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HOUSE BILL 350

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

James Nicholas Tinnin Jr.

AN ACT

**RELATING TO CRIMINAL SENTENCING; AMENDING THE DEFINITION OF
"VIOLENT FELONY" FOR THE PURPOSE OF SENTENCING A PERSON
CONVICTED OF THREE VIOLENT FELONIES TO A TERM OF LIFE
IMPRISONMENT; AMENDING A SECTION OF THE NMSA 1978.**

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

**Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:**

**"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION. --**

**A. When a defendant is convicted of a third
violent felony, and each violent felony conviction is part of
a separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant**

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1 shall, in addition to the sentence imposed for the third
2 violent conviction when that sentence does not result in
3 death, be punished by a sentence of life imprisonment. The
4 life imprisonment sentence shall be subject to parole pursuant
5 to the provisions of Section 31-21-10 NMSA 1978.

6 B. The sentence of life imprisonment shall be
7 imposed after a sentencing hearing, separate from the trial or
8 guilty plea proceeding resulting in the third violent felony
9 conviction, pursuant to the provisions of Section 31-18-24
10 NMSA 1978.

11 C. For the purpose of this section, a violent
12 felony conviction incurred by a defendant before he reaches
13 the age of eighteen shall not count as a violent felony
14 conviction.

15 D. When a defendant has a felony conviction from
16 another state, the felony conviction shall be considered a
17 violent felony for the purposes of the Criminal Sentencing Act
18 if that crime would be considered a violent felony in New
19 Mexico.

20 E. As used in the Criminal Sentencing Act,

21 [~~(1) "great bodily harm" means an injury to~~
22 ~~the person that creates a high probability of death or that~~
23 ~~causes serious disfigurement or that results in permanent loss~~
24 ~~or impairment of the function of any member or organ of the~~
25 ~~body; and~~

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~~(2) "violent felony" means:~~

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

~~(b) shooting at or from a motor vehicle resulting in great bodily harm, as provided in Subsection B of Section 30-3-8 NMSA 1978;~~

~~(c) kidnapping resulting in great bodily harm inflicted upon the victim by his captor, as provided in Subsection B of Section 30-4-1 NMSA 1978; and~~

~~(d) criminal sexual penetration, as provided in Subsection C or Paragraph (5) or (6) of Subsection D of Section 30-9-11 NMSA 1978; and~~

~~(e) robbery while armed with a deadly weapon resulting in great bodily harm as provided in Section 30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA~~

1978] "violent felony" means a first or second degree felony that involves the use or threatened use of force or violence. "

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001.