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HOUSE BILL 496

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO CRIMINAL LAW; CREATING NEW CRIMINAL OFFENSES  
REGARDING ARSON; PROVIDING FOR THE RECOVERY OF FIREFIGHTING  
COSTS; CREATING A NEW CRIMINAL OFFENSE FOR IMPERSONATING A  
FIREFIGHTER, FIRE INVESTIGATOR OR EMERGENCY MEDICAL  
TECHNICIAN; PRESCRIBING PENALTIES.

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

Section 1. A new section of the Criminal Code is enacted  
to read:

" NEW MATERIAL ARSON IN THE SECOND DEGREE. --

A. Arson in the second degree consists of:

(1) a person willfully and maliciously  
setting fire to or burning or by the use of an explosive  
device or explosive substance destroying, or causing to be  
burned or destroyed, in whole or in part, a dwelling or

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1 occupied building, whether the property of himself or another  
2 person; or

3 (2) a person willfully and maliciously  
4 setting fire to or burning or by the use of an explosive  
5 device or explosive substance destroying, or causing to be  
6 burned or destroyed, in whole or in part, a building or a  
7 structure, whether his own or another person's, and causing  
8 injury or substantial risk of injury to another person.

9 B. Whoever commits arson in the second degree is  
10 guilty of a second degree felony."

11 Section 2. A new section of the Criminal Code is enacted  
12 to read:

13 "[NEW MATERIAL] ARSON IN THE THIRD DEGREE. --

14 A. Arson in the third degree consists of a person  
15 willfully and maliciously setting fire to or burning or by the  
16 use of an explosive device or explosive substance destroying,  
17 or causing to be burned or destroyed, in whole or in part, an  
18 unoccupied building or structure.

19 B. Whoever commits arson in the third degree is  
20 guilty of a third degree felony."

21 Section 3. A new section of the Criminal Code is enacted  
22 to read:

23 "[NEW MATERIAL] ARSON IN THE FOURTH DEGREE. --

24 A. Arson in the fourth degree consists of:

25 (1) a person recklessly starting a fire or

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1 causing an explosion and directly causing the death of another  
2 person or bodily injury to another person;

3 (2) a person recklessly starting a fire or  
4 causing an explosion and directly damaging or destroying real  
5 property of another person;

6 (3) a person intentionally starting a fire or  
7 causing an explosion and directly damaging or destroying  
8 personal property with a value of one thousand dollars  
9 (\$1,000) or more; or

10 (4) a person intentionally starting a fire or  
11 causing an explosion and directly damaging or destroying  
12 personal property with a value of less than one thousand  
13 dollars (\$1,000).

14 B. Whoever commits arson in the fourth degree, as  
15 provided in Paragraph (1), (2) or (3) of Subsection A of this  
16 section, is guilty of a fourth degree felony.

17 C. Whoever commits arson in the fourth degree, as  
18 provided in Paragraph (4) of Subsection A of this section, is  
19 guilty of a petty misdemeanor. "

20 Section 4. A new section of the Criminal Code is enacted  
21 to read:

22 "[NEW MATERIAL] RECOVERY OF FIREFIGHTING COSTS. --A person  
23 who is convicted for committing arson in the second degree,  
24 arson in the third degree or arson in the fourth degree shall  
25 pay, in addition to restitution he is ordered to pay to

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1 victims of his offense, all reasonable costs associated with  
2 extinguishing the fire he caused or controlling damage from  
3 the explosion he caused. "

4 Section 5. A new section of the Criminal Code is enacted  
5 to read:

6 "[NEW MATERIAL] IMPERSONATING A FIREFIGHTER, FIRE  
7 INVESTIGATOR OR EMERGENCY MEDICAL TECHNICIAN. --

8 A. Impersonating a firefighter, fire investigator  
9 or emergency medical technician consists of a person  
10 pretending to be a firefighter, fire investigator or emergency  
11 medical technician at the scene of a fire, explosion or  
12 medical emergency.

13 B. Whoever commits impersonating a firefighter,  
14 fire investigator or emergency medical technician is guilty of  
15 a misdemeanor. "

16 Section 6. REPEAL. -- Sections 30-17-5 and 30-17-6 NMSA  
17 1978 (being Laws 1970, Chapter 39, Section 1 and Laws 1963,  
18 Chapter 303, Section 17-6) are repealed.

19 Section 7. EFFECTIVE DATE. -- The effective date of the  
20 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 February 22, 1999

7  
8 Mr. Speaker:

9  
10 Your JUDICIARY COMMITTEE, to whom has been referred

11  
12 HOUSE BILL 496

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO NOT PASS, but that

16 HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL  
17 496

18  
19 DO PASS, and thence referred to the APPROPRIATIONS  
20 AND FINANCE COMMITTEE.

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/HB 496

Page 6

Respectfully submitted,

\_\_\_\_\_  
Raymond G. Sanchez, Vice  
Chairman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Luna

Absent: None

J: \99BillSWP\h0496

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 496

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

RELATING TO CRIMINAL LAW; CREATING NEW CRIMINAL OFFENSES  
REGARDING ARSON; PROVIDING FOR THE RECOVERY OF FIREFIGHTING  
COSTS; CREATING A NEW CRIMINAL OFFENSE FOR IMPERSONATING A  
FIREFIGHTER, FIRE INVESTIGATOR OR EMERGENCY MEDICAL  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted  
to read:

"NEW MATERIAL ARSON IN THE SECOND DEGREE. --

A. Arson in the second degree consists of:

(1) a person willfully and maliciously  
setting fire to or burning or by the use of an explosive  
device or explosive substance destroying, or causing to be  
burned or destroyed, in whole or in part, a dwelling or  
occupied building, whether the property of himself or another  
person; or

(2) a person willfully and maliciously

1 setting fire to or burning or by the use of an explosive  
2 device or explosive substance destroying, or causing to be  
3 burned or destroyed, in whole or in part, a building or a  
4 structure, whether his own or another person's, and causing  
5 injury or substantial risk of injury to another person.

6 B. Whoever commits arson in the second degree is  
7 guilty of a second degree felony."

8 Section 2. A new section of the Criminal Code is enacted  
9 to read:

10 "[NEW MATERIAL] ARSON IN THE THIRD DEGREE. --

11 A. Arson in the third degree consists of:

12 (1) a person willfully and maliciously  
13 setting fire to or burning or by the use of an explosive  
14 device or explosive substance destroying, or causing to be  
15 burned or destroyed, in whole or in part, an unoccupied  
16 building or structure; or

17 (2) a person willfully and maliciously  
18 starting a fire or causing an explosion and directly damaging  
19 or destroying personal property with a value of one thousand  
20 dollars (\$1,000) or more.

21 B. Whoever commits arson in the third degree is  
22 guilty of a third degree felony."

23 Section 3. A new section of the Criminal Code is enacted  
24 to read:

25 "[NEW MATERIAL] ARSON IN THE FOURTH DEGREE. --

A. Arson in the fourth degree consists of:

(1) a person recklessly starting a fire or  
causing an explosion and directly causing the death of another

1 person or bodily injury to another person;

2 (2) a person recklessly starting a fire or  
3 causing an explosion and directly damaging or destroying real  
4 property of another person; or

5 (3) a person willfully and maliciously  
6 starting a fire or causing an explosion and directly damaging  
7 or destroying personal property with a value of less than one  
thousand dollars (\$1,000).

8 B. Whoever commits arson in the fourth degree, as  
9 provided in Paragraph (1) or (2) of Subsection A of this  
10 section, is guilty of a fourth degree felony.

11 C. Whoever commits arson in the fourth degree, as  
12 provided in Paragraph (3) of Subsection A of this section, is  
13 guilty of a misdemeanor."

14 Section 4. A new section of the Criminal Code is enacted  
to read:

15 "[NEW MATERIAL] RECOVERY OF FIREFIGHTING COSTS.--A person  
16 who is convicted for committing arson in the second degree,  
17 arson in the third degree or arson in the fourth degree shall  
18 pay, in addition to restitution he is ordered to pay to  
19 victims of his offense, all reasonable costs associated with  
20 extinguishing the fire he caused or controlling damage from  
the explosion he caused."

21 Section 5. A new section of the Criminal Code is enacted  
22 to read:

23 "[NEW MATERIAL] IMPERSONATING A FIREFIGHTER, FIRE  
24 INVESTIGATOR OR EMERGENCY MEDICAL TECHNICIAN.--

25 A. Impersonating a firefighter, fire investigator

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1 or emergency medical technician consists of a person  
2 pretending to be a firefighter, fire investigator or emergency  
3 medical technician at the scene of a fire, explosion or  
4 medical emergency.

5 B. Whoever commits impersonating a firefighter,  
6 fire investigator or emergency medical technician is guilty of  
7 a misdemeanor. "

8 Section 6. REPEAL. --Sections 30-17-5 and 30-17-6 NMSA  
9 1978 (being Laws 1970, Chapter 39, Section 1 and Laws 1963,  
10 Chapter 303, Section 17-6) are repealed.

11 Section 7. EFFECTIVE DATE. --The effective date of the  
12 provisions of this act is July 1, 1999.

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- (3) other services; and
- (4) administrative costs.

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act.

B. ~~[The cash benefit level for]~~ Only a benefit group receiving a cash benefit of seventy-five dollars (\$75.00) or greater, excluding any housing subsidy payment, and who are not living in government-subsidized housing or receiving government-subsidized housing payments shall [ be increased by one hundred dollars (\$100)-] receive an additional housing allowance of fifty dollars (\$50.00) per month.

C. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

- (1) medicaid;
- (2) food stamps;
- (3) government-subsidized foster care and adoption payments;
- (4) supplemental security income;
- (5) government-subsidized housing or housing payments;
- (6) federally excluded income;
- (7) educational payments made directly to an educational institution;
- (8) government-subsidized child care;
- (9) earned and unearned income that belongs

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1 to a person [~~eighteen~~] seventeen years of age or younger who  
2 is not the head of household;

3 (10) for the first two years of receiving  
4 cash assistance or services, if a participant works over the  
5 work requirement rate set by the department pursuant to the  
6 New Mexico Works Act, one hundred percent of the income earned  
7 by the participant beyond that rate;

8 (11) for the first two years of receiving  
9 cash assistance or services, for a two-parent benefit group in  
10 which one parent works over thirty-five hours per week and the  
11 other works over twenty-four hours per week, one hundred  
12 percent of income earned by each participant beyond the work  
13 requirement rate set by the department;

14 (12) unearned income that belongs to the  
15 household group but not to the benefit group; [~~and~~]

16 (13) fifty dollars (\$50.00) of collected  
17 child support passed through to the participant by the  
18 department's child support enforcement program; and

19 [~~(13)~~] (14) other income sources as  
20 determined by the department.

21 D. Earned income over one hundred thirty percent  
22 of the federal poverty guidelines that belongs to the  
23 household group but not to the benefit group is countable  
24 income. The department shall count the entire household group  
25 to determine family size when applying the federal poverty  
guidelines.

E. The department shall count the entire household  
group to determine family size when applying the financial

1 standard of need. For a benefit group to be eligible to  
2 participate:

3 (1) gross countable earned income, that  
4 belongs to the household group but not to the benefit group,  
5 must not exceed one hundred eighty-five percent of the  
6 financial standard of need; and

7 (2) net countable earned income that belongs  
8 to the household group must not equal or exceed the financial  
9 standard of need after applying the disregards set out in  
10 Paragraphs (1) through [~~(5)~~] (4) of Subsection F of this  
11 section.

12 F. Subject to the availability of state and  
13 federal funds, the department shall determine the cash payment  
14 of the benefit group by applying the following disregards to  
15 the benefit group's earned gross income and then subtracting  
16 that amount from the benefit group's financial standard of  
17 need:

18 (1) one hundred fifty dollars (\$150) of  
19 monthly earned income and one-half of the remainder, or for a  
20 two-parent family, two hundred fifty dollars (\$250) of monthly  
21 earned income and one-half of the remainder for each parent;

22 (2) monthly payments made for child care at a  
23 maximum of two hundred dollars (\$200) for a child under two  
24 years of age and at a maximum of one hundred seventy-five  
25 dollars (\$175) for a child two years of age or older;

(3) costs of self-employment income; and

(4) business expenses [~~and~~

~~(5) fifty dollars (\$50.00) of collected child~~

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1 ~~support passed through to the participant by the department's~~  
2 ~~child support enforcement program and then subtracting that~~  
3 ~~amount from the financial standard of need].~~

4 G. The department may recover overpayments of cash  
5 assistance on a monthly basis not to exceed fifteen percent of  
6 the financial standard of need applicable to the benefit  
7 group. "

8 Section 2. EMERGENCY.--It is necessary for the public  
9 peace, health and safety that this act take effect  
10 immediately.

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HJC/HB 496

**FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999**

**February 27, 1999**

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 496

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Max Coll, Chairman

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Garcia, MH, Larrañaga, Picraux, Watchman

Absent: None

J: \99BillSWP\h0496

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