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HOUSE BILL 116

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

INTRODUCED BY

Antonio "Moe" Maestas and Monica Youngblood

AN ACT

RELATING TO CRIMINAL PROCEDURE; REVISING ELIGIBILITY
REQUIREMENTS FOR PREPROSECUTION DIVERSION PROGRAMS.

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

SECTION 1. Section 31-16A-1 NMSA 1978 (being Laws 1981,
Chapter 33, Section 1) is amended to read:

"31-16A-1. SHORT TITLE.--~~[This act]~~ Chapter 31, Article
16A NMSA 1978 may be cited as the "Preprosecution Diversion
Act"."

SECTION 2. Section 31-16A-4 NMSA 1978 (being Laws 1981,
Chapter 33, Section 4) is amended to read:

"31-16A-4. ELIGIBILITY.--

A. A defendant ~~[must]~~ shall meet the following
minimum criteria to be eligible for a preprosecution diversion
program:

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underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (1) the defendant ~~[must have]~~ has no prior
2 felony convictions for ~~[a violent crime and no prior felony~~
3 ~~convictions for any crime for the previous ten years]~~ an
4 offense defined as a "serious violent offense" in Section
5 33-2-34 NMSA 1978;

6 (2) the crime alleged to have been committed
7 by the defendant is ~~[nonviolent in nature, with the exception~~
8 ~~of domestic disputes not involving a minor]~~ not an offense
9 defined as a "serious violent offense" in Section 33-2-34 NMSA
10 1978;

11 ~~[(3) if the defendant was on probation~~
12 ~~previously, his probation must not have been revoked or~~
13 ~~unsatisfactorily discharged;~~

14 ~~(4) the defendant has not been admitted into a~~
15 ~~similar program for the previous ten years;~~

16 ~~(5)]~~ (3) the defendant is willing to
17 participate in the program and ~~[submit]~~ adhere to all program
18 requirements;

19 ~~[(6) the crime alleged to have been committed~~
20 ~~by the defendant does not involve substantial sale or~~
21 ~~possession of controlled substances; and~~

22 ~~(7) a person meeting all of the above~~
23 ~~criteria]~~ and

24 (4) any additional criteria established by the
25 district attorney ~~[may be entered into the preprosecution~~

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