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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO CRIME; AMENDING THE RACKETEERING ACT; ADDING CERTAIN CRIMES TO THE DEFINITION OF "RACKETEERING"; DEFINING "CRIMINAL GANG"; CREATING CRIMES; PRESCRIBING PENALTIES.

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

SECTION 1. Section 30-42-1 NMSA 1978 (being Laws 1980, Chapter 40, Section 1) is amended to read:

"30-42-1. SHORT TITLE.--~~[This act]~~ Chapter 30, Article 42 NMSA 1978 may be cited as the "Racketeering Act"."

SECTION 2. Section 30-42-3 NMSA 1978 (being Laws 1980, Chapter 40, Section 3, as amended by Laws 2009, Chapter 253, Section 7 and by Laws 2009, Chapter 261, Section 7) is amended to read:

"30-42-3. DEFINITIONS.--As used in the Racketeering Act:

A. "racketeering" means any act that is chargeable

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1 or indictable under the laws of New Mexico and punishable by
2 imprisonment for more than one year, involving any of the
3 following cited offenses:

4 (1) murder, as provided in Section 30-2-1 NMSA
5 1978;

6 (2) robbery, as provided in Section 30-16-2
7 NMSA 1978;

8 (3) kidnapping, as provided in Section 30-4-1
9 NMSA 1978;

10 (4) forgery, as provided in Section 30-16-10
11 NMSA 1978;

12 (5) larceny, as provided in Section 30-16-1
13 NMSA 1978;

14 (6) fraud, as provided in Section 30-16-6 NMSA
15 1978;

16 (7) embezzlement, as provided in Section
17 30-16-8 NMSA 1978;

18 (8) receiving stolen property, as provided in
19 Section 30-16-11 NMSA 1978;

20 (9) bribery, as provided in Sections 30-24-1
21 through 30-24-3.1 NMSA 1978;

22 (10) gambling, as provided in Sections
23 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;

24 (11) illegal kickbacks, as provided in
25 Sections 30-41-1 and 30-41-2 NMSA 1978;

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1 (12) extortion, as provided in Section 30-16-9
2 NMSA 1978;

3 (13) trafficking in controlled substances, as
4 provided in Section 30-31-20 NMSA 1978;

5 (14) arson and aggravated arson, as provided
6 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
7 1978;

8 (15) promoting prostitution, as provided in
9 Section 30-9-4 NMSA 1978;

10 (16) criminal solicitation, as provided in
11 Section 30-28-3 NMSA 1978;

12 (17) fraudulent securities practices, as
13 provided in the New Mexico Uniform Securities Act [~~of 1986~~];

14 (18) loan sharking, as provided in Sections
15 30-43-1 through 30-43-5 NMSA 1978;

16 (19) distribution of controlled substances or
17 controlled substance analogues, as provided in Sections
18 30-31-21 and 30-31-22 NMSA 1978;

19 (20) [~~a violation of the provisions of~~] money
20 laundering, as provided in Section 30-51-4 NMSA 1978;

21 (21) unlawful taking of a vehicle or motor
22 vehicle, as provided in Section 30-16D-1 NMSA 1978;

23 (22) embezzlement of a vehicle or motor
24 vehicle, as provided in Section 30-16D-2 NMSA 1978;

25 (23) fraudulently obtaining a vehicle or motor

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1 vehicle, as provided in Section 30-16D-3 NMSA 1978;

2 (24) receiving or transferring stolen vehicles
3 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;
4 [~~and~~]

5 (25) altering or changing the serial number,
6 engine number, decal or other numbers or marks of a vehicle or
7 motor vehicle, as provided in Section 30-16D-6 NMSA 1978;

8 (26) sexual exploitation of children, as
9 provided in Sections 30-6A-3 and 30-6A-4 NMSA 1978;

10 (27) criminal sexual penetration, as provided
11 in Section 30-9-11 NMSA 1978;

12 (28) criminal sexual contact, as provided in
13 Sections 30-9-12 and 30-9-13 NMSA 1978;

14 (29) dog fighting and cockfighting, as
15 provided in Section 30-18-9 NMSA 1978;

16 (30) escape from jail, as provided in Section
17 30-22-8 NMSA 1978;

18 (31) escape from penitentiary, as provided in
19 Section 30-22-9 NMSA 1978;

20 (32) assisting escape, as provided in Section
21 30-22-11 NMSA 1978;

22 (33) bringing contraband into places of
23 imprisonment, as provided in Section 30-22-14 NMSA 1978;

24 (34) tampering with public records, as
25 provided in Section 30-26-1 NMSA 1978;

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1 (35) impersonating a peace officer, as
2 provided in Section 30-27-2.1 NMSA 1978; and

3 (36) human trafficking, as provided in Section
4 30-52-1 NMSA 1978;

5 B. "person" means an individual or entity capable
6 of holding a legal or beneficial interest in property;

7 C. "enterprise" means a sole proprietorship,
8 partnership, corporation, business, labor union, association or
9 other legal entity or a group of ~~[individuals]~~ persons,
10 including criminal gangs, associated in fact although not a
11 legal entity, and includes illicit as well as licit entities;
12 ~~[and]~~

13 D. "criminal gang" means three or more persons
14 having a common identifying sign or symbol or an identifiable
15 leadership and who continuously or regularly associate in the
16 commission of criminal activities; and

17 ~~[D-]~~ E. "pattern of racketeering activity" means
18 engaging in at least two incidents of racketeering with the
19 intent of accomplishing any of the prohibited activities set
20 forth in Subsections A through [D] F of Section 30-42-4 NMSA
21 1978; provided at least one of the incidents occurred after
22 February 28, 1980 and the last incident occurred within five
23 years after the commission of a prior incident of
24 racketeering."

25 SECTION 3. Section 30-42-4 NMSA 1978 (being Laws 1980,
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1 Chapter 40, Section 4, as amended) is amended to read:

2 "30-42-4. PROHIBITED ACTIVITIES--PENALTIES.--

3 A. It is unlawful for a person who has received
4 proceeds derived, directly or indirectly, from a pattern of
5 racketeering activity in which the person has participated, to
6 use or invest, directly or indirectly, any part of the proceeds
7 or the proceeds derived from the investment or use in the
8 acquisition of an interest in, or the establishment or
9 operation of, an enterprise. [~~Whoever~~] A person who violates
10 this subsection is guilty of a second degree felony.

11 B. It is unlawful for a person to engage in a
12 pattern of racketeering activity in order to acquire or
13 maintain, directly or indirectly, an interest in or control of
14 an enterprise. [~~Whoever~~] A person who violates this subsection
15 is guilty of a second degree felony.

16 C. It is unlawful for a person employed by or
17 associated with an enterprise to conduct or participate,
18 directly or indirectly, in the conduct of the enterprise's
19 affairs by engaging in a pattern of racketeering activity.
20 [~~Whoever~~] A person who violates this subsection is guilty of a
21 second degree felony.

22 D. It is unlawful for a person to solicit or coerce
23 another person, including a minor, into becoming or continuing
24 as a member of an enterprise or participating in the
25 racketeering activity of an enterprise. A person who violates

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1 this subsection is guilty of a third degree felony.

2 E. It is unlawful for a person who is in a
3 leadership position within an enterprise to knowingly finance,
4 supervise or conspire to commit, through the direction of
5 members of the enterprise, any racketeering activity. A person
6 who violates the provisions of this subsection is guilty of a
7 first degree felony.

8 ~~[D.]~~ F. It is unlawful for a person to conspire to
9 violate the provisions of Subsections A through ~~[G]~~ E of this
10 section. ~~[Whoever]~~ A person who violates this subsection is
11 guilty of a third degree felony.

12 ~~[E. Whoever]~~ G. A person who is convicted of a
13 violation of Subsection A, B, C, ~~[or]~~ E or F of this section
14 in addition to the prescribed penalties shall forfeit to the
15 state of New Mexico:

16 (1) any interest acquired or maintained in
17 violation of the Racketeering Act; and

18 (2) any interest in, security of, claim
19 against or property or contractual right of any kind affording
20 a source of influence over an enterprise that the person has
21 established, operated, controlled, conducted or participated in
22 the conduct of in violation of the Racketeering Act.

23 ~~[F.]~~ H. The provisions of the Forfeiture Act apply
24 to the seizure, forfeiture and disposal of property described
25 in Subsection ~~[E]~~ G of this section."