

1 SENATE BILL 453

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Tim Eichenberg

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10 AN ACT

11 RELATING TO CRIMINAL LAW; PROVIDING FOR ADDITIONAL AGGRAVATING
12 CIRCUMSTANCES IN CAPITAL FELONY CASES.

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

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

17 "31-20A-5. CAPITAL FELONY--AGGRAVATING CIRCUMSTANCES.--

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

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

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

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underscored material = new
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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 under thirteen years of age;

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

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underscoring material = new
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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, 2011.