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HOUSE BILL 252

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

RICHARD "RAY" SANCHEZ

AN ACT

RELATING TO JUVENILE JUSTICE; LOWERING THE AGE FOR ADJUDICATION
OF A CHILD AS A YOUTHFUL OFFENDER TO THIRTEEN YEARS OF AGE;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 31-18-15.2 NMSA 1978 (being Laws 1993,
Chapter 77, Section 1, as amended) is amended to read:

"31-18-15.2. DEFINITIONS. --As used in the Criminal
Sentencing Act:

A. "serious youthful offender" means an individual
sixteen or seventeen years of age who is charged with and
indicted or bound over for trial for first degree murder; and

B. "youthful offender" means a delinquent child
subject to adult or juvenile sanctions who is:

(1) [~~fifteen~~] thirteen to eighteen years of age

1 at the time of the offense and who is adjudicated for at least
2 one of the following offenses:

3 (a) second degree murder, as provided in
4 Section 30-2-1 NMSA 1978;

5 (b) assault with intent to commit a
6 violent felony, as provided in Section 30-3-3 NMSA 1978;

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

9 (d) aggravated battery, as provided in
10 Subsection C of Section 30-3-5 NMSA 1978;

11 (e) aggravated battery upon a peace
12 officer, as provided in Subsection C of Section 30-22-25 NMSA
13 1978;

14 (f) shooting at a dwelling or occupied
15 building or shooting at or from a motor vehicle, which results
16 in great bodily harm to another person, as provided in Section
17 30-3-8 NMSA 1978;

18 (g) dangerous use of explosives, as
19 provided in Section 30-7-5 NMSA 1978;

20 (h) criminal sexual penetration, as
21 provided in Section 30-9-11 NMSA 1978;

22 (i) robbery, as provided in Section
23 30-16-2 NMSA 1978;

24 (j) aggravated burglary, as provided in
25 Section 30-16-4 NMSA 1978; or

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

3 (2) [~~fifteen~~] thirteen to eighteen years of age
4 at the time of the offense and adjudicated for any felony
5 offense and who has had three prior, separate felony
6 adjudications within a two-year time period immediately
7 preceding the instant offense. The felony adjudications relied
8 upon as prior adjudications shall not have arisen out of the
9 same transaction or occurrence or series of events related in
10 time and location. Successful completion of consent decrees is
11 not considered a prior adjudication for the purposes of this
12 paragraph; or

13 (3) thirteen to fifteen years of age and
14 adjudicated for first degree murder, as provided in Section
15 30-2-1 NMSA 1978. "

16 Section 2. Section 32A-2-3 NMSA 1978 (being Laws 1993,
17 Chapter 77, Section 32, as amended by Laws 1995, Chapter 204,
18 Section 2 and by Laws 1995, Chapter 205, Section 2 and also by
19 Laws 1995, Chapter 206, Section 10) is amended to read:

20 "32A-2-3. DEFINITIONS. --As used in the Delinquency Act:

21 A. "delinquent act" means an act committed by a
22 child that would be designated as a crime under the law if
23 committed by an adult, including [~~but not limited to~~] the
24 following offenses:

25 (1) pursuant to municipal traffic codes or the

1 Motor Vehicle Code:

2 (a) any driving while under the influence
3 of intoxicating liquor or drugs;

4 (b) any failure to stop in the event of
5 an accident causing death, personal injury or damage to
6 property;

7 (c) any unlawful taking of a vehicle or
8 motor vehicle;

9 (d) any receiving or transferring of a
10 stolen vehicle or motor vehicle;

11 (e) any homicide by vehicle;

12 (f) any injuring or tampering with a
13 vehicle;

14 (g) any altering or changing of an engine
15 number or other vehicle identification numbers;

16 (h) any altering or forging of a driver's
17 license or permit or any making of a fictitious license or
18 permit;

19 (i) reckless driving;

20 (j) driving with a suspended or revoked
21 license; or

22 (k) any offense punishable as a felony;

23 (2) buying, attempting to buy, receiving,
24 possessing or being served any alcoholic liquor or being present
25 in a licensed liquor establishment, other than a restaurant or a

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1 licensed retail liquor establishment, except in the presence of
2 the child's parent, guardian, custodian or adult spouse. As
3 used in this paragraph, "restaurant" means any establishment
4 where meals are prepared and served primarily for on-premises
5 consumption and that has a dining room, a kitchen and the
6 employees necessary for preparing, cooking and serving meals.
7 "Restaurant" does not include establishments, as defined in
8 regulations promulgated by the director of the special
9 investigations division of the department of public safety, that
10 serve only hamburgers, sandwiches, salads and other fast foods;

11 (3) any felony violation of the provisions of
12 Sections 17-1-1 through 17-5-9 NMSA 1978 or any regulations
13 adopted by the state game commission that relate to the time,
14 extent, means or manner that game animals, birds or fish may be
15 hunted, taken, captured, killed, possessed, sold, purchased or
16 shipped and for which a fine may be imposed or a civil damage
17 awarded;

18 (4) any violation of Section 30-29-2 NMSA 1978,
19 regarding the illegal use of a glue, aerosol spray product or
20 other chemical substance;

21 (5) any violation of the Controlled Substances
22 Act; [or]

23 (6) escape from the custody of a law
24 enforcement officer or a juvenile probation or parole officer or
25 from any placement made by the department by a child who has

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1 been adjudicated a delinquent child; or

2 (7) any violation of Section 30-15-1.1 NMSA
3 1978 regarding unauthorized graffiti on personal or real
4 property;

5 B. "delinquent child" means a child who has
6 committed a delinquent act;

7 C. "delinquent offender" means a delinquent child
8 who is subject to juvenile sanctions only and who is not a
9 youthful offender or a serious youthful offender;

10 D. "detention facility" means a place where a child
11 may be detained under the Children's Code pending court hearing
12 and does not include a facility for the care and rehabilitation
13 of an adjudicated delinquent child;

14 E. "felony" means an act that would be a felony if
15 committed by an adult;

16 F. "misdemeanor" means an act that would be a
17 misdemeanor or petty misdemeanor if committed by an adult;

18 G. "restitution" means financial reimbursement by
19 the child to the victim or community service imposed by the
20 court and is limited to easily ascertainable damages for injury
21 to or loss of property, actual expenses incurred for medical,
22 psychiatric and psychological treatment for injury to a person
23 and lost wages resulting from physical injury, which are a
24 direct and proximate result of a delinquent act. "Restitution"
25 does not include reimbursement for damages for mental anguish,

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1 pain and suffering or other intangible losses. As used in this
2 subsection, "victim" means any person who is injured or suffers
3 damage of any kind by an act that is the subject of a complaint
4 or referral to law enforcement officers or juvenile probation
5 authorities. Nothing contained in this definition limits or
6 replaces the provisions of Subsections A and B of Section
7 32A-2-27 NMSA 1978;

8 H. "serious youthful offender" means an individual
9 sixteen or seventeen years of age who is charged with and
10 indicted or bound over for trial for first degree murder. A
11 "serious youthful offender" is not a delinquent child as defined
12 pursuant to the provisions of this section; and

13 I. "youthful offender" means a delinquent child
14 subject to adult or juvenile sanctions who is:

15 (1) [~~fifteen~~] thirteen to eighteen years of age
16 at the time of the offense and who is adjudicated for at least
17 one of the following offenses:

18 (a) second degree murder, as provided in
19 Section 30-2-1 NMSA 1978;

20 (b) assault with intent to commit a
21 violent felony, as provided in Section 30-3-3 NMSA 1978;

22 (c) kidnapping, as provided in Section
23 30-4-1 NMSA 1978;

24 (d) aggravated battery, as provided in
25 Subsection C of Section 30-3-5 NMSA 1978;

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1 not considered a prior adjudication for the purposes of this
2 paragraph; or

3 (3) thirteen to fifteen years of age and
4 adjudicated for first degree murder, as provided in Section
5 30-2-1 NMSA 1978. "

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