

1 SENATE BILL 59

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Mary Jane M. Garcia

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10 AN ACT

11 RELATING TO CRIMINAL SENTENCING; PROVIDING THAT MURDER OF A
12 CHILD UNDER THIRTEEN YEARS OF AGE IS AN AGGRAVATING
13 CIRCUMSTANCE FOR PURPOSES OF CAPITAL FELONY SENTENCING.

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

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

18 "31-20A-5. AGGRAVATING CIRCUMSTANCES.--The aggravating
19 circumstances to be considered by the sentencing court or jury
20 pursuant to the provisions of Section 31-20A-2 NMSA 1978 are
21 limited to the following:

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

25 B. the victim was a child under thirteen years of

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underscored material = new
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1 age;

2 [B-] C. the murder was committed with intent to
3 kill in the commission of or attempt to commit [~~kidnaping~~
4 kidnapping, criminal sexual contact of a minor or criminal
5 sexual penetration;

6 [G-] D. the murder was committed with the intent to
7 kill by the defendant while attempting to escape from a penal
8 institution [of] in New Mexico;

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

17 [~~E. while incarcerated in a penal institution in~~
18 ~~New Mexico, the defendant, with the intent to kill, murdered an~~
19 ~~employee of the corrections and criminal rehabilitation~~
20 ~~department]~~

21 F. the [~~capital felony~~] murder was committed for
22 hire; and

23 G. the [~~capital felony was~~] murder was of a witness
24 to a crime or any person likely to become a witness to a crime,
25 for the purpose of preventing report of the crime or testimony

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underscoring material = new
~~[bracketed material] = delete~~

1 in any criminal proceeding or for retaliation for the victim
2 having testified in any criminal proceeding."

3 SECTION 2. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2012.