

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 522

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT  
FELONIES IN THE CRIMINAL SENTENCING ACT FOR PURPOSES OF  
MANDATORY LIFE IMPRISONMENT FOR THREE VIOLENT FELONY  
CONVICTIONS.

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  
shall, in addition to the sentence imposed for the third

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

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

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

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

19 E. As used in the Criminal Sentencing Act:

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

25 (2) "violent felony" means:

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

3 (b) voluntary manslaughter, as provided  
4 in Section 30-2-3 NMSA 1978;

5 (c) third degree aggravated battery, as  
6 provided in Section 30-3-5 NMSA 1978;

7 (d) third degree aggravated battery  
8 against a household member, as provided in Section 30-3-16 NMSA  
9 1978;

10 (e) second or third degree shooting at a  
11 dwelling or occupied building, as provided in Section 30-3-8  
12 NMSA 1978;

13 ~~[(b)]~~ (f) second or third degree  
14 shooting at or from a motor vehicle [resulting in great bodily  
15 harm], as provided in [Subsection B of] Section 30-3-8 NMSA  
16 1978;

17 ~~[(e)]~~ (g) first degree kidnapping  
18 [resulting in great bodily harm inflicted upon the victim by  
19 his captor], as provided in [Subsection B of] Section 30-4-1  
20 NMSA 1978; [and

21 ~~[(d)]~~ (h) first or second degree criminal  
22 sexual penetration, as provided in [Subsection C or Paragraph  
23 (5) or (6) of Subsection D of] Section 30-9-11 NMSA 1978; [and

24 ~~[(e)]~~ (i) second or third degree criminal  
25 sexual contact of a minor, as provided in Section 30-9-13 NMSA

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1 1978;

2 (j) first or second degree robbery,  
3 ~~[while armed with a deadly weapon resulting in great bodily~~  
4 ~~harm]~~ as provided in Section 30-16-2 NMSA 1978 ~~[and Subsection~~  
5 ~~A of Section 30-1-12 NMSA 1978];~~

6 (k) second degree aggravated arson, as  
7 provided in Section 30-17-6 NMSA 1978;

8 (l) third degree aggravated battery upon  
9 a peace officer, as provided in Section 30-22-25 NMSA 1978;

10 (m) assault with intent to commit a  
11 violent felony upon a peace officer, as provided in Section  
12 30-22-23 NMSA 1978; and

13 (n) aggravated assault upon a peace  
14 officer, as provided in Section 30-22-22 NMSA 1978."

15 Section 2. EFFECTIVE DATE.--The effective date of the  
16 provisions of this act is July 1, 2007.