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HOUSE BILL 251

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

RICHARD "RAY" SANCHEZ

AN ACT

RELATING TO CRIMES; INCREASING THE PENALTIES FOR SHOOTING AT OR FROM A MOTOR VEHICLE; ADDING THE OFFENSE OF SHOOTING AT A DWELLING OR OCCUPIED BUILDING OR AT OR FROM A MOTOR VEHICLE THAT RESULTS IN DEATH TO THE LIST OF AGGRAVATING CIRCUMSTANCES TO BE CONSIDERED DURING CAPITAL SENTENCING HEARINGS.

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

Section 1. Section 30-3-8 NMSA 1978 (being Laws 1987, Chapter 213, Section 1, as amended) is amended to read:

"30-3-8. SHOOTING AT DWELLING OR OCCUPIED BUILDING-- SHOOTING AT OR FROM A MOTOR VEHICLE. --

A. Shooting at a dwelling or occupied building consists of willfully discharging a firearm at a dwelling or occupied building. Whoever commits shooting at a dwelling or occupied building that does not result in great bodily harm to

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1 another person is guilty of a fourth degree felony. Whoever
2 commits shooting at a dwelling or occupied building that results
3 in injury to another person is guilty of a third degree felony.
4 Whoever commits shooting at a dwelling or occupied building that
5 results in great bodily harm to another person is guilty of a
6 second degree felony.

7 B. Shooting at or from a motor vehicle consists of
8 willfully discharging a firearm at or from a motor vehicle with
9 reckless disregard for the person of another. Whoever commits
10 shooting at or from a motor vehicle that does not result in
11 great bodily harm to another person is guilty of a [~~fourth~~]
12 third degree felony. Whoever commits shooting at or from a
13 motor vehicle that results in injury to another person is guilty
14 of a [~~third~~] second degree felony. Whoever commits shooting at
15 or from a motor vehicle that results in great bodily harm to
16 another person is guilty of a [~~second~~] first degree felony.

17 C. This section shall not apply to a law enforcement
18 officer discharging a firearm in the lawful performance of his
19 duties. "

20 Section 2. Section 31-20A-5 NMSA 1978 (being Laws 1979,
21 Chapter 150, Section 6, as amended) is amended to read:

22 "31-20A-5. AGGRAVATING CIRCUMSTANCES. --The aggravating
23 circumstances to be considered by the sentencing court or jury
24 pursuant to the provisions of Section 31-20A-2 NMSA 1978 are
25 limited to the following:

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1 A. the victim was a peace officer who was acting in
2 the lawful discharge of an official duty when he was murdered;

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

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

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

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

21 F. the capital felony was committed for hire; [~~and~~]

22 G. the capital felony was murder of a witness to a
23 crime or any person likely to become a witness to a crime, for
24 the purpose of preventing report of the crime or testimony in
25 any criminal proceeding or for retaliation for the victim having

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testified in any criminal proceeding; and
H. the defendant committed the murder by shooting at
a dwelling or occupied building or by shooting at or from a
motor vehicle in violation of Section 30-3-8 NMSA 1978. "