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HOUSE BILL 438

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

INTRODUCED BY

Joe Mohorovic

AN ACT

**RELATING TO CAPITAL FELONY SENTENCING; EXPANDING THE LIST OF
AGGRAVATING CIRCUMSTANCES CONSIDERED IN A CAPITAL FELONY CASE;
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 murder was committed with intent to kill in

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1 the commission of or attempt to commit [~~kidnaping~~] kidnapping,
2 criminal sexual contact of a minor or criminal sexual
3 penetration;

4 C. the murder was committed with the intent to
5 kill by the defendant while attempting to escape from a penal
6 institution of New Mexico;

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

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

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

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

25 H. the victim was a child less than eleven years

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of age; and

I. the defendant, with the intent to kill,
murdered two or more people in a single incident. "

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