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**HOUSE BILL 437**

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

**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**

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1 1978 and Section 31-18-26 NMSA 1978 [~~becomes eligible for a~~  
2 ~~parole hearing after he has served thirty years of his~~  
3 ~~sentence. Before ordering the parole of an inmate sentenced~~  
4 ~~to life imprisonment, the board shall] is not eligible for  
5 parole and shall remain incarcerated for the entirety of his  
6 natural life.~~

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

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

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

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

21 (b) mitigating and aggravating  
22 circumstances;

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

25 (~~d) whether the inmate is a habitual~~

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1 ~~offender~~ offenses;

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

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

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

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

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

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

23 C. An inmate who was convicted of a first, second  
24 or third degree felony and who has served the sentence of  
25 imprisonment imposed by the court in [~~a corrections facility~~]

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1 an institution designated by the corrections department shall  
2 be required to undergo a two-year period of parole. An inmate  
3 who was convicted of a fourth degree felony and who has served  
4 the sentence of imprisonment imposed by the court in [~~a~~  
5 ~~corrections facility~~] an institution designated by the  
6 corrections department shall be required to undergo a one-year  
7 period of parole. During the period of parole, the person  
8 shall be under the guidance and supervision of the board.

9 D. Every person while on parole shall remain in  
10 the legal custody of the institution from which he was  
11 released, but shall be subject to the orders of the board.  
12 The board shall furnish to each inmate as a prerequisite to  
13 his release under its supervision a written statement of the  
14 conditions of parole that shall be accepted and agreed to by  
15 the inmate as evidenced by his signature affixed to a  
16 duplicate copy to be retained in the files of the board. The  
17 board shall also require as a prerequisite to release the  
18 submission and approval of a parole plan. If an inmate  
19 refuses to affix his signature to the written statement of the  
20 conditions of his parole or does not have an approved parole  
21 plan, he shall not be released and shall remain in the custody  
22 of the [~~corrections facility~~] institution in which he has  
23 served his sentence, excepting parole, until such time as the  
24 period of parole he was required to serve, less meritorious  
25 deductions, if any, expires, at which time he shall be

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1 released from that [~~facility~~] institution without parole, or  
2 until such time that he evidences his acceptance and agreement  
3 to the conditions of parole as required or receives approval  
4 for his parole plan or both. Time served from the date that  
5 an inmate refuses to accept and agree to the conditions of  
6 parole or fails to receive approval for his parole plan shall  
7 reduce the period, if any, to be served under parole at a  
8 later date. If the district court has ordered that the inmate  
9 make restitution to a victim as provided in Section 31-17-1  
10 NMSA 1978, the board shall include restitution as a condition  
11 of parole. The board shall also personally apprise the inmate  
12 of the conditions of parole and his duties relating thereto.

13 E. When a person on parole has performed the  
14 obligations of his release for the period of parole provided  
15 in this section, the board shall make a final order of  
16 discharge and issue him a certificate of discharge.

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

20 (1) to pay the actual costs of his parole  
21 services to the adult probation and parole division of the  
22 corrections department for deposit to the corrections  
23 department intensive supervision fund not exceeding one  
24 thousand twenty dollars (\$1,020) annually to be paid in  
25 monthly installments of not less than fifteen dollars (\$15.00)

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1 and not more than eighty-five dollars (\$85.00), subject to  
2 modification by the adult probation and parole division on the  
3 basis of changed financial circumstances; and

4 (2) to reimburse a law enforcement agency or  
5 local crime stopper program for the amount of any reward paid  
6 by the agency or program for information leading to his  
7 arrest, prosecution or conviction.

8 G. The provisions of this section shall apply to  
9 all inmates except geriatric, permanently incapacitated and  
10 terminally ill inmates eligible for the medical and geriatric  
11 parole program as provided by the Parole Board Act. "

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

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