

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

HOUSE BILL 407

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

W. Ken Martinez

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; CHANGING THE ELEMENTS OF CERTAIN AGGRAVATING CIRCUMSTANCES CONSIDERED IN CAPITAL FELONY CASES; 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]~~ the defendant, with the deliberate intent to kill, murdered a peace officer who was acting in the lawful discharge of an official duty when he was murdered;

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1           B. ~~[the murder was committed with intent to kill]~~  
2 the defendant, with the deliberate intent to kill, murdered a  
3 person in the commission of or attempt to commit [kidnaping]:

4                 (1) kidnapping, when the conviction for  
5 kidnapping was based upon a finding by the court that the  
6 victim was held for ransom, that the victim was held as a  
7 hostage and confined against his will or that the victim was  
8 held as a shield and confined against his will;

9                 (2) criminal sexual contact of a minor; or

10                (3) criminal sexual penetration;

11           C. ~~[the murder was committed with the intent to~~  
12 ~~kill by the defendant]~~ the defendant, with the deliberate  
13 intent to kill, murdered a person while attempting to escape  
14 from a penal institution of New Mexico;

15           D. while incarcerated in a penal institution in  
16 New Mexico, the defendant, with the deliberate intent to kill,  
17 murdered a person who was at the time incarcerated in or  
18 lawfully on the premises of a penal institution in New Mexico.  
19 As used in this subsection, "penal institution" includes  
20 facilities under the jurisdiction of the corrections [ ~~and~~  
21 ~~criminal rehabilitation~~] department and county and municipal  
22 jails;

23           E. while incarcerated in a penal institution in  
24 New Mexico, the defendant, with the deliberate intent to kill,  
25 murdered an employee of the corrections [ ~~and criminal~~

underscored material = new  
[bracketed material] = del ete

1 ~~rehabilitation~~] department;

2 F. the capital felony was committed for hire; and

3 G. [~~the capital felony was murder of~~] the  
4 defendant, with the deliberate intent to kill, murdered a  
5 witness to a crime or any person likely to become a witness to  
6 a crime, for the purpose of preventing report of the crime or  
7 testimony in any criminal proceeding or for retaliation for  
8 the victim having testified in any criminal proceeding. "

9 Section 2. EFFECTIVE DATE. --The effective date of the  
10 provisions of this act is July 1, 1999.

11 - 3 -

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 February 28, 1999  
7

8 Mr. Speaker:  
9

10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 407  
13

14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, and thence referred to the  
16 APPROPRIATIONS AND FINANCE COMMITTEE.

17 Respectfully submitted,  
18

19  
20  
21 \_\_\_\_\_  
22 R. David Pederson, Chairman  
23  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HJC/HB 407

Page 5

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 10 For 0 Against

11 Yes: 10

12 Excused: Luna, Sanchez

13 Absent: None

15 J: \99BillSWP\H0407

underscored material = new  
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999

3  
4 March 4, 1999

5  
6  
7 Mr. Speaker:

8  
9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE BILL 407

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.

15  
16 Respectfully submitted,

17  
18  
19  
20 \_\_\_\_\_  
21 Max Coll, Chairman  
22  
23  
24  
25

underscored material = new  
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 7

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 16 For 0 Against

Yes: 16

Excused: Pi craux

Absent: None

J: \99BillSWP\H0407

underscored material = new  
[bracketed material] = delete