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AN ACT

RELATING TO CRIMINAL SENTENCING; INCREASING THE PENALTY FOR
ATTEMPTED MURDER IN THE SECOND DEGREE; INCREASING THE PENALTY
FOR SECOND DEGREE MURDER TO EIGHTEEN YEARS.

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

SECTION 1. Section 30-28-1 NMSA 1978 (being Laws 1963,
Chapter 303, Section 28-1) is amended to read:

"30-28-1. ATTEMPT TO COMMIT A FELONY.--Attempt to
commit a felony consists of an overt act in furtherance of
and with intent to commit a felony and tending but failing to
effect its commission.

Whoever commits attempt to commit a felony, upon
conviction thereof, shall be punished as follows:

A. if the crime attempted is a capital or first
degree felony, the person committing such attempt is guilty
of a second degree felony;

B. if the crime attempted is a second degree
felony, the person committing such attempt is guilty of a
third degree felony;

C. if the crime attempted is murder in the second
degree, the person committing the attempted murder is guilty
of a third degree felony and, notwithstanding the provisions
of Section 31-18-15 NMSA 1978, the basic sentence of
imprisonment is nine years;

1 D. if the crime attempted is a third degree
2 felony, the person committing such attempt is guilty of a
3 fourth degree felony; and

4 E. if the crime attempted is a fourth degree
5 felony, the person committing such attempt is guilty of a
6 misdemeanor.

7 No person shall be sentenced for an attempt to commit a
8 misdemeanor."

9 SECTION 2. Section 31-18-15 NMSA 1978 (being Laws 1977,
10 Chapter 216, Section 4, as amended) is amended to read:

11 "31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--
12 BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS
13 DEDUCTIONS.--

14 A. As used in a statute that establishes a
15 noncapital felony, the following defined felony
16 classifications and associated basic sentences of
17 imprisonment are as follows:

18	FELONY CLASSIFICATION	BASIC SENTENCE
19	first degree felony	
20	resulting in the death	
21	of a child	life imprisonment
22	first degree felony for	
23	aggravated criminal sexual	
24	penetration	life imprisonment
25	first degree felony	eighteen years imprisonment

1 second degree felony
2 resulting in the death of
3 a human being eighteen years
4 imprisonment
5 second degree felony for a
6 sexual offense against a
7 child fifteen years imprisonment
8 second degree felony for
9 sexual exploitation of
10 children twelve years imprisonment
11 second degree felony nine years imprisonment
12 third degree felony resulting
13 in the death of a human being six years imprisonment
14 third degree felony for a
15 sexual offense against a
16 child six years imprisonment
17 third degree felony for sexual
18 exploitation of children eleven years imprisonment
19 third degree felony three years imprisonment
20 fourth degree felony for
21 sexual exploitation of
22 children ten years imprisonment
23 fourth degree felony eighteen months imprisonment.

24 B. The appropriate basic sentence of imprisonment
25 shall be imposed upon a person convicted and sentenced

1 pursuant to Subsection A of this section, unless the court
2 alters the sentence pursuant to the provisions of the
3 Criminal Sentencing Act.

4 C. A period of parole shall be imposed only for
5 felony convictions wherein a person is sentenced to
6 imprisonment of more than one year, unless the parties to a
7 proceeding agree that a period of parole should be imposed.
8 If a period of parole is imposed, the court shall include in
9 the judgment and sentence of each person convicted and
10 sentenced to imprisonment in a corrections facility
11 designated by the corrections department authority for a
12 period of parole to be served in accordance with the
13 provisions of Section 31-21-10 NMSA 1978 after the completion
14 of any actual time of imprisonment and authority to require,
15 as a condition of parole, the payment of the costs of parole
16 services and reimbursement to a law enforcement agency or
17 local crime stopper program in accordance with the provisions
18 of that section. If imposed, the period of parole shall be
19 deemed to be part of the sentence of the convicted person in
20 addition to the basic sentence imposed pursuant to Subsection
21 A of this section together with alterations, if any, pursuant
22 to the provisions of the Criminal Sentencing Act.

23 D. When a court imposes a sentence of imprisonment
24 pursuant to the provisions of Section 31-18-15.1, 31-18-16 or
25 31-18-17 NMSA 1978 and suspends or defers the basic sentence

1 of imprisonment provided pursuant to the provisions of
2 Subsection A of this section, the period of parole shall be
3 served in accordance with the provisions of Section 31-21-10
4 NMSA 1978 for the degree of felony for the basic sentence for
5 which the inmate was convicted. For the purpose of
6 designating a period of parole, a court shall not consider
7 that the basic sentence of imprisonment was suspended or
8 deferred and that the inmate served a period of imprisonment
9 pursuant to the provisions of the Criminal Sentencing Act.

10 E. The court may, in addition to the imposition of
11 a basic sentence of imprisonment, impose a fine not to
12 exceed:

13 (1) for a first degree felony resulting in
14 the death of a child, seventeen thousand five hundred dollars
15 (\$17,500);

16 (2) for a first degree felony for aggravated
17 criminal sexual penetration, seventeen thousand five hundred
18 dollars (\$17,500);

19 (3) for a first degree felony, fifteen
20 thousand dollars (\$15,000);

21 (4) for a second degree felony resulting in
22 the death of a human being, twelve thousand five hundred
23 dollars (\$12,500);

24 (5) for a second degree felony for a sexual
25 offense against a child, twelve thousand five hundred dollars

1 (\$12,500);

2 (6) for a second degree felony for sexual
3 exploitation of children, five thousand dollars (\$5,000);

4 (7) for a second degree felony, ten thousand
5 dollars (\$10,000);

6 (8) for a third degree felony resulting in
7 the death of a human being, five thousand dollars (\$5,000);

8 (9) for a third degree felony for a sexual
9 offense against a child, five thousand dollars (\$5,000);

10 (10) for a third degree felony for sexual
11 exploitation of children, five thousand dollars (\$5,000);

12 (11) for a third or fourth degree felony,
13 five thousand dollars (\$5,000); or

14 (12) for a fourth degree felony for sexual
15 exploitation of children, five thousand dollars (\$5,000).

16 F. When the court imposes a sentence of
17 imprisonment for a felony offense, the court shall indicate
18 whether or not the offense is a serious violent offense as
19 defined in Section 33-2-34 NMSA 1978. The court shall inform
20 an offender that the offender's sentence of imprisonment is
21 subject to the provisions of Sections 33-2-34, 33-2-36,
22 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform
23 an offender that the offender's sentence is subject to those
24 provisions or if the court provides the offender with
25 erroneous information regarding those provisions, the failure

1 to inform or the error shall not provide a basis for a writ
2 of habeas corpus.

3 G. No later than October 31 of each year, the
4 New Mexico sentencing commission shall provide a written
5 report to the secretary of corrections, all New Mexico
6 criminal court judges, the administrative office of the
7 district attorneys and the chief public defender. The report
8 shall specify the average reduction in the sentence of
9 imprisonment for serious violent offenses and nonviolent
10 offenses, as defined in Section 33-2-34 NMSA 1978, due to
11 meritorious deductions earned by prisoners during the previous
12 fiscal year pursuant to the provisions of Sections 33-2-34,
13 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections
14 department shall allow the commission access to documents used
15 by the department to determine earned meritorious deductions
16 for prisoners."
