

1 AN ACT

2 RELATING TO CRIMINAL SENTENCING; PROVIDING THAT MURDER OF A
3 CHILD UNDER THIRTEEN YEARS OF AGE IS AN AGGRAVATING
4 CIRCUMSTANCE FOR PURPOSES OF CAPITAL FELONY SENTENCING;
5 PROVIDING THAT AGGRAVATING CIRCUMSTANCES SHALL NOT BE
6 CONSIDERED FOR A SERIOUS YOUTHFUL OFFENDER.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

11 "31-20A-2. CAPITAL FELONY--DETERMINATION OF SENTENCE.--

12 A. In a capital felony case, if a jury finds,
13 beyond a reasonable doubt, that one or more aggravating
14 circumstances exist, as enumerated in Section 31-20A-5 NMSA
15 1978, the defendant shall be sentenced to life imprisonment
16 without possibility of release or parole. If the jury does
17 not make the finding that one or more aggravating
18 circumstances exist, the defendant shall be sentenced to life
19 imprisonment.

20 B. Aggravating circumstances shall not be
21 considered for a serious youthful offender in a capital
22 felony case."

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

25 "31-20A-5. AGGRAVATING CIRCUMSTANCES.--The aggravating

1 circumstances to be considered in a capital felony first
2 degree murder case by the sentencing court or jury pursuant
3 to the provisions of Section 31-20A-2 NMSA 1978 are limited
4 to the following:

5 A. the victim was a peace officer who was acting
6 in the lawful discharge of an official duty;

7 B. the victim was a child under thirteen years of
8 age who was forcibly abducted and murdered, with willful and
9 deliberate intent;

10 C. the murder was committed with intent to kill in
11 the commission of or attempt to commit kidnapping, criminal
12 sexual contact of a minor or criminal sexual penetration;

13 D. the murder was committed with the intent to
14 kill by the defendant while attempting to escape from a penal
15 institution in New Mexico;

16 E. while incarcerated in a penal institution in
17 New Mexico, the defendant, with the intent to kill, murdered
18 a person who was at the time incarcerated in, employed by or
19 lawfully on the premises of a penal institution in
20 New Mexico, including facilities under the jurisdiction of
21 the corrections department and county and municipal jails;

22 F. the murder was committed for hire; and

23 G. the murder was of a witness to a crime or any
24 person likely to become a witness to a crime, for the purpose
25 of preventing report of the crime or testimony in any

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

3 SECTION 3. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2012. _____

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