

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 229

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING FOR THE ENHANCEMENT  
OF A BASIC SENTENCE IF A PERSON SIXTY YEARS OF AGE OR OLDER IS  
INTENTIONALLY INJURED IN THE COMMISSION OF A NONCAPITAL FELONY;  
REQUIRING CONCURRENT SENTENCING WITH OTHER ENHANCEMENTS.

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

SECTION 1. A new section of the Criminal Sentencing Act  
is enacted to read:

"[NEW MATERIAL] INJURY TO PERSONS SIXTY YEARS OF AGE OR  
OLDER--ALTERATION OF BASIC SENTENCE.--

A. When a separate finding of fact by the court or  
jury shows beyond a reasonable doubt that in the commission of  
a noncapital felony a person sixty years of age or older was  
intentionally injured, the basic sentence of imprisonment  
prescribed for the offense in Section 31-18-15 NMSA 1978 shall

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underscored material = new  
[bracketed material] = delete

1 be increased as follows:

2 (1) if the injury inflicted is not likely to  
3 cause death or great bodily harm but does cause painful  
4 temporary disfigurement or temporary loss or impairment of the  
5 functions of any member or organ of the body, the basic  
6 sentence shall be increased by one year; provided that when the  
7 offender is a serious youthful offender or a youthful offender,  
8 the sentence imposed by this paragraph may be increased by one  
9 year; and

10 (2) if the injury inflicted causes great  
11 bodily harm or is done with a deadly weapon or in any manner  
12 whereby great bodily harm or death could be inflicted, the  
13 basic sentence shall be increased by two years; provided that  
14 when the offender is a serious youthful offender or a youthful  
15 offender, the sentence imposed by this paragraph may be  
16 increased by two years.

17 B. If the case is tried before a jury and if a  
18 prima facie case has been established showing that in the  
19 commission of the offense a person sixty years of age or older  
20 was intentionally injured, the court shall submit the issue to  
21 the jury by special interrogatory. If the case is tried by the  
22 court and if a prima facie case has been established showing  
23 that in the commission of the offense a person sixty years of  
24 age or older was intentionally injured, the court shall decide  
25 the issue by a separate finding of fact.

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1           C. Any alteration of the basic sentence of  
2 imprisonment pursuant to the provisions of this section shall  
3 be served concurrently with any other enhancement of the basic  
4 sentence pursuant to the provisions of the Criminal Sentencing  
5 Act.

6           D. A person whose sentence is enhanced pursuant to  
7 this section shall not also have the person's sentence enhanced  
8 pursuant to the Hate Crimes Act."

9           **SECTION 2. EFFECTIVE DATE.**--The effective date of the  
10 provisions of this act is July 1, 2013.