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**HOUSE BILL 435**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Joe Mohorovic**

**AN ACT**

**RELATING TO CAPITAL FELONY SENTENCING; PROVIDING AN ADDITIONAL  
AGGRAVATING CIRCUMSTANCE FOR CONSIDERATION 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 a peace officer who was acting  
in the lawful discharge of an official duty when he was  
murdered;**

**B. the victim was a peace officer who was murdered**

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1 because of his present or former status as a peace officer;

2 [B-] C. the murder was committed with intent to  
3 kill in the commission of or attempt to commit [~~kidnaping~~]  
4 kidnapping, criminal sexual contact of a minor or criminal  
5 sexual penetration;

6 [C-] D. the murder was committed with the intent  
7 to kill by the defendant while attempting to escape from a  
8 penal institution of New Mexico;

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

17 [E-] F. while incarcerated in a penal institution  
18 in New Mexico, the defendant, with the intent to kill,  
19 murdered an employee of the corrections [~~and criminal~~  
20 ~~rehabilitation~~] department;

21 [F-] G. the capital felony was committed for hire;  
22 and

23 [G-] H. the capital felony was murder of a witness  
24 to a crime or any person likely to become a witness to a  
25 crime, for the purpose of preventing report of the crime or

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1 testimony in any criminal proceeding or for retaliation for  
2 the victim having testified in any criminal proceeding."

3 Section 2. EFFECTIVE DATE. -- The effective date of the  
4 provisions of this act is July 1, 2001.