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HOUSE BILL 18

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO PUBLIC SAFETY; 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  
shall, in addition to the sentence imposed for the third

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1 violent conviction, be punished by a sentence of life  
2 imprisonment. The life imprisonment sentence shall be subject  
3 to parole pursuant to the provisions of Section 31-21-10 NMSA  
4 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 the defendant  
12 reaches the age of eighteen shall not count as a violent felony  
13 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:

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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 Subsection A of Section 30-2-3 NMSA 1978;

5 (c) aggravated battery inflicting great  
6 bodily harm, as provided in Subsection C of Section 30-3-5 NMSA  
7 1978;

8 (d) shooting at a dwelling or occupied  
9 building that results in great bodily harm to another person,  
10 as provided in Subsection A of Section 30-3-8 NMSA 1978;

11 [~~(b)~~] (e) shooting at or from a motor  
12 vehicle [~~resulting~~] that results in great bodily harm to  
13 another person, as provided in Subsection B of Section 30-3-8  
14 NMSA 1978;

15 (f) aggravated battery against a  
16 household member by inflicting great bodily harm, with a deadly  
17 weapon or in any manner whereby great bodily harm or death can  
18 be inflicted, as provided in Subsection C of Section 30-3-16  
19 NMSA 1978;

20 [~~(e)~~] (g) kidnapping [~~resulting~~] that  
21 results in great bodily harm [~~inflicted upon the victim by the~~  
22 ~~victim's captor~~] of the victim, as provided in [~~Subsection B~~  
23 ~~of~~] Section 30-4-1 NMSA 1978;

24 (h) abuse of a child that results in  
25 great bodily harm to the child, as provided in Subsection E of

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1 Section 30-6-1 NMSA 1978, and abuse of a child, as provided in  
2 Subsections F, G and H of Section 30-6-1 NMSA 1978;

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

7 ~~(e)]~~ (j) robbery while armed with a  
8 deadly weapon ~~[resulting in great bodily harm]~~, as provided in  
9 Section 30-16-2 NMSA 1978 ~~[and Subsection A of Section 30-1-12~~  
10 ~~NMSA 1978]~~;

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

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

16 (m) assault with intent to commit a  
17 violent felony upon a peace officer, as provided in Section  
18 30-22-23 NMSA 1978; and

19 (n) aggravated battery upon a peace  
20 officer inflicting great bodily harm, as provided in Subsection  
21 C of Section 30-22-25 NMSA 1978."

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

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

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