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SENATE BILL 187

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Crystal Brantley

AN ACT

RELATING TO CAPITAL FELONY SENTENCING; ALLOWING FOR THE DEATH
PENALTY FOR MURDERING A PEACE OFFICER.

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

SECTION 1. Section 31-20A-2 NMSA 1978 (being Laws 1979,
Chapter 150, Section 3, as amended) is amended to read:

"31-20A-2. CAPITAL FELONY--DETERMINATION OF SENTENCE.--

A. If a jury finds, beyond a reasonable doubt, that
one or more aggravating circumstances exist, as enumerated in
Section 31-20A-5 NMSA 1978, the defendant shall be sentenced to
life imprisonment without possibility of release or parole;
provided that the defendant may be sentenced to death if the
aggravating circumstance was that the victim was a peace
officer who was:

(1) acting in the lawful discharge of an

underscoring material = new
[bracketed material] = delete

1 official duty when the peace officer was murdered; or
2 (2) not acting in the lawful discharge of an
3 official duty, but the defendant targeted the victim because of
4 the victim's status as a peace officer.

5 B. If the jury does not make the finding that one
6 or more aggravating circumstances exist, as enumerated in
7 Section 31-20A-5 NMSA 1978, the defendant shall be sentenced to
8 life imprisonment."

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

11 "31-20A-5. AGGRAVATING CIRCUMSTANCES.--The aggravating
12 circumstances to be considered by the sentencing court or jury
13 pursuant to the provisions of Section 31-20A-2 NMSA 1978 are
14 limited to the following:

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

18 B. the victim was a peace officer who was not
19 acting in the lawful discharge of an official duty, but the
20 defendant targeted the victim because of the victim's status as
21 a peace officer;

22 ~~[B.]~~ C. the murder was committed with intent to
23 kill in the commission of or attempt to commit ~~[kidnaping]~~
24 kidnapping, criminal sexual contact of a minor or criminal
25 sexual penetration;

.230070.2

underscoring material = new
[bracketed material] = delete

1 ~~[G.]~~ D. the murder was committed with the intent to
2 kill by the defendant while attempting to escape from a penal
3 institution of New Mexico;

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

11 ~~[E.]~~ F. while incarcerated in a penal institution
12 in New Mexico, the defendant, with the intent to kill, murdered
13 an employee of the corrections ~~[and criminal rehabilitation]~~
14 department;

15 ~~[F.]~~ G. the capital felony was committed for hire;
16 and

17 ~~[G.]~~ H. the capital felony was murder of a witness
18 to a crime or any person likely to become a witness to a crime,
19 for the purpose of preventing report of the crime or testimony
20 in any criminal proceeding or for retaliation for the victim
21 having testified in any criminal proceeding."