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SENATE BILL 159

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

INTRODUCED BY

Rod Adair

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR PUNISHMENT OF CRIMINAL  
OFFENDERS CONVICTED OF CERTAIN SEXUAL OFFENSES AGAINST  
CHILDREN LESS THAN THIRTEEN YEARS OF AGE; AMENDING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. A new section of Chapter 31, Article 18 NMSA  
1978 is enacted to read:

" NEW MATERIAL SENTENCING OF PERSONS CONVICTED OF  
CERTAIN SEXUAL OFFENSES AGAINST CHILDREN LESS THAN THIRTEEN  
YEARS OF AGE-- TREATMENT WITH MEDROXYPROGESTERONE ACETATE OR  
ITS EQUIVALENT. --

A. A person convicted of criminal sexual  
penetration in the first degree when the victim is a child  
less than thirteen years of age shall, if paroled, undergo

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1 medroxyprogesterone acetate treatment or its chemical  
2 equivalent, in addition to any other punishment prescribed for  
3 that offense.

4 B. A person required to undergo treatment pursuant  
5 to Subsection A of this section:

6 (1) shall be exempt from that treatment if he  
7 has undergone or does undergo a permanent surgical alternative  
8 to hormonal chemical treatment for sex offenders; and

9 (2) shall begin medroxyprogesterone acetate  
10 treatment one week prior to his release on parole from the  
11 physical custody of the corrections department or another  
12 institution and shall remain on the treatment program until  
13 released from parole unless before that date the parole board  
14 demonstrates to the satisfaction of the court sentencing the  
15 person pursuant to this section that the treatment is no  
16 longer necessary and the court enters an order to that effect.

17 C. The federal centers for disease control and  
18 prevention shall administer and implement the protocols  
19 required by this section. These protocols shall include a  
20 requirement that the person subject to treatment pursuant to  
21 this section shall be informed in writing about the effect of  
22 hormonal chemical treatment and any side effects that may  
23 result from it. The person shall provide a receipt in writing  
24 indicating that this information has been communicated to the  
25 person.

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1           D. Nothing in the implementation of the protocols  
2 developed pursuant to Subsection C of this section shall  
3 require a medical doctor employed by the corrections  
4 department or the parole board to participate against his will  
5 in the program authorized by this section."

6           Section 2. Section 31-21-10 NMSA 1978 (being Laws 1980,  
7 Chapter 28, Section 1, as amended) is amended to read:

8           "31-21-10. PAROLE AUTHORITY AND PROCEDURE. --

9           A. A person sentenced as a result of a conviction  
10 for committing criminal sexual penetration in the first  
11 degree, when the victim is a child less than thirteen years of  
12 age, may be paroled pursuant to the applicable provisions of  
13 law, but the term of parole shall be for the life of the  
14 person paroled.

15           [~~A.~~] B. Except as provided in Subsection A of this  
16 section, an inmate of an institution who was sentenced to life  
17 imprisonment as the result of the commission of a capital  
18 felony, who was convicted of three violent felonies and  
19 sentenced pursuant to Sections 31-18-23 and 31-18-24 NMSA 1978  
20 or who was convicted of two violent sexual offenses and  
21 sentenced pursuant to Subsection A of Section 31-18-25 NMSA  
22 1978 and Section 31-18-26 NMSA 1978 becomes eligible for a  
23 parole hearing after he has served thirty years of his  
24 sentence. Before ordering the parole of an inmate sentenced  
25 to life imprisonment, the board shall:

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

3 (2) consider all pertinent information  
4 concerning the inmate, including:

5 (a) the circumstances of the offense;

6 (b) mitigating and aggravating  
7 circumstances;

8 (c) whether a deadly weapon was used in  
9 the commission of the offense;

10 (d) whether the inmate is a habitual  
11 offender;

12 (e) the reports filed under Section  
13 31-21-9 NMSA 1978; and

14 (f) the reports of such physical and  
15 mental examinations as have been made while in prison;

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

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

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

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1                    ~~[B-]~~ C. Except as provided in Subsection A of this  
2 section, unless the board finds that it is in the best  
3 interest of society and the parolee to reduce the period of  
4 parole, a person who was convicted of a capital felony shall  
5 be required to undergo a minimum period of parole of five  
6 years. During the period of parole, the person shall be under  
7 the guidance and supervision of the board.

8                    ~~[C-]~~ D. Except as provided in Subsection A of this  
9 section, an inmate who was convicted of a first, second or  
10 third degree felony and who has served the sentence of  
11 imprisonment imposed by the court in a corrections facility  
12 designated by the corrections department shall be required to  
13 undergo a two-year period of parole. An inmate who was  
14 convicted of a fourth degree felony and who has served the  
15 sentence of imprisonment imposed by the court in a corrections  
16 facility designated by the corrections department shall be  
17 required to undergo a one-year period of parole. During the  
18 period of parole, the person shall be under the guidance and  
19 supervision of the board.

20                    ~~[D-]~~ E. Every person while on parole shall remain  
21 in the legal custody of the institution from which he was  
22 released, but shall be subject to the orders of the board.  
23 The board shall furnish to each inmate as a prerequisite to  
24 his release under its supervision a written statement of the  
25 conditions of parole that shall be accepted and agreed to by

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1 the inmate as evidenced by his signature affixed to a  
2 duplicate copy to be retained in the files of the board. The  
3 board shall also require as a prerequisite to release the  
4 submission and approval of a parole plan. If an inmate  
5 refuses to affix his signature to the written statement of the  
6 conditions of his parole or does not have an approved parole  
7 plan, he shall not be released and shall remain in the custody  
8 of the corrections facility in which he has served his  
9 sentence, excepting parole, until such time as the period of  
10 parole he was required to serve, less meritorious deductions,  
11 if any, expires, at which time he shall be released from that  
12 facility without parole, or until such time that he evidences  
13 his acceptance and agreement to the conditions of parole as  
14 required or receives approval for his parole plan or both.  
15 Time served from the date that an inmate refuses to accept and  
16 agree to the conditions of parole or fails to receive approval  
17 for his parole plan shall reduce the period, if any, to be  
18 served under parole at a later date. If the district court  
19 has ordered that the inmate make restitution to a victim as  
20 provided in Section 31-17-1 NMSA 1978, the board shall include  
21 restitution as a condition of parole. The board shall also  
22 personally apprise the inmate of the conditions of parole and  
23 his duties relating thereto.

24 ~~[E.]~~ F. Except as provided in Subsection A of this  
25 section, when a person on parole has performed the obligations

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1 of his release for the period of parole provided in this  
2 section, the board shall make a final order of discharge and  
3 issue him a certificate of discharge.

4 [F-] G. Pursuant to the provisions of Section  
5 31-18-15 NMSA 1978, the board shall require the inmate as a  
6 condition of parole:

7 (1) to pay the actual costs of his parole  
8 services to the adult probation and parole division of the  
9 corrections department for deposit to the corrections  
10 department intensive supervision fund not exceeding one  
11 thousand twenty dollars (\$1,020) annually to be paid in  
12 monthly installments of not less than fifteen dollars (\$15.00)  
13 and not more than eighty-five dollars (\$85.00), subject to  
14 modification by the adult probation and parole division on the  
15 basis of changed financial circumstances; and

16 (2) to reimburse a law enforcement agency or  
17 local crime stopper program for the amount of any reward paid  
18 by the agency or program for information leading to his  
19 arrest, prosecution or conviction.

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

24 Section 3. APPROPRIATION. -- Two hundred thousand dollars  
25 (\$200,000) is appropriated from the general fund to the

1 corrections department for expenditure in fiscal year 2000 for  
2 the purpose of implementing a program of hormonal chemical  
3 treatment for sex offenders released on parole on the  
4 condition of participating in the program. Any unexpended or  
5 unencumbered balance remaining at the end of fiscal year 2000  
6 shall revert to the general fund.

7 Section 4. EFFECTIVE DATE. --The effective date of the  
8 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE

SB 159/a

2 FIRST SESSION, 1999

3  
4  
5 March 8, 1999

6 Mr. President:

7  
8 Your FINANCE COMMITTEE, to whom has been referred

9  
10  
11 SENATE BILL 159

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:

- 15  
16 1. On page 1, line 14, after "1978" strike the line  
17 through "APPROPRIATION".  
18  
19 2. On pages 7 and 8, strike Section 3 in its entirety.  
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21 3. Renumber the succeeding section accordingly.  
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23 Respectfully submitted,  
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Ben D. Altami rano, Chai rman

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

Adopted \_\_\_\_\_

(Chi ef Clerk)

(Chi ef Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 4 Against

Yes: 5

No: Altami rano, Eisenstadt, Fidel, Smi th

Excused: Campos, Ingle, Rodriguez, Tsosie

Absent: None

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FIRST SESSION, 1999

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FORTY- FOURTH LEGISLATURE

FIRST SESSION

March 10, 1999

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 159, as amended

Amendment sponsored by

1. On page 1, line 11, strike "PUNISHMENT" and insert in lieu thereof "TREATMENT".

2. On page 2, line 2, after "other" insert "treatment or".

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

SF1/SB 159, aa

Page 13

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

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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