another person, including a minor, into becoming or continuing
23 as a member of an enterprise or participating in the
24 racketeering activity of an enterprise. A person who violates
25 this subsection is guilty of a third degree felony.

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1 E. It is unlawful for a person who is in a
2 leadership position within an enterprise to knowingly finance,
3 supervise or conspire to commit, through the direction of
4 members of the enterprise, any racketeering activity. A person
5 who violates the provisions of this subsection is guilty of a
6 first degree felony.

7 [~~D.~~] F. It is unlawful for a person to conspire to
8 violate the provisions of Subsections A through [~~G~~] E of this
9 section. [~~Whoever~~] A person who violates this subsection is
10 guilty of a third degree felony.

11 [~~E. Whoever~~] G. A person who is convicted of a
12 violation of Subsection A, B, C, [~~or~~] D, E or F of this section
13 in addition to the prescribed penalties shall forfeit to the
14 state of New Mexico:

15 (1) any interest acquired or maintained in
16 violation of the Racketeering Act; and

17 (2) any interest in, security of, claim
18 against or property or contractual right of any kind affording
19 a source of influence over an enterprise that the person has
20 established, operated, controlled, conducted or participated in
21 the conduct of in violation of the Racketeering Act.

22 [~~F.~~] H. The provisions of the Forfeiture Act apply
23 to the seizure, forfeiture and disposal of property described
24 in Subsection [~~E~~] G of this section."