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SENATE BILL 56

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

INTRODUCED BY

GARY DON REAGAN

AN ACT

RELATING TO JUVENILE JUSTICE; CHANGING THE AGE DESIGNATIONS FOR
SERIOUS YOUTHFUL OFFENDERS AND YOUTHFUL OFFENDERS; CHANGING THE
PREDICATE OFFENSES FOR DELINQUENT OFFENDERS, YOUTHFUL OFFENDERS
AND SERIOUS YOUTHFUL OFFENDERS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 31-18-15.2 NMSA 1978 (being Laws 1993, Chapter 77, Section 1,
as amended) is amended to read:

"31-18-15.2. DEFINITIONS.--As used in the Criminal Sentencing Act:

A. "serious youthful offender" means ~~[an individual sixteen or seventeen]~~ a
child less than eighteen years of age who is charged with ~~[and indicted or bound over for trial~~
for] first degree murder or second degree murder or a child thirteen to eighteen years of age
who is charged with a felony, subsequent to a previous felony conviction pursuant to serious
youthful offender or youthful offender proceedings; and

B. "youthful offender" means a delinquent child subject to adult or juvenile
sanctions who is:

(1) ~~[fifteen]~~ thirteen to eighteen years of age at the time of the offense

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and who is adjudicated for at least one of the following offenses:

~~[(a) second degree murder, as provided in Section 30-2-1~~

~~NMSA 1978;~~

~~(b)] (a) assault with intent to commit a violent felony, as~~

provided in Section 30-3-3 NMSA 1978;

~~[(c)] (b) kidnapping, as provided in Section 30-4-1 NMSA~~

1978;

~~[(d)] (c) aggravated battery, as provided in Subsection C of~~

Section 30-3-5 NMSA 1978;

~~[(e)] (d) aggravated battery upon a peace officer, as provided~~

in Subsection C of Section 30-22-25 NMSA 1978;

~~[(f)] (e) shooting at a dwelling or occupied building or~~

shooting at or from a motor vehicle, ~~[which results in great bodily harm to another person]~~ as

provided in Section 30-3-8 NMSA 1978;

~~[(g)] (f) dangerous use of explosives, as provided in Section~~

30-7-5 NMSA 1978;

~~[(h)] (g) criminal sexual penetration, as provided in Section~~

30-9-11 NMSA 1978;

~~[(i)] (h) robbery, as provided in Section 30-16-2 NMSA 1978;~~

~~[(j)] (i) aggravated burglary, as provided in Section 30-16-4~~

NMSA 1978; ~~[or]~~

(j) burglary, as provided in Section

30-16-3 NMSA 1978;

(k) aggravated arson, as provided in Section 30-17-6 NMSA

1978;

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1 (l) abuse of a child that results in great bodily harm or death
2 to the child, as provided in Section 30-6-1 NMSA 1978;

3 (m) trafficking controlled substances, as provided in
4 Subsection C of Section 30-31-20 NMSA 1978;

5 (n) homicide by vehicle or great bodily injury by vehicle, as
6 provided in Section 66-8-101 NMSA 1978;

7 (o) attempt to commit any of the felony offenses set forth in
8 Subparagraphs (a) through (n) of this paragraph, as provided in Section 30-28-1 NMSA 1978;

9 (p) conspiracy to commit any of the felony offenses set forth
10 in Subparagraphs (a) through (n) of this paragraph, as provided in Section 30-28-2 NMSA
11 1978;

12 (q) attempt to commit first degree murder, as provided in
13 Section 30-28-1 NMSA 1978; or

14 (r) conspiracy to commit first degree murder, as provided in
15 Section 30-28-2 NMSA 1978; or

16
17 (2) ~~[fifteen]~~ thirteen to eighteen years of age at the time of the offense
18 and adjudicated for any felony offense and who has had ~~[three]~~ two prior, separate felony
19 adjudications within a two-year time period or three prior, separate felony adjudications within
20 a five-year time period immediately preceding the instant offense. The felony adjudications
21 relied upon as prior adjudications shall not have arisen out of the same transaction or
22 occurrence or series of events related in time and location. Successful completion of consent
23 decrees is not considered a prior adjudication for the purposes of this paragraph ~~[or~~

24
25 ~~(3) fifteen years of age and adjudicated for first degree murder, as
provided in Section 30-2-1 NMSA 1978]."~~

Section 2. Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as

1 amended by Laws 1995, Chapter 204, Section 2 and by Laws 1995, Chapter 205, Section 2 and
2 also by Laws 1995, Chapter 206, Section 10) is amended to read:

3 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

4 A. "delinquent act" means an act committed by a child that would be
5 designated as a crime under the law if committed by an adult, including [~~but not limited to~~] the
6 following offenses:

7 (1) pursuant to municipal traffic codes or the Motor Vehicle Code:

8 (a) any driving while under the influence of intoxicating
9 liquor or drugs;

10 (b) any failure to stop in the event of an accident causing
11 death, personal injury or damage to property;

12 (c) any unlawful taking of a vehicle or motor vehicle;

13 (d) any receiving or transferring of a stolen vehicle or motor
14 vehicle;

15 [~~(e) any homicide by vehicle;~~

16 ~~(f)~~ (e) any injuring or tampering with a vehicle;

17 [~~(g)~~ (f) any altering or changing of an engine number or other
18 vehicle identification numbers;

19 [~~(h)~~ (g) any altering or forging of a driver's license or permit
20 or any making of a fictitious license or permit;

21 [~~(i)~~ (h) reckless driving;

22 [~~(j)~~ (i) driving with a suspended or revoked license; or

23 [~~(k)~~ (j) any offense punishable as a felony;

24 (2) buying, attempting to buy, receiving, possessing or being served
25 any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant

1 or a licensed retail liquor establishment, except in the presence of the child's parent, guardian,
2 custodian or adult spouse. As used in this paragraph, "restaurant" means any establishment
3 where meals are prepared and served primarily for on-premises consumption and that has a
4 dining room, a kitchen and the employees necessary for preparing, cooking and serving meals.
5 "Restaurant" does not include establishments, as defined in regulations promulgated by the
6 director of the special investigations division of the department of public safety, that serve only
7 hamburgers, sandwiches, salads and other fast foods;

8
9 (3) any felony violation of the provisions of Sections 17-1-1 through
10 17-5-9 NMSA 1978 or any regulations adopted by the state game commission that relate to the
11 time, extent, means or manner that game animals, birds or fish may be hunted, taken, captured,
12 killed, possessed, sold, purchased or shipped and for which a fine may be imposed or a civil
13 damage awarded;

14 (4) any violation of Section 30-29-2 NMSA 1978, regarding the
15 illegal use of a glue, aerosol spray product or other chemical substance;

16 (5) any violation of the Controlled Substances Act except a violation
17 of Subsection C of Section 30-31-20 NMSA 1978; [or]

18 (6) escape from the custody of a law enforcement officer or a juvenile
19 probation or parole officer or from any placement made by the department by a child who has
20 been adjudicated a delinquent child; or

21 (7) any violation of Section 30-15-1.1 NMSA 1978 regarding
22 unauthorized graffiti on personal or real property;

23 B. "delinquent child" means a child who has committed a delinquent act;

24 C. "delinquent offender" means a delinquent child who is subject to juvenile
25 sanctions only and who is not a youthful offender or a serious youthful offender;

D. "detention facility" means a place where a child may be detained under the

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1 Children's Code pending court hearing and does not include a facility for the care and
2 rehabilitation of an adjudicated delinquent child;

3 E. "felony" means an act that would be a felony if committed by an adult;

4 F. "misdemeanor" means an act that would be a misdemeanor or petty
5 misdemeanor if committed by an adult;

6 G. "restitution" means financial reimbursement by the child to the victim or
7 community service imposed by the court and is limited to easily ascertainable damages for
8 injury to or loss of property, actual expenses incurred for medical, psychiatric and
9 psychological treatment for injury to a person and lost wages resulting from physical injury,
10 which are a direct and proximate result of a delinquent act. "Restitution" does not include
11 reimbursement for damages for mental anguish, pain and suffering or other intangible losses.
12 As used in this subsection, "victim" means any person who is injured or suffers damage of any
13 kind by an act that is the subject of a complaint or referral to law enforcement officers or
14 juvenile probation authorities. Nothing contained in this definition limits or replaces the
15 provisions of Subsections A and B of Section
16 32A-2-27 NMSA 1978;

17 H. "serious youthful offender" means ~~[an individual sixteen or seventeen]~~ a
18 child less than eighteen years of age who is charged with ~~[and indicted or bound over for trial~~
19 for] first degree murder or second degree murder or a child thirteen to eighteen years of age
20 who is charged with a felony, subsequent to a previous felony conviction pursuant to serious
21 youthful offender or youthful offender proceedings. A "serious youthful offender" is not a
22 delinquent child as defined pursuant to the provisions of this section; and

23 I. "youthful offender" means a delinquent child subject to adult or juvenile
24 sanctions who is:

(1) ~~[fifteen]~~ thirteen to eighteen years of age at the time of the offense

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and who is adjudicated for at least one of the following offenses:

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

~~(b)]~~ (a) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

~~[(c)]~~ (b) kidnapping, as provided in Section 30-4-1 NMSA 1978;

~~[(d)]~~ (c) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(d) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(e) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, ~~[which results in great bodily harm to another person]~~ as provided in Section 30-3-8 NMSA 1978;

(f) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

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

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

(i) aggravated burglary, as provided in Section 30-16-4 NMSA 1978; ~~[or]~~

(j) burglary, as provided in Section 30-16-3 NMSA 1978;

~~[(j)]~~ (k) aggravated arson, as provided in Section 30-17-6

1 NMSA 1978;

2 (l) abuse of a child that results in great bodily harm or death
3 to the child, as provided in Section 30-6-1 NMSA 1978;

4 (m) trafficking controlled substances, as provided in
5 Subsection C of Section 30-31-20 NMSA 1978;

6 (n) homicide by vehicle or great bodily injury by vehicle, as
7 provided in Section 66-8-101 NMSA 1978;

8 (o) attempt to commit any of the felony offenses set forth in
9 Subparagraphs (a) through (n) of this paragraph, as provided in section 30-28-1 NMSA 1978;

10 (p) conspiracy to commit any of the felony offenses set forth
11 in Subparagraphs (a) through (n) of this paragraph, as provided in Section 30-28-2 NMSA
12 1978;

13 (q) attempt to commit first degree murder, as provided in
14 Section 30-28-1 NMSA 1978; or

15 (r) conspiracy to commit first degree murder, as provided in
16 Section 30-28-2 NMSA 1978; or

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18 (2) ~~[fifteen]~~ thirteen to eighteen years of age at the time of the offense
19 and adjudicated for any felony offense and who has had ~~[three]~~ two prior, separate felony
20 adjudications within a ~~[three-year]~~ two-year time period or three prior, separate felony
21 adjudications within a five-year time period immediately preceding the instant offense. The
22 felony adjudications relied upon as prior adjudications shall not have arisen out of the same
23 transaction or occurrence or series of events related in time and location. Successful
24 completion of consent decrees are not considered a prior adjudication for the purposes of this
25 paragraph ~~[or~~

~~(3) fifteen years of age and adjudicated for first degree murder, as~~

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1 provided in Section ~~30-2-1 NMSA 1978~~]." ~~2~~

3 Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July
4 1, 1996.

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1 **FORTY-SECOND LEGISLATURE**
2 **SECOND SESSION, 1996**

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5 JANUARY 18, 1996

6
7 Mr. President:

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9 Your **COMMITTEES' COMMITTEE**, to whom has been referred

10
11
12 **SENATE BILL 56**

13
14 has had it under consideration and finds same to be **NOT GERMANE**.

15
16 Respectfully submitted,

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22 _____
23 **SENATOR MANNY M. ARAGON, Chairman**

24 Adopted _____ Not Adopted _____

25 (Chief Clerk)

(Chief Clerk)

Date _____

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The roll call vote was _ For _ Against

Yes:

No:

Excused:

Absent:

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