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HOUSE BILL 272

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO CAPITAL FELONY SENTENCING; PROVIDING ADDITIONAL  
AGGRAVATING CIRCUMSTANCES FOR CONSIDERATION IN CAPITAL FELONY  
CASES.

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

Section 1. Section 31-20A-5 NMSA 1978 (being Laws 1979,  
Chapter 150, Section 6, as amended) is amended to read:

"31-20A-5. AGGRAVATING CIRCUMSTANCES. --

A. The aggravating circumstances to be considered  
by the sentencing court or jury pursuant to the provisions of  
Section 31-20A-2 NMSA 1978 are limited to the following:

~~[A.]~~ (1) the victim was a peace officer who  
was acting in the lawful discharge of an official duty when he  
was murdered;

~~[B.]~~ (2) the murder was committed with intent

underscored material = new  
[bracketed material] = delete

1 to kill in the commission of or attempt to commit [~~kidnaping~~  
2 kidnapping, criminal sexual contact of a minor or criminal  
3 sexual penetration;

4 [~~C.~~] (3) the murder was committed with the  
5 intent to kill by the defendant while attempting to escape from  
6 a penal institution of New Mexico;

7 [~~D.~~] (4) while incarcerated in a penal  
8 institution in New Mexico, the defendant, with the intent to  
9 kill, murdered a person who was at the time incarcerated in or  
10 lawfully on the premises of a penal institution in New Mexico.  
11 As used in this subsection, "penal institution" includes  
12 facilities under the jurisdiction of the corrections [~~and~~  
13 ~~criminal rehabilitation~~] department and county and municipal  
14 jails;

15 [~~E.~~] (5) while incarcerated in a penal  
16 institution in New Mexico, the defendant, with the intent to  
17 kill, murdered an employee of the corrections [~~and criminal~~  
18 ~~rehabilitation~~] department;

19 [~~F.~~] (6) the capital felony was committed for  
20 hire; [~~and~~

21 ~~G.~~] (7) the capital felony was murder of a  
22 witness to a crime or any person likely to become a witness to  
23 a crime, for the purpose of preventing report of the crime or  
24 testimony in any criminal proceeding or for retaliation for the  
25 victim having testified in any criminal proceeding;

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