

1 **14-7012. Life imprisonment without possibility of release or parole proceeding;**  
2 **consideration of evidence.<sup>1</sup>**

3 ~~[LADIES AND GENTLEMEN]~~ **MEMBERS OF THE JURY:**

4 You have heard all of the evidence that is to be presented for this proceeding. In reaching  
5 your verdict you shall consider all of the evidence admitted during the trial<sup>2</sup> [and all of the evidence  
6 admitted during this proceeding].<sup>3</sup>

7 Now the lawyers will address you. What the lawyers say is not evidence. It is an  
8 opportunity for the lawyers to discuss the evidence and the law as I have instructed you. The state  
9 has the right to speak first; the defense may then speak; the state may then reply.

10 USE NOTES

11 1. This instruction must be given in every life imprisonment without possibility of  
12 release or parole proceeding after all the evidence has been completed.

13 2. Upon request of a party, the court may modify this instruction when evidence has  
14 been admitted for a limited purpose during the trial. A separate additional instruction may be  
15 necessary to explain how this evidence is to be considered during the proceeding.

16 3. Use bracketed phrase if additional evidence was admitted during the proceeding.

17 [As amended, effective August 1, 2001; as amended by Supreme Court Order No. 21-8300-008,  
18 effective for all cases filed or pending on or after December 31, 2021.]

19 **Committee commentary.** — This instruction may only be used in a proceeding involving a  
20 potential sentence of life imprisonment without possibility of release or parole when the court  
21 adopts a bifurcated proceeding and the state has charged one or more aggravating circumstances.  
22 Rule 5-705 NMRA allows for the bifurcation of the issues of guilt of the defendant and whether  
23 one or more aggravating circumstances exist. “Whether bifurcated proceedings are appropriate

1 must be determined on a case-by-case basis, after the issue has been properly raised and argued  
2 [before the district court].” *State v. Chadwick-McNally*, 2018-NMSC-018, ¶ 22, 414 P.3d 326. If  
3 the court bifurcates the proceedings, the court must determine whether or not the same jury that  
4 decides guilt will also determine if one or more aggravating circumstances exist. *See* [~~Rule 5-~~  
5 ~~705(C)-NMRA~~] Rule 5-705(C).  
6 [As amended by Supreme Court Order No. 21-8300-008, ~~effective for all cases filed or pending~~  
7 ~~on or after December 31, 2021~~; as amended by Supreme Court Order No. S-1-RCR-2025-00126.]