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HOUSE BILL 254

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

INTRODUCED BY

FRANK BIRD

AN ACT

RELATING TO CRIMINAL LAW; REQUIRING A CAPITAL FELONY OFFENDER TO  
REMAIN INCARCERATED FOR THE ENTIRETY OF HIS NATURAL LIFE;  
AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 31-21-10 NMSA 1978 (being Laws 1980,  
Chapter 28, Section 1, as amended by Laws 1994, Chapter 21,  
Section 1 and also by Laws 1994, Chapter 24, Section 4) is  
amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

A. An inmate of an institution who was sentenced to  
life imprisonment as the result of the commission of a capital  
felony ~~[or who was convicted of three violent felonies and  
sentenced pursuant to Section 31-18-24 NMSA 1978, becomes  
eligible for a parole hearing after he has served thirty years~~

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1 ~~of his sentence]~~ is not eligible for parole and shall remain  
2 incarcerated for the entirety of his natural life.

3 B. An inmate of an institution who was convicted of  
4 three violent felonies and sentenced to life imprisonment  
5 pursuant to the provisions of Sections 31-18-23 and 31-18-24  
6 NMSA 1978 is eligible for a parole hearing after he has served  
7 thirty years of his sentence. Before ordering the parole of an  
8 inmate sentenced to life imprisonment pursuant to the provisions  
9 of Sections 31-18-23 and 31-18-24 NMSA 1978, the board shall:

10 (1) interview the inmate at the institution  
11 where he is committed;

12 (2) consider all pertinent information  
13 concerning the inmate including:

14 (a) the circumstances of the ~~[offense]~~  
15 offenses;

16 (b) mitigating and aggravating  
17 circumstances;

18 (c) whether a deadly weapon was used in  
19 the commission of the ~~[offense]~~ offenses;

20 ~~[(d) whether the inmate is a habitual~~  
21 ~~offender;~~

22 ~~(e)]~~ (d) the reports filed under Section  
23 31-21-9 NMSA 1978; and

24 ~~[(f)]~~ (e) the reports of such physical  
25 and mental examinations as have been made while in prison;

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1 (3) make a finding that a parole is in the best  
2 interest of society and the inmate; and

3 (4) make a finding that the inmate is able and  
4 willing to fulfill the obligations of a law-abiding citizen.

5 If parole is denied, the inmate sentenced to life  
6 imprisonment shall again become entitled to a parole hearing at  
7 two-year intervals. The board may, on its own motion, reopen  
8 any case in which a hearing has already been granted and parole  
9 denied.

10 ~~[B. Unless the board finds that it is in the best~~  
11 ~~interest of society and the parolee to reduce the period of~~  
12 ~~parole, a person who was convicted of a capital felony shall be~~  
13 ~~required to undergo a minimum period of parole of five years.~~  
14 ~~During the period of parole, the person shall be under the~~  
15 ~~guidance and supervision of the board.]~~

16 C. An inmate who was convicted of a first, second or  
17 third degree felony and who has served the sentence of  
18 imprisonment imposed by the court in a corrections facility  
19 designated by the corrections department shall be required to  
20 undergo a two-year period of parole. An inmate who was  
21 convicted of a fourth degree felony and who has served the  
22 sentence of imprisonment imposed by the court in a corrections  
23 facility designated by the corrections department shall be  
24 required to undergo a one-year period of parole. During the  
25 period of parole, the person shall be under the guidance and

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1 supervision of the board.

2 D. Every person while on parole shall remain in the  
3 legal custody of the institution from which he was released, but  
4 shall be subject to the orders of the board. The board shall  
5 furnish to each inmate as a prerequisite to his release under  
6 its supervision a written statement of the conditions of parole  
7 which shall be accepted and agreed to by the inmate as evidenced  
8 by his signature affixed to a duplicate copy to be retained in  
9 the files of the board. The board shall also require as a  
10 prerequisite to release the submission and approval of a parole  
11 plan. If an inmate refuses to affix his signature to the  
12 written statement of the conditions of his parole or does not  
13 have an approved parole plan, he shall not be released and shall  
14 remain in the custody of the corrections facility in which he  
15 has served his sentence, excepting parole, until such time as  
16 the period of parole he was required to serve, less meritorious  
17 deductions, if any, expires, at which time he shall be released  
18 from that facility without parole, or until such time that he  
19 evidences his acceptance and agreement to the conditions of  
20 parole as required or receives approval for his parole plan or  
21 both. Time served from the date that an inmate refuses to  
22 accept and agree to the conditions of parole or fails to receive  
23 approval for his parole plan shall reduce the period, if any, to  
24 be served under parole at a later date. If the district court  
25 has ordered that the inmate make restitution to a victim as

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1 provided in Section 31-17-1 NMSA 1978, the board shall include  
2 restitution as a condition of parole. The board shall also  
3 personally apprise the inmate of the conditions of parole and  
4 his duties relating thereto.

5 E. When a person on parole has performed the  
6 obligations of his release for the period of parole provided in  
7 this section, the board shall make a final order of discharge  
8 and issue him a certificate of discharge.

9 F. Pursuant to the provisions of Section 31-18-15  
10 NMSA 1978, the board shall require the inmate, as a condition of  
11 parole:

12 (1) to pay the actual costs of his parole  
13 services to the [~~field services~~] adult probation and parole  
14 division of the corrections department for deposit to the  
15 corrections department intensive supervision fund not exceeding  
16 one thousand twenty dollars (\$1,020) annually to be paid in  
17 monthly installments of not less than fifteen dollars (\$15.00)  
18 and not more than eighty-five dollars (\$85.00), subject to  
19 modification by the [~~appropriate district supervisor of the~~  
20 ~~field services~~] adult probation and parole division on the basis  
21 of changed financial circumstances; and

22 (2) to reimburse a law enforcement agency or  
23 local crime stopper program for the amount of any reward paid by  
24 the agency or program for information leading to his arrest,  
25 prosecution or conviction.

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G. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act. "

Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1996.