

HOUSE BILL 5

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2016

INTRODUCED BY

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This document incorporates Representative Egolf's House Floor Amendment #1, 204905.2, in consideration of this measure. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT FELONIES IN THE CRIMINAL SENTENCING ACT FOR THE 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

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shall, in addition to the sentence imposed for the third violent conviction, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

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

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

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

E. As used in the Criminal Sentencing Act,

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

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

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

(2) voluntary ~~or involuntary~~ manslaughter, as provided in Section 30-2-3 NMSA 1978;

(3) aggravated assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

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

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

~~(b)~~ (6) second or third degree shooting at or from a motor vehicle [resulting in great bodily harm], as provided in [Subsection B of] Section 30-3-8 NMSA 1978;

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

~~(c)~~ (8) first degree kidnapping ~~[resulting in great bodily harm inflicted upon the victim by the victim's captor]~~, as provided in ~~[Subsection B of]~~ Section 30-4-1 NMSA 1978;

(9) first degree abuse of a child, as provided in Section 30-6-1 NMSA 1978;

~~(d)~~ (10) aggravated, first, second or third degree criminal sexual penetration, as provided in [Subsection

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~~C or D or Paragraph (5) or (6) of Subsection E of]~~ Section  
30-9-11 NMSA 1978; [and

~~(e)]~~ (11) second or third degree criminal  
sexual contact of a minor, as provided in Section 30-9-13 NMSA  
1978;

(12) first or second degree 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~~];

(13) aggravated burglary, as provided in  
Subsections A or C of Section 30-16-4 NMSA 1978;

(14) aggravated arson, as provided in Section  
30-17-6 NMSA 1978;

(15) aggravated assault upon a peace officer,  
as provided in Paragraph (1) or (3) of Subsection A of Section  
30-22-22 NMSA 1978;

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

(17) aggravated battery upon a peace officer,  
as provided in Section 30-22-25 NMSA 1978."

**SECTION 2. APPLICABILITY.**--The provisions of this act  
apply to persons who have been convicted on, before or after  
the effective date of this act of one of the violent felonies  
described in Section 1 of this act for the purpose of

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determining sentencing enhancements pursuant to that section for subsequent violent felony convictions on or after the effective date of this act.