

Veto

HOUSE BILL 711

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1995

INTRODUCED BY

[Handwritten signatures: Richard T. King, David C. ...]

AN ACT

RELATING TO CRIMINAL LAW; INCREASING CRIMINAL PENALTIES FOR
FRAUDULENT CONDUCT AGAINST CERTAIN PERSONS; AMENDING A SECTION
OF THE CRIMINAL SENTENCING ACT.

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

Section 1. Section 31-18-16.1 NMSA 1978 (being Laws
1980, Chapter 36, Section 1, as amended) is amended to read:

"31-18-16.1. NONCAPITAL FELONIES AGAINST PERSONS SIXTY
YEARS OF AGE OR OLDER OR HANDICAPPED PERSONS--ALTERATION OF
BASIC SENTENCE--SUSPENSION AND DEFERRAL LIMITED.--

A. When a separate finding of fact by the court or
jury shows that in the commission of a noncapital felony a
person sixty years of age or older or who is handicapped was
defrauded or intentionally injured, the basic sentence of
imprisonment prescribed for the offense in Section 31-18-15

1 NMSA 1978 shall be increased as follows:

2 (1) if the offender's fraudulent conduct
3 results in a monetary loss to a person, the basic sentence
4 shall be increased by one year;

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

13 [~~2~~](3) if the injury inflicted to the
14 person causes great bodily harm or is done with a deadly
15 weapon or is done in any manner whereby great bodily harm or
16 death could be inflicted, the basic sentence shall be
17 increased by two years; provided that when the offender is a
18 serious youthful offender or a youthful offender, the sentence
19 imposed by this paragraph may be increased by two years.

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

underscored material = nev
[bracketed material] = delete

1 prima facie case has been established showing that in the
2 commission of the offense a person sixty years of age or older
3 or who is handicapped was defrauded or intentionally injured,
4 the court shall decide the issue and shall make a separate
5 finding of fact thereon.

6 C. Any alteration of the basic sentence of
7 imprisonment pursuant to the provisions of this section shall
8 be served concurrently with any other enhancement alteration
9 of basic sentence pursuant to the provisions of the Criminal
10 Sentencing Act.

11 D. As used in this section, "handicapped" means
12 that the person has a physical or mental impairment that
13 substantially limits one or more of that person's functions,
14 such as caring for himself, performing manual tasks, walking,
15 seeing, hearing, speaking, breathing, learning and working."

16 Section 2. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 1995.

State of New Mexico
House of Representatives

FORTY-SECOND LEGISLATURE
FIRST SESSION, 1995

February 18, 1995

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred
HOUSE BILL 711

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

1. On page 2, line 3, strike "to a person".,
- and thence referred to the **APPROPRIATIONS AND FINANCE
COMMITTEE**.

Respectfully submitted,


Cisco McSorley, Chairman

Adopted 
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date 2/20/95

The roll call vote was 6 For 2 Against
Yes: 6
No: Luna, McSorley
Excused: Pederson, Perls, Sanchez, RG
Absent: Larranaga, Stewart

H0711JC1

State of New Mexico
Senate

FORTY-SECOND LEGISLATURE
FIRST SESSION, 1995

HB 711a

March 13, 1995

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 711, as amended

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

1. On page 2, line 4, strike "shall" and insert in lieu
thereof "may".

and thence referred to the **FINANCE COMMITTEE**.

Respectfully submitted,


Janice D. Paster, Chairman

Adopted 
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date 3/13/95

H0711JU1