

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 531

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
INCREASING THE SENTENCING ENHANCEMENTS FOR USE OF A FIREARM IN
A NONCAPITAL FELONY.

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

SECTION 1. Section 31-18-16 NMSA 1978 (being Laws 1977,
Chapter 216, Section 5, as amended) is amended to read:

"31-18-16. USE OF FIREARM--ALTERATION OF BASIC SENTENCE--
SUSPENSION AND DEFERRAL LIMITED.--

A. When a separate finding of fact by the court or
jury shows that a firearm was used in the commission of a
noncapital felony, the basic sentence of imprisonment
prescribed for the offense in Section 31-18-15 NMSA 1978
[~~shall~~] may be increased by [~~one year, and the sentence imposed~~
~~by this subsection shall be the first year served and shall not~~

.207945.2

underscored material = new
[bracketed material] = delete

1 ~~be suspended or deferred; provided that when the offender is a~~
2 ~~serious youthful offender or a youthful offender, the sentence~~
3 ~~imposed by this subsection may be increased by one year] three~~
4 ~~years.~~

5 B. For a second or subsequent noncapital felony in
6 which a firearm is used, the basic sentence of imprisonment
7 prescribed in Section 31-18-15 NMSA 1978 [~~shall~~] may be
8 increased by [~~three years, and the sentence imposed by this~~
9 ~~subsection shall be the first three years served and shall not~~
10 ~~be suspended or deferred; provided that when the offender is a~~
11 ~~serious youthful offender or a youthful offender, the sentence~~
12 ~~imposed by this subsection may be increased by three] six~~
13 ~~years.~~

14 C. If the case is tried before a jury and if a
15 prima facie case has been established showing that a firearm
16 was used in the commission of the offense, the court shall
17 submit the issue to the jury by special interrogatory. If the
18 case is tried by the court and if a prima facie case has been
19 established showing that a firearm was used in the commission
20 of the offense, the court shall decide the issue and shall make
21 a separate finding of fact thereon."