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HOUSE BILL 44

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO CRIMINAL SENTENCING; INCREASING THE PENALTY FOR
SECOND DEGREE MURDER TO TWENTY-FIVE YEARS IMPRISONMENT.

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

SECTION 1. Section 31-18-15 NMSA 1978 (being Laws 1977,
Chapter 216, Section 4, as amended) is amended to read:

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

A. If a person is convicted of a noncapital felony,
the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the
death of a child, life imprisonment;

(2) for a first degree felony for aggravated
criminal sexual penetration, life imprisonment;

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1 (3) for a first degree felony, eighteen years
2 imprisonment;

3 (4) for a second degree felony resulting in
4 the death of a human being, [~~fifteen~~] twenty-five years
5 imprisonment;

6 (5) for a second degree felony for a sexual
7 offense against a child, fifteen years imprisonment;

8 (6) for a second degree felony, nine years
9 imprisonment;

10 (7) for a third degree felony resulting in the
11 death of a human being, six years imprisonment;

12 (8) for a third degree felony for a sexual
13 offense against a child, six years imprisonment;

14 (9) for a third degree felony, three years
15 imprisonment; or

16 (10) for a fourth degree felony, eighteen
17 months imprisonment.

18 B. The appropriate basic sentence of imprisonment
19 shall be imposed upon a person convicted and sentenced pursuant
20 to Subsection A of this section, unless the court alters the
21 sentence pursuant to the provisions of the Criminal Sentencing
22 Act.

23 C. The court shall include in the judgment and
24 sentence of each person convicted and sentenced to imprisonment
25 in a corrections facility designated by the corrections

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1 department authority for a period of parole to be served in
2 accordance with the provisions of Section 31-21-10 NMSA 1978
3 after the completion of any actual time of imprisonment and
4 authority to require, as a condition of parole, the payment of
5 the costs of parole services and reimbursement to a law
6 enforcement agency or local crime stopper program in accordance
7 with the provisions of that section. The period of parole
8 shall be deemed to be part of the sentence of the convicted
9 person in addition to the basic sentence imposed pursuant to
10 Subsection A of this section together with alterations, if any,
11 pursuant to the provisions of the Criminal Sentencing Act.

12 D. When a court imposes a sentence of imprisonment
13 pursuant to the provisions of Section 31-18-15.1, 31-18-16
14 [~~31-18-16.1~~] or 31-18-17 NMSA 1978 and suspends or defers the
15 basic sentence of imprisonment provided pursuant to the
16 provisions of Subsection A of this section, the period of
17 parole shall be served in accordance with the provisions of
18 Section 31-21-10 NMSA 1978 for the degree of felony for the
19 basic sentence for which the inmate was convicted. For the
20 purpose of designating a period of parole, a court shall not
21 consider that the basic sentence of imprisonment was suspended
22 or deferred and that the inmate served a period of imprisonment
23 pursuant to the provisions of the Criminal Sentencing Act.

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

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1 (1) for a first degree felony resulting in the
2 death of a child, seventeen thousand five hundred dollars
3 (\$17,500);

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

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

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

12 (5) for a second degree felony for a sexual
13 offense against a child, twelve thousand five hundred dollars
14 (\$12,500);

15 (6) for a second degree felony, ten thousand
16 dollars (\$10,000);

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

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

21 (9) for a third or fourth degree felony, five
22 thousand dollars (\$5,000).

23 F. When the court imposes a sentence of
24 imprisonment for a felony offense, the court shall indicate
25 whether or not the offense is a serious violent offense, as

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1 defined in Section 33-2-34 NMSA 1978. The court shall inform
2 an offender that the offender's sentence of imprisonment is
3 subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37
4 and 33-2-38 NMSA 1978. If the court fails to inform an
5 offender that the offender's sentence is subject to those
6 provisions or if the court provides the offender with erroneous
7 information regarding those provisions, the failure to inform
8 or the error shall not provide a basis for a writ of habeas
9 corpus.

10 G. No later than October 31 of each year, the
11 New Mexico sentencing commission shall provide a written report
12 to the secretary of corrections, all New Mexico criminal court
13 judges, the administrative office of the district attorneys and
14 the chief public defender. The report shall specify the
15 average reduction in the sentence of imprisonment for serious
16 violent offenses and nonviolent offenses, as defined in Section
17 33-2-34 NMSA 1978, due to meritorious deductions earned by
18 prisoners during the previous fiscal year pursuant to the
19 provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38
20 NMSA 1978. The corrections department shall allow the
21 commission access to documents used by the department to
22 determine earned meritorious deductions for prisoners."

23 SECTION 2. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2012.