

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 73

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO CAPITAL FELONY SENTENCING; REINSTATING THE DEATH  
PENALTY FOR MURDERING A PEACE OFFICER.

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

SECTION 1. Section 31-20A-2 NMSA 1978 (being Laws 1979,  
Chapter 150, Section 3, as amended) is amended to read:

"31-20A-2. CAPITAL FELONY--DETERMINATION OF SENTENCE.--

A. If a jury finds, beyond a reasonable doubt, that  
one or more aggravating circumstances exist, as enumerated in  
Section 31-20A-5 NMSA 1978, the defendant shall be sentenced to  
life imprisonment without possibility of release or parole;  
provided that the defendant shall be sentenced to death if:

(1) the aggravating circumstance was that the  
victim was a peace officer who was acting in the lawful  
discharge of an official duty when the peace officer was

underscored material = new  
[bracketed material] = delete

1 murdered; or

2 (2) the aggravating circumstance was that the  
3 victim was a peace officer who was not acting in the lawful  
4 discharge of an official duty, but the defendant targeted the  
5 victim because of the victim's status as a peace officer.

6 B. If the jury does not make the finding that one  
7 or more aggravating circumstances exist, as enumerated in  
8 Section 31-20A-5 NMSA 1978, the defendant shall be sentenced to  
9 life imprisonment."

10 SECTION 2. Section 31-20A-5 NMSA 1978 (being Laws 1979,  
11 Chapter 150, Section 6, as amended) is amended to read:

12 "31-20A-5. AGGRAVATING CIRCUMSTANCES.--The aggravating  
13 circumstances to be considered by the sentencing court or jury  
14 pursuant to the provisions of Section 31-20A-2 NMSA 1978 are  
15 limited to the following:

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

19 B. the victim was a peace officer who was not  
20 acting in the lawful discharge of an official duty, but the  
21 defendant targeted the victim because of the victim's status as  
22 a peace officer;

23 [~~B.~~] C. the murder was committed with intent to  
24 kill in the commission of or attempt to commit [~~kidnaping~~]  
25 kidnapping, criminal sexual contact of a minor or criminal

underscored material = new  
[bracketed material] = delete

1 sexual penetration;

2 [G.] D. the murder was committed with the intent to  
3 kill by the defendant while attempting to escape from a penal  
4 institution of New Mexico;

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

12 [E.] F. while incarcerated in a penal institution  
13 in New Mexico, the defendant, with the intent to kill, murdered  
14 an employee of the corrections [~~and criminal rehabilitation~~]  
15 department;

16 [F.] G. the capital felony was committed for hire;  
17 and

18 [G.] H. the capital felony was murder of a witness  
19 to a crime or any person likely to become a witness to a crime,  
20 for the purpose of preventing report of the crime or testimony  
21 in any criminal proceeding or for retaliation for the victim  
22 having testified in any criminal proceeding."