

1 SENATE BILL 12
2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2024**

3 INTRODUCED BY
4 Cliff R. Pirtle
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10 AN ACT

11 RELATING TO CRIME; INCREASING THE PENALTIES FOR CERTAIN CRIMES
12 WHEN COMMITTED IN AN EVACUATION ZONE; DEFINING "EVACUATION
13 ZONE".
14

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

16 SECTION 1. Section 30-1-12 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 1-13) is amended to read:

18 "30-1-12. DEFINITIONS.--As used in the Criminal Code:

19 A. "great bodily harm" means an injury to the
20 person [~~which~~] that creates a high probability of death, [~~or~~
21 ~~which~~] causes serious disfigurement or [~~which~~] results in
22 permanent or protracted loss or impairment of the function of
23 any member or organ of the body;

24 B. "deadly weapon" means any firearm, whether
25 loaded or unloaded; or any weapon [~~which~~] that is capable of

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1 producing death or great bodily harm, including but not
2 restricted to any types of daggers, brass knuckles, switchblade
3 knives, bowie knives, poniards, butcher knives, dirk knives and
4 all such weapons with which dangerous cuts can be given or with
5 which dangerous thrusts can be inflicted, including swordcanes,
6 [~~and~~] any kind of sharp pointed canes, [~~also~~] slingshots, slung
7 shots, bludgeons; or any other weapons with which dangerous
8 wounds can be inflicted;

9 C. "peace officer" means any public official or
10 public officer vested by law with a duty to maintain public
11 order or to make arrests for crime, whether that duty extends
12 to all crimes or is limited to specific crimes;

13 D. "another" or "other" means any other human being
14 or legal entity, whether incorporated or unincorporated,
15 including the United States, the state [~~of New Mexico~~] or any
16 subdivision [~~thereof~~] of the state;

17 E. "person" means any human being or legal entity,
18 whether incorporated or unincorporated, including the United
19 States, the state [~~of New Mexico~~] or any subdivision [~~thereof~~]
20 of the state;

21 F. "anything of value" means any conceivable thing
22 of the slightest value, tangible or intangible, movable or
23 immovable, corporeal or incorporeal, public or private. The
24 term is not necessarily synonymous with the traditional legal
25 term "property";

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1 G. "official proceeding" means a proceeding heard
2 before any legislative, judicial, administrative or other
3 governmental agency or official authorized to hear evidence
4 under oath, including any referee, hearing examiner,
5 commissioner, notary or other person taking testimony or
6 depositions in any proceeding;

7 H. "lawful custody or confinement" means the
8 holding of any person pursuant to lawful authority, including
9 without limitation actual or constructive custody of prisoners
10 temporarily outside a penal institution, reformatory, jail,
11 prison farm or ranch;

12 I. "public officer" means any elected or appointed
13 officer of the state or any of its political subdivisions,
14 [~~and~~] whether or not [~~he~~] the public officer receives
15 remuneration for [~~his~~] the public officer's services; [~~and~~]

16 J. "public employee" means any person receiving
17 remuneration for regular services rendered to the state or any
18 of its political subdivisions; and

19 K. "evacuation zone" means an area designated as an
20 evacuation zone by local or state officials in response to a
21 natural or industrial disaster, whether naturally occurring or
22 human-caused, that poses a significant threat to public safety
23 or property."

24 SECTION 2. Section 30-14-1 NMSA 1978 (being Laws 1963,
25 Chapter 303, Section 14-1, as amended) is amended to read:

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1 "30-14-1. CRIMINAL TRESPASS.--

2 A. Criminal trespass consists of knowingly entering
3 or remaining upon posted private property without possessing
4 written permission from the owner or person in control of the
5 land. The provisions of this subsection do not apply if:

6 (1) the owner or person in control of the land
7 has entered into an agreement with the department of game and
8 fish granting access to the land to the general public for the
9 purpose of taking any game animals, birds or fish by hunting or
10 fishing; or

11 (2) a person is in possession of a landowner
12 license given to ~~[him]~~ the person by the owner or person in
13 control of the land that grants access to that particular
14 private land for the purpose of taking any game animals, birds
15 or fish by hunting or fishing.

16 B. Criminal trespass also consists of knowingly
17 entering or remaining upon the unposted lands of another
18 knowing that such consent to enter or remain is denied or
19 withdrawn by the owner or occupant ~~[thereof]~~ of the lands.
20 Notice of no consent to enter shall be deemed sufficient notice
21 to the public and evidence to the courts by the posting of the
22 property at all vehicular access entry ways.

23 C. Criminal trespass also consists of knowingly
24 entering or remaining upon lands owned, operated or controlled
25 by the state or any of its political subdivisions knowing that

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1 consent to enter or remain is denied or withdrawn by the
2 custodian [~~thereof~~] of the lands.

3 D. Any person who enters upon the lands of another
4 without prior permission and injures, damages or destroys any
5 part of the realty or its improvements, including buildings,
6 structures, trees, shrubs or other natural features, is guilty
7 of a misdemeanor and [~~he~~] shall be liable to the owner, lessee
8 or person in lawful possession for civil damages in an amount
9 equal to double the value of the damage to the property injured
10 or destroyed.

11 E. [~~Whoever~~] Any person who commits criminal
12 trespass is guilty of a misdemeanor, [~~Additionally~~] except
13 that:

14 (1) any person who violates the provisions of
15 Subsection A, B or C of this section, when in connection with
16 hunting, fishing or trapping activity, shall have [~~his~~] the
17 person's hunting or fishing license revoked by the state game
18 commission for a period of not less than three years, pursuant
19 to the provisions of Section 17-3-34 NMSA 1978; and

20 (2) any person who commits criminal trespass
21 in an evacuation zone, if the person knows that the person is
22 in an evacuation zone, is guilty of a fourth degree felony.

23 F. [~~Whoever~~] Any person who knowingly removes,
24 tampers with or destroys any "no trespass" sign is guilty of a
25 petty misdemeanor, except that, when the damage to the sign

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1 amounts to more than one thousand dollars (\$1,000), [~~he or she~~]
2 the person is guilty of a misdemeanor and shall be subject to
3 imprisonment in the county jail for a definite term less than
4 one year or a fine not more than one thousand dollars (\$1,000)
5 or to both such imprisonment and fine in the discretion of the
6 judge.

7 G. This section, as amended, shall be published in
8 all issues of [~~"Big Game Hunt Proclamation"~~] "New Mexico
9 Hunting Rules and Information" and "New Mexico Fishing Rules
10 and Information" as published by the department of game and
11 fish."

12 SECTION 3. Section 30-14-8 NMSA 1978 (being Laws 1981,
13 Chapter 34, Section 2) is amended to read:

14 "30-14-8. BREAKING AND ENTERING.--

15 A. Breaking and entering consists of the
16 unauthorized entry of any vehicle, watercraft, aircraft,
17 dwelling or other structure, movable or immovable, where entry
18 is obtained by fraud or deception, or by the breaking or
19 dismantling of any part of the vehicle, watercraft, aircraft,
20 dwelling or other structure, or by the breaking or dismantling
21 of any device used to secure the vehicle, watercraft, aircraft,
22 dwelling or other structure.

23 B. [~~Whoever~~] Any person who commits breaking and
24 entering is guilty of a fourth degree felony, except that any
25 person who commits breaking and entering in an evacuation zone,

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1 if the person knows that the person is in an evacuation zone,
2 is guilty of a third degree felony."

3 SECTION 4. Section 30-15-1 NMSA 1978 (being Laws 1963,
4 Chapter 303, Section 15-1) is amended to read:

5 "30-15-1. CRIMINAL DAMAGE TO PROPERTY.--

6 A. Criminal damage to property consists of
7 intentionally damaging any real or personal property of another
8 without the consent of the owner of the property. [~~Whoever~~]

9 B. Any person who commits criminal damage to
10 property is guilty of a petty misdemeanor, except that [~~when~~]:

11 (1) if the damage to property is committed in
12 an evacuation zone, and the person knows that the person is in
13 an evacuation zone, the person is guilty of a misdemeanor;

14 (2) if the damage to the property amounts to
15 more than one thousand dollars (\$1,000), [~~he~~] the person is
16 guilty of a fourth degree felony; and

17 (3) if the damage to the property amounts to
18 more than one thousand dollars (\$1,000) and the damage to
19 property is committed in an evacuation zone, and the person
20 knows that the person is in an evacuation zone, the person is
21 guilty of a third degree felony."

22 SECTION 5. Section 30-16-1 NMSA 1978 (being Laws 1963,
23 Chapter 303, Section 16-1, as amended) is amended to read:

24 "30-16-1. LARCENY.--

25 A. Larceny consists of the stealing of anything of

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1 value that belongs to another.

2 B. [~~Whoever~~] Any person who commits larceny when
3 the value of the property stolen is two hundred fifty dollars
4 (\$250) or less is guilty of a petty misdemeanor, except that if
5 the larceny is committed in an evacuation zone, and the person
6 knows that the person is in an evacuation zone, the person is
7 guilty of a misdemeanor.

8 C. [~~Whoever~~] Any person who commits larceny when
9 the value of the property stolen is over two hundred fifty
10 dollars (\$250) but not more than five hundred dollars (\$500) is
11 guilty of a misdemeanor, except that if the larceny is
12 committed in an evacuation zone, and the person knows that the
13 person is in an evacuation zone, the person is guilty of a
14 fourth degree felony.

15 D. [~~Whoever~~] Any person who commits larceny when
16 the value of the property stolen is over five hundred dollars
17 (\$500) but not more than two thousand five hundred dollars
18 (\$2,500) is guilty of a fourth degree felony, except that if
19 the larceny is committed in an evacuation zone, and the person
20 knows that the person is in an evacuation zone, the person is
21 guilty of a third degree felony.

22 E. [~~Whoever~~] Any person who commits larceny when
23 the value of the property stolen is over two thousand five
24 hundred dollars (\$2,500) but not more than twenty thousand
25 dollars (\$20,000) is guilty of a third degree felony.

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1 F. Any person who commits larceny in an evacuation
2 zone, if the person knows that the person is in an evacuation
3 zone, when the value of the property stolen is over two
4 thousand five hundred dollars (\$2,500) is guilty of a second
5 degree felony.

6 [F. ~~Whoever~~] G. Any person who commits larceny
7 when the value of the property stolen is over twenty thousand
8 dollars (\$20,000) is guilty of a second degree felony.

9 [G. ~~Whoever~~] H. Any person who commits larceny
10 when the property of value stolen is livestock is guilty of a
11 third degree felony regardless of its value.

12 [H. ~~Whoever~~] I. Any person who commits larceny
13 when the property of value stolen is a firearm is guilty of a
14 fourth degree felony when its value is less than two thousand
15 five hundred dollars (\$2,500)."

16 SECTION 6. Section 30-16-3 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 16-3, as amended) is amended to read:

18 "30-16-3. BURGLARY.--Burglary consists of the
19 unauthorized entry of any vehicle, watercraft, aircraft,
20 dwelling or other structure, movable or immovable, with the
21 intent to commit any felony or theft therein.

22 A. Any person who, without authorization, enters a
23 dwelling house with intent to commit any felony or theft
24 therein is guilty of a third degree felony, except that if the
25 dwelling house is located in an evacuation zone, and the person

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1 knows that the dwelling house is located in an evacuation zone,
2 the person is guilty of a second degree felony.

3 B. Any person who, without authorization, enters
4 any vehicle, watercraft, aircraft or other structure, movable
5 or immovable, with intent to commit any felony or theft therein
6 is guilty of a fourth degree felony, except that if the
7 vehicle, watercraft, aircraft or other structure, movable or
8 immovable, is located in an evacuation zone, and the person
9 knows that the vehicle, watercraft, aircraft or other
10 structure, movable or immovable, is located in an evacuation
11 zone, the person is guilty of a third degree felony."

12 SECTION 7. Section 30-16-4 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 16-4) is amended to read:

14 "30-16-4. AGGRAVATED BURGLARY.--

15 A. Aggravated burglary consists of the unauthorized
16 entry of [~~any~~] a vehicle, watercraft, aircraft, dwelling or
17 other structure, movable or immovable, with intent to commit
18 [~~any~~] a felony or theft [~~therein~~] in that vehicle, watercraft,
19 aircraft, dwelling or other structure and the person [~~either~~]:

- 20 [~~A.~~] (1) is armed with a deadly weapon;
- 21 [~~B.~~] (2) after entering, arms [~~himself~~] that
22 person's self with a deadly weapon; or
- 23 [~~C.~~] (3) commits a battery upon [~~any~~] a person
24 while in [~~such~~] the place or in entering or leaving [~~such~~] the
25 place.

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1 ~~[Whoever]~~ B. Any person who commits aggravated
2 burglary is guilty of a second degree felony, except that if
3 the aggravated burglary is in an evacuation zone, and the
4 person knows that the person is in an evacuation zone, the
5 person is guilty of a first degree felony."

6 SECTION 8. Section 30-16D-1 NMSA 1978 (being Laws 1978,
7 Chapter 35, Section 91, as amended by Laws 2009, Chapter 253,
8 Section 1 and by Laws 2009, Chapter 261, Section 1) is amended
9 to read:

10 "30-16D-1. UNLAWFUL TAKING OF A VEHICLE OR MOTOR
11 VEHICLE.--

12 A. Unlawful taking of a vehicle or motor vehicle
13 consists of a person taking any vehicle or motor vehicle as
14 defined by the Motor Vehicle Code intentionally and without
15 consent of the owner. ~~[Whoever]~~

16 B. Any person who commits unlawful taking of a
17 vehicle or motor vehicle is guilty of a:

18 (1) fourth degree felony for a first offense;

19 (2) third degree felony for a first offense
20 committed in an evacuation zone, if the person knew that the
21 person was in an evacuation zone;

22 ~~[(2)]~~ (3) third degree felony for a second
23 offense; ~~[and]~~

24 (4) second degree felony for a second or
25 subsequent offense committed in an evacuation zone, if the

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1 person knew that the person was in an evacuation zone; and

2 [~~3~~] (5) second degree felony for a third or
3 subsequent offense.

4 [~~B-~~] C. The consent of the owner of the vehicle or
5 motor vehicle to its taking shall not in any case be presumed
6 or implied because of the owner's consent on a previous
7 occasion to the taking of the vehicle or motor vehicle by the
8 same or a different person.

9 [~~E-~~] D. Nothing in this section shall be construed
10 to prohibit the holder of a lien duly recorded with the motor
11 vehicle division of the taxation and revenue department from
12 taking possession of a vehicle to which possession the
13 lienholder is legally entitled under the provisions of the
14 instrument evidencing the lien. A holder of a duly recorded
15 lien who takes possession of a vehicle without the knowledge of
16 the owner of the vehicle shall immediately notify the local
17 police authority of the fact that the holder has taken
18 possession of the vehicle."

19 **SECTION 9. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is January 1, 2025.

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