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HOUSE BILL 260

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

William W. Fuller

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

underscored material = new
[bracketed material] = delete

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 to
7 kill by the defendant while attempting to escape from a penal
8 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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underscored material = new
[bracketed material] = delete

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, 2002.