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SENATE BILL 51

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

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO CAPITAL FELONY SENTENCING; EXPANDING THE LIST OF
AGGRAVATING CIRCUMSTANCES CONSIDERED IN A CAPITAL FELONY CASE;
AMENDING A SECTION OF THE NMSA 1978.

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. --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. the victim was a peace officer who was acting in
the lawful discharge of an official duty when he was murdered;

B. the murder was committed with the intent to kill
in the commission of or attempt to commit [~~kidnaping~~]

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1 kidnapping, criminal sexual contact of a minor or criminal
2 sexual penetration;

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

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

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

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

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

23 H. the victim was a child less than eleven years of
24 age. "

25 Section 2. EFFECTIVE DATE. --The effective date of the

. 142080. 1

1 provisions of this act is July 1, 2003.

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