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SENATE BILL 249

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Tim Eichenberg

AN ACT

RELATING TO CRIMINAL LAW; PROVIDING FOR ADDITIONAL AGGRAVATING  
CIRCUMSTANCES 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. CAPITAL FELONY--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]~~ the peace  
officer was murdered;

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

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1 criminal sexual contact of a minor or criminal sexual  
2 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;

23 H. the defendant, with deliberate intent to kill,  
24 murdered a child less than thirteen years of age;

25 I. the defendant, with deliberate intent to kill,

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murdered two or more people in a single incident; and  
J. the defendant, with deliberate intent to kill,  
committed a murder in an especially heinous, atrocious or cruel  
manner."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.