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HOUSE BILL 538

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CISCO MCSORLEY

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL LAW; INCREASING CRIMINAL PENALTIES FOR  
FRAUDULENT CONDUCT AGAINST CERTAIN PERSONS; AMENDING A SECTION  
OF THE CRIMINAL SENTENCING ACT.

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

Section 1. Section 31-18-16.1 NMSA 1978 (being Laws 1980,  
Chapter 36, Section 1, as amended) is amended to read:

"31-18-16.1. NONCAPITAL FELONIES AGAINST PERSONS SIXTY  
YEARS OF AGE OR OLDER OR HANDICAPPED PERSONS-- ALTERATION OF  
BASIC SENTENCE-- SUSPENSION AND DEFERRAL LIMITED. --

A. When a separate finding of fact by the court or  
jury shows that in the commission of a noncapital felony a  
person sixty years of age or older or who is handicapped was  
defrauded or intentionally injured, the basic sentence of  
imprisonment prescribed for the offense in Section 31-18-15 NMSA

1 1978 shall be increased as follows:

2 (1) if the offender's fraudulent conduct  
3 results in a monetary loss, the basic sentence may be increased  
4 by one year;

5 [~~(1)~~] (2) if the injury inflicted to the person  
6 is not likely to cause death or great bodily harm but does cause  
7 painful temporary disfigurement or temporary loss or impairment  
8 of the functions of any member or organ of the body, the basic  
9 sentence shall be increased by one year; provided that when the  
10 offender is a serious youthful offender or a youthful offender,  
11 the sentence imposed by this paragraph may be increased by one  
12 year; and

13 [~~(2)~~] (3) if the injury inflicted to the person  
14 causes great bodily harm or is done with a deadly weapon or is  
15 done in any manner whereby great bodily harm or death could be  
16 inflicted, the basic sentence shall be increased by two years;  
17 provided that when the offender is a serious youthful offender  
18 or a youthful offender, the sentence imposed by this paragraph  
19 may be increased by two years.

20 B. If the case is tried before a jury and if a prima  
21 facie case has been established showing that in the commission  
22 of the offense a person sixty years of age or older or who is  
23 handicapped was defrauded or intentionally injured, the court  
24 shall submit the issue to the jury by special interrogatory. If  
25 the case is tried by the court and if a prima facie case has

