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HOUSE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING THAT THE PENALTY FOR A
FELON IN POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE IS FIVE
YEARS IMPRISONMENT.

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;

(2) for a first degree felony for aggravated

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1 criminal sexual penetration, life imprisonment;

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

4 (4) for a second degree felony resulting in
5 the death of a human being, fifteen years imprisonment;

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

8 (6) for a second degree felony for sexual
9 exploitation of children, twelve years imprisonment;

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

12 (8) for a third degree felony resulting in the
13 death of a human being, six years imprisonment;

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

16 (10) for a third degree felony for sexual
17 exploitation of children, eleven years imprisonment;

18 (11) for a third degree felony for possession
19 of a firearm by a felon pursuant to Section 30-7-16 NMSA 1978,
20 five years imprisonment;

21 (12) for a third degree felony, three years
22 imprisonment;

23 [~~(12)~~] (13) for a fourth degree felony for
24 sexual exploitation of children, ten years imprisonment; or

25 [~~(13)~~] (14) for a fourth degree felony,

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1 eighteen months imprisonment.

2 B. The appropriate basic sentence of imprisonment
3 shall be imposed upon a person convicted and sentenced pursuant
4 to Subsection A of this section, unless the court alters the
5 sentence pursuant to the provisions of the Criminal Sentencing
6 Act.

7 C. A period of parole shall be imposed only for
8 felony convictions wherein a person is sentenced to
9 imprisonment of more than one year, unless the parties to a
10 proceeding agree that a period of parole should be imposed. If
11 a period of parole is imposed, the court shall include in the
12 judgment and sentence of each person convicted and sentenced to
13 imprisonment in a corrections facility designated by the
14 corrections department authority for a period of parole to be
15 served in accordance with the provisions of Section 31-21-10
16 NMSA 1978 after the completion of any actual time of
17 imprisonment and authority to require, as a condition of
18 parole, the payment of the costs of parole services and
19 reimbursement to a law enforcement agency or local crime
20 stopper program in accordance with the provisions of that
21 section. If imposed, the period of parole shall be deemed to
22 be part of the sentence of the convicted person in addition to
23 the basic sentence imposed pursuant to Subsection A of this
24 section together with alterations, if any, pursuant to the
25 provisions of the Criminal Sentencing Act.

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1 D. When a court imposes a sentence of imprisonment
2 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
3 31-18-17 NMSA 1978 and suspends or defers the basic sentence of
4 imprisonment provided pursuant to the provisions of Subsection
5 A of this section, the period of parole shall be served in
6 accordance with the provisions of Section 31-21-10 NMSA 1978
7 for the degree of felony for the basic sentence for which the
8 inmate was convicted. For the purpose of designating a period
9 of parole, a court shall not consider that the basic sentence
10 of imprisonment was suspended or deferred and that the inmate
11 served a period of imprisonment pursuant to the provisions of
12 the Criminal Sentencing Act.

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

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

18 (2) for a first degree felony for aggravated
19 criminal sexual penetration, seventeen thousand five hundred
20 dollars (\$17,500);

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

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

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1 (5) for a second degree felony for a sexual
2 offense against a child, twelve thousand five hundred dollars
3 (\$12,500);

4 (6) for a second degree felony for sexual
5 exploitation of children, five thousand dollars (\$5,000);

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

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

10 (9) for a third degree felony for a sexual
11 offense against a child, five thousand dollars (\$5,000);

12 (10) for a third degree felony for sexual
13 exploitation of children, five thousand dollars (\$5,000);

14 (11) for a third or fourth degree felony, five
15 thousand dollars (\$5,000); or

16 (12) for a fourth degree felony for sexual
17 exploitation of children, five thousand dollars (\$5,000).

18 F. When the court imposes a sentence of
19 imprisonment for a felony offense, the court shall indicate
20 whether or not the offense is a serious violent offense, as
21 defined in Section 33-2-34 NMSA 1978. The court shall inform
22 an offender that the offender's sentence of imprisonment is
23 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
24 and 33-2-38 NMSA 1978. If the court fails to inform an
25 offender that the offender's sentence is subject to those

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1 provisions or if the court provides the offender with erroneous
2 information regarding those provisions, the failure to inform
3 or the error shall not provide a basis for a writ of habeas
4 corpus.

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

18 SECTION 2. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2022.