

1 SENATE BILL 74

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 John C. Ryan

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10 AN ACT

11 RELATING TO CRIMINAL SENTENCING; PROVIDING ADDITIONAL VIOLENT
12 FELONIES FOR PURPOSES OF MANDATORY LIFE IMPRISONMENT FOR THREE
13 VIOLENT FELONY CONVICTIONS; AMENDING A SECTION OF THE CRIMINAL
14 SENTENCING ACT.

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

17 SECTION 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
18 Chapter 24, Section 2, as amended) is amended to read:

19 "31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
20 LIFE IMPRISONMENT--EXCEPTION.--

21 A. When a defendant is convicted of a third violent
22 felony, and each violent felony conviction is part of a
23 separate transaction or occurrence, and at least the third
24 violent felony conviction is in New Mexico, the defendant
25 shall, in addition to the sentence imposed for the third

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1 violent conviction, be punished by a sentence of life
2 imprisonment. The life imprisonment sentence shall be subject
3 to parole pursuant to the provisions of Section 31-21-10 NMSA
4 1978.

5 B. The sentence of life imprisonment shall be
6 imposed after a sentencing hearing, separate from the trial or
7 guilty plea proceeding resulting in the third violent felony
8 conviction, pursuant to the provisions of Section 31-18-24 NMSA
9 1978.

10 C. For the purpose of this section, a violent
11 felony conviction incurred by a defendant before the defendant
12 reaches the age of eighteen shall not count as a violent felony
13 conviction.

14 D. When a defendant has a felony conviction from
15 another state, the felony conviction shall be considered a
16 violent felony for the purposes of the Criminal Sentencing Act
17 if that crime would be considered a violent felony in New
18 Mexico.

19 E. As used in the Criminal Sentencing Act,
20 [~~(1)~~ "~~great bodily harm~~" means ~~an injury to~~
21 ~~the person that creates a high probability of death or that~~
22 ~~causes serious disfigurement or that results in permanent loss~~
23 ~~or impairment of the function of any member or organ of the~~
24 ~~body; and~~

25 ~~(2)~~ "violent felony" means:

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1 ~~[(a)]~~ (1) murder in the first or second
2 degree, as provided in Section 30-2-1 NMSA 1978;

3 (2) voluntary manslaughter, as provided in
4 Section 30-2-3 NMSA 1978;

5 (3) third degree aggravated battery, as
6 provided in Section 30-3-5 NMSA 1978;

7 (4) second or third degree shooting at a
8 dwelling or occupied building, as provided in Section 30-3-8
9 NMSA 1978;

10 ~~[(b)]~~ (5) second or third degree shooting at
11 or from a motor vehicle [resulting in great bodily harm], as
12 provided in [Subsection B of] Section 30-3-8 NMSA 1978;

13 (6) third degree aggravated battery against a
14 household member, as provided in Section 30-3-16 NMSA 1978;

15 ~~[(c)]~~ (7) first degree kidnapping [resulting
16 in great bodily harm inflicted upon the victim by the victim's
17 captor], as provided in [Subsection B of] Section 30-4-1 NMSA
18 1978;

19 ~~[(d)]~~ (8) aggravated, first or second degree
20 criminal sexual penetration, as provided in [Subsection C or D
21 or Paragraph (5) or (6) of Subsection E of] Section 30-9-11
22 NMSA 1978; [and]

23 (9) second or third degree criminal sexual
24 contact of a minor, as provided in Section 30-9-13 NMSA 1978;

25 ~~[(e)]~~ (10) first or second degree robbery,

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1 ~~[while armed with a deadly weapon resulting in great bodily~~
2 ~~harm]~~ as provided in Section 30-16-2 NMSA 1978 ~~[and Subsection~~
3 ~~A of Section 30-1-12 NMSA 1978];~~

4 (11) second degree aggravated arson, as
5 provided in Section 30-17-6 NMSA 1978;

6 (12) aggravated assault upon a peace officer,
7 as provided in Section 30-22-22 NMSA 1978;

8 (13) assault with intent to commit a violent
9 felony upon a peace officer, as provided in Section 30-22-23
10 NMSA 1978; and

11 (14) third degree aggravated battery upon a
12 peace officer, as provided in Section 30-22-25 NMSA 1978."

13 SECTION 2. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2011.

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