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HOUSE BILL 34

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Joe Mohorovic

AN ACT

RELATING TO CRIMINAL SENTENCING; REQUIRING A CAPITAL FELONY
OFFENDER OR A REPEAT VIOLENT SEXUAL OFFENDER TO REMAIN
INCARCERATED FOR THE ENTIRETY OF HIS NATURAL LIFE; AMENDING A
SECTION OF THE NMSA 1978.

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

Section 1. Section 31-21-10 NMSA 1978 (being Laws 1980,
Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced
to life imprisonment as the result of the commission of a
capital felony [~~who was convicted of three violent felonies
and sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA
1978~~] or who was convicted of two violent sexual offenses and
sentenced pursuant to Subsection A of Section 31-18-25 NMSA
1978 and Section 31-18-26 NMSA 1978 [~~becomes eligible for a~~

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1 ~~parole hearing after he has served thirty years of his~~
2 ~~sentence. Before ordering the parole of an inmate sentenced~~
3 ~~to life imprisonment, the board shall] is not eligible for~~
4 ~~parole and shall remain incarcerated for the entirety of his~~
5 ~~natural life.~~

6 B. An inmate of an institution who was convicted
7 of three violent felonies and sentenced to life imprisonment
8 pursuant to the provisions of Sections 31-18-23 and 31-18-24
9 NMSA 1978 is eligible for a parole hearing after he has
10 served thirty years of his sentence. Before ordering the
11 parole of an inmate sentenced to life imprisonment pursuant
12 to the provisions of Sections 31-18-23 and 31-18-24 NMSA
13 1978, the board shall:

14 (1) interview the inmate at the institution
15 where he is committed;

16 (2) consider all pertinent information
17 concerning the inmate, including:

18 (a) the circumstances of the ~~[offense]~~
19 offenses;

20 (b) mitigating and aggravating
21 circumstances;

22 (c) whether a deadly weapon was used in
23 the commission of the ~~[offense;~~

24 ~~(d) whether the inmate is a habitual~~
25 ~~offender;] offenses;~~

~~[(e)]~~ (d) the reports filed under
Section 31-21-9 NMSA 1978; and

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[~~(f)~~] (e) the reports of such physical and mental examinations as have been made while in prison;

(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

~~[B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was convicted of a capital felony shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.]~~

C. An inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a one-year period of parole.

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1 During the period of parole, the person shall be under the
2 guidance and supervision of the board.

3 D. Every person while on parole shall remain in
4 the legal custody of the institution from which he was
5 released, but shall be subject to the orders of the board.
6 The board shall furnish to each inmate as a prerequisite to
7 his release under its supervision a written statement of the
8 conditions of parole that shall be accepted and agreed to by
9 the inmate as evidenced by his signature affixed to a
10 duplicate copy to be retained in the files of the board. The
11 board shall also require as a prerequisite to release the
12 submission and approval of a parole plan. If an inmate
13 refuses to affix his signature to the written statement of
14 the conditions of his parole or does not have an approved
15 parole plan, he shall not be released and shall remain in the
16 custody of the corrections facility in which he has served
17 his sentence, excepting parole, until such time as the period
18 of parole he was required to serve, less meritorious
19 deductions, if any, expires, at which time he shall be
20 released from that facility without parole, or until such
21 time that he evidences his acceptance and agreement to the
22 conditions of parole as required or receives approval for his
23 parole plan or both. Time served from the date that an
24 inmate refuses to accept and agree to the conditions of
25 parole or fails to receive approval for his parole plan shall
reduce the period, if any, to be served under parole at a
later date. If the district court has ordered that the

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1 inmate make restitution to a victim as provided in Section
2 31-17-1 NMSA 1978, the board shall include restitution as a
3 condition of parole. The board shall also personally apprise
4 the inmate of the conditions of parole and his duties
5 relating thereto.

6 E. When a person on parole has performed the
7 obligations of his release for the period of parole provided
8 in this section, the board shall make a final order of
9 discharge and issue him a certificate of discharge.

10 F. Pursuant to the provisions of Section 31-18-15
11 NMSA 1978, the board shall require the inmate as a condition
12 of parole:

13 (1) to pay the actual costs of his parole
14 services to the adult probation and parole division of the
15 corrections department for deposit to the corrections
16 department intensive supervision fund not exceeding one
17 thousand twenty dollars (\$1,020) annually to be paid in
18 monthly installments of not less than fifteen dollars
19 (\$15.00) and not more than eighty-five dollars (\$85.00),
20 subject to modification by the adult probation and parole
21 division on the basis of changed financial circumstances; and

22 (2) to reimburse a law enforcement agency or
23 local crime stopper program for the amount of any reward paid
24 by the agency or program for information leading to his
25 arrest, prosecution or conviction.

G. The provisions of this section shall apply to
all inmates except geriatric, permanently incapacitated and

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1 terminally ill inmates eligible for the medical and geriatric
2 parole program as provided by the Parole Board Act."

3 Section 2. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2000.

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