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HOUSE BILL 57

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Stefani Lord

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING FOR CHEMICAL
CASTRATION TREATMENT AS A CONDITION OF PAROLE FOR SEX
OFFENDERS; PROVIDING THAT REFUSAL TO UNDERGO CHEMICAL
CASTRATION TREATMENT IS A PAROLE VIOLATION.

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

SECTION 1. Section 31-21-10.1 NMSA 1978 (being Laws 2003
(1st S.S.), Chapter 1, Section 9, as amended by Laws 2007,
Chapter 68, Section 4 and by Laws 2007, Chapter 69, Section 4)
is amended to read:

"31-21-10.1. SEX OFFENDERS--PERIOD OF PAROLE--TERMS AND
CONDITIONS OF PAROLE.--

A. If the district court sentences a sex offender
to a term of incarceration in a facility designated by the
corrections department, the district court shall include a

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1 provision in the judgment and sentence that specifically
2 requires:

3 (1) the sex offender to serve an indeterminate
4 period of supervised parole for a period of:

5 [~~(1)~~] (a) not less than five years and
6 not in excess of twenty years for the offense of kidnapping
7 when committed with intent to inflict a sexual offense upon the
8 victim, criminal sexual penetration in the third degree,
9 criminal sexual contact of a minor in the fourth degree or
10 sexual exploitation of children in the second degree; or

11 [~~(2)~~] (b) not less than five years and
12 up to the natural life of the sex offender for the offense of
13 aggravated criminal sexual penetration, criminal sexual
14 penetration in the first or second degree, criminal sexual
15 contact of a minor in the second or third degree or sexual
16 exploitation of children by prostitution in the first or second
17 degree; and

18 (2) the sex offender to undergo chemical
19 castration treatment pursuant to Section 31-21-10.3 NMSA 1978
20 as a condition of parole.

21 A sex offender's period of supervised parole may be for a
22 period of less than the maximum if, at a review hearing
23 provided for in Subsection C of this section, the state is
24 unable to prove that the sex offender should remain on parole.

25 B. Prior to placing a sex offender on parole, the

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1 board shall conduct a hearing to determine the terms and
2 conditions of supervised parole for the sex offender. The
3 board may consider any relevant factors, including:

4 (1) the nature and circumstances of the
5 offense for which the sex offender was incarcerated;

6 (2) the nature and circumstances of a prior
7 sex offense committed by the sex offender;

8 (3) rehabilitation efforts engaged in by the
9 sex offender, including participation in treatment programs
10 while incarcerated or elsewhere;

11 (4) the danger to the community posed by the
12 sex offender; and

13 (5) a risk and needs assessment regarding the
14 sex offender, developed by the sex offender management board of
15 the New Mexico sentencing commission or another appropriate
16 entity, to be used by appropriate parole board personnel.

17 C. When a sex offender has served the initial five
18 years of supervised parole, and at two and one-half year
19 intervals thereafter, the board shall review the duration of
20 the sex offender's supervised parole. At each review hearing,
21 the attorney general shall bear the burden of proving by clear
22 and convincing evidence that the sex offender should remain on
23 parole.

24 D. The board may order a sex offender released on
25 parole to abide by reasonable terms and conditions of parole,

1 including:

2 (1) being subject to intensive supervision by
3 a parole officer of the corrections department;

4 (2) participating in an outpatient or
5 inpatient sex offender treatment program;

6 (3) a parole agreement by the sex offender not
7 to use alcohol or drugs;

8 (4) a parole agreement by the sex offender not
9 to have contact with certain persons or classes of persons; and

10 (5) being subject to alcohol testing, drug
11 testing or polygraph examinations used to determine if the sex
12 offender is in compliance with the terms and conditions of the
13 sex offender's parole.

14 E. The board shall require electronic real-time
15 monitoring of every sex offender released on parole for the
16 entire time the sex offender is on parole. The electronic
17 monitoring shall use global positioning system monitoring
18 technology or any successor technology that would give
19 continuous information on the sex offender's whereabouts and
20 enable law enforcement and the corrections department to
21 determine the real-time position of a sex offender to a high
22 level of accuracy.

23 F. The board shall notify the chief public defender
24 of an upcoming parole hearing for a sex offender pursuant to
25 Subsection C of this section, and the chief public defender

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1 shall make representation available to the sex offender at the
2 parole hearing.

3 G. If the board finds that a sex offender has
4 violated the terms and conditions of the sex offender's parole,
5 the board may revoke the sex offender's parole or may modify
6 the terms and conditions of parole.

7 H. The provisions of this section shall apply to
8 all sex offenders, except geriatric, permanently incapacitated
9 and terminally ill inmates eligible for the medical and
10 geriatric parole program as provided by the Parole Board Act.

11 I. As used in this section, "sex offender" means a
12 person who is convicted of, pleads guilty to or pleads nolo
13 contendere to any one of the following offenses:

14 (1) kidnapping, as provided in Section 30-4-1
15 NMSA 1978, when committed with intent to inflict a sexual
16 offense upon the victim;

17 (2) aggravated criminal sexual penetration or
18 criminal sexual penetration in the first, second or third
19 degree, as provided in Section 30-9-11 NMSA 1978;

20 (3) criminal sexual contact of a minor in the
21 second, third or fourth degree, as provided in Section 30-9-13
22 NMSA 1978;

23 (4) sexual exploitation of children in the
24 second degree, as provided in Section 30-6A-3 NMSA 1978;

25 (5) sexual exploitation of children by

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1 prostitution in the first or second degree, as provided in
2 Section 30-6A-4 NMSA 1978; or

3 (6) child solicitation by electronic
4 communication device, as provided in Section 30-37-3.2 NMSA
5 1978."

6 SECTION 2. A new section of the Probation and Parole Act,
7 Section 31-21-10.3 NMSA 1978, is enacted to read:

8 "31-21-10.3. [NEW MATERIAL] CHEMICAL CASTRATION TREATMENT
9 AS A CONDITION OF PAROLE FOR SEX OFFENDERS.--

10 A. For the purposes of this section, "chemical
11 castration treatment" means the use of hormonal drugs such as
12 medroxyprogesterone acetate or a chemical equivalent to reduce
13 sexual violence recidivism.

14 B. The district court shall inform a person
15 required to undergo chemical castration treatment as a
16 condition of parole about the effect of chemical castration
17 treatment and any side effects that may result from the
18 treatment. The person shall sign a written acknowledgment of
19 receipt of the information.

20 C. A person required to undergo chemical castration
21 treatment shall begin the treatment not less than one month
22 prior to the person's release from the custody of the
23 corrections department.

24 D. The corrections department shall administer the
25 chemical castration treatment if the person is incarcerated

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1 during the person's parole term. If the person is released
2 from the corrections department's custody during the person's
3 parole term, the person's parole officer shall advise the
4 person where to receive chemical castration treatment.

5 E. A person receiving chemical castration treatment
6 shall authorize the corrections department to share with the
7 board all medical records relating to the person's chemical
8 castration treatment.

9 F. A person receiving chemical castration treatment
10 shall pay for all of the costs associated with the chemical
11 castration treatment; provided that a person may not be denied
12 parole based solely on the person's inability to pay for the
13 costs associated with the chemical castration treatment
14 required under this section.

15 G. A person shall continue receiving chemical
16 castration treatment until the board determines the treatment
17 is no longer necessary.

18 H. If a person required to undergo chemical
19 castration treatment refuses the treatment, the person's parole
20 officer shall report a parole violation to the board. The
21 refusal to receive chemical castration treatment shall
22 constitute a violation of the person's parole, and the person
23 shall be immediately remanded to the custody of the corrections
24 department for the remainder of the sentence from which the
25 person was paroled."