

2023 Regular Session

SENATE BILL NO. 112

BY SENATOR ABRAHAM

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Provides relative to second degree murder. (gov sig)

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AN ACT

To amend and reenact R.S. 14:30.1 and to enact R.S. 15:827.2(E), relative to second degree murder; to provide relative to elements of the offense; to provide for penalties; to provide for tracking of persons imprisoned for second degree murder; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:30.1 is hereby amended and reenacted to read as follows:

§30.1. Second degree murder

~~A.~~ Second degree murder is the killing of a human being:

(1)(a) When the offender has a specific intent to kill or to inflict great bodily harm;~~or,~~

(b) Whoever commits the crime of second degree murder defined in Subparagraph (a) of this Paragraph shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2)(a) When the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape; ~~or forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree~~

1 ~~kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first~~
2 ~~degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second~~
3 ~~degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to~~
4 ~~inflict great bodily harm.~~

5 (b) Whoever commits the crime of second degree murder defined in
6 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
7 hard labor without benefit of parole, probation, or suspension of sentence.

8 (3)(a)When the offender is engaged in the perpetration or attempted
9 perpetration of aggravated arson, aggravated burglary, aggravated kidnapping,
10 second degree kidnapping, aggravated escape, assault by drive-by shooting,
11 armed robbery, first degree robbery, second degree robbery, simple robbery,
12 cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even
13 though he has no intent to kill or to inflict great bodily harm.

14 (b) Whoever commits the crime of second degree murder defined in
15 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
16 hard labor at least twenty-five years of which shall be served without benefit of
17 parole, probation, or suspension of sentence.

18 ~~(3)~~(4)(a) When the offender unlawfully distributes or dispenses a controlled
19 dangerous substance listed in Schedules I through V of the Uniform Controlled
20 Dangerous Substances Law, or any combination thereof, except fentanyl or a
21 mixture or substance containing a detectable amount of fentanyl or its
22 analogues, or carfentanil or a mixture or substance containing a detectable
23 amount of carfentanil or its analogues, which is the direct cause of the death of the
24 recipient who ingested or consumed the controlled dangerous substance.

25 (b) Whoever commits the crime of second degree murder defined in
26 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
27 hard labor, at least twenty-five years of which shall be served without benefit
28 of parole, probation, or suspension of sentence.

29 (5)(a) When the offender unlawfully distributes or dispenses fentanyl or

1 a mixture or substance containing a detectable amount of fentanyl or its
2 analogues, or carfentanil or a mixture or substance containing a detectable
3 amount of carfentanil or its analogues, which is the direct cause of the death of
4 the recipient who ingested or consumed the controlled dangerous substance.

5 (b) Whoever commits the crime of second degree murder defined in
6 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
7 hard labor without benefit of parole, probation, or suspension of sentence.

8 ~~(4)(6)(a)~~ When the offender unlawfully distributes or dispenses a controlled
9 dangerous substance listed in Schedules I through V of the Uniform Controlled
10 Dangerous Substances Law, or any combination thereof, except fentanyl or a
11 mixture or substance containing a detectable amount of fentanyl or its
12 analogues, or carfentanil or a mixture or substance containing a detectable
13 amount of carfentanil or its analogues, to another who subsequently distributes or
14 dispenses such controlled dangerous substance which is the direct cause of the death
15 of the person who ingested or consumed the controlled dangerous substance.

16 (b) Whoever commits the crime of second degree murder defined in
17 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
18 hard labor, at least twenty-five years of which shall be served without benefit
19 of parole, probation, or suspension of sentence.

20 (7)(a) When the offender unlawfully distributes or dispenses fentanyl or
21 a mixture or substance containing a detectable amount of fentanyl or its
22 analogues, or carfentanil or a mixture or substance containing a detectable
23 amount of carfentanil or its analogues, to another who subsequently distributes
24 or dispenses such controlled dangerous substance which is the direct cause of
25 the death of the person who ingested or consumed the controlled dangerous
26 substance.

27 (b) Whoever commits the crime of second degree murder defined in
28 Subparagraph (a) of this Paragraph shall be punished by life imprisonment at
29 hard labor without benefit of parole, probation, or suspension of sentence.

of the recipient who ingested or consumed the controlled dangerous substance.

- (4) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, to another who subsequently distributes or dispenses such controlled dangerous substance which is the direct cause of the death of the person who ingested or consumed the controlled dangerous substance.

Present law provides that second degree murder will be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Proposed law provides that second degree murder committed when the offender is engaged in the perpetration or attempted perpetration of any offense listed in present law relative to second degree murder other than first degree rape or second degree rape will be punished by life imprisonment at hard labor, with a minimum of 25 years served without benefit of parole, probation, or suspension of sentence, allowing for the balance to be served with benefit of parole, probation, or suspension of sentence.

Proposed law provides that second degree murder committed when the offender unlawfully distributes or dispenses a controlled dangerous substance, except fentanyl or carfentanil, which is the direct cause of the death of the recipient, will be punished by life imprisonment at hard labor, with a minimum of 25 years served without benefit of parole, probation, or suspension of sentence, allowing for the balance to be served with benefit of parole, probation, or suspension of sentence.

Proposed law provides that second degree murder committed when the offender unlawfully distributes or dispenses a controlled dangerous substance, except fentanyl or carfentanil, to another who subsequently distributes or dispenses the controlled dangerous substance which is the direct cause of the death of the recipient, will be punished by life imprisonment at hard labor, with a minimum of 25 years served without benefit of parole, probation, or suspension of sentence, allowing for the balance to be served with benefit of parole, probation, or suspension of sentence.

Proposed law otherwise retains present law, including the present law penalty of life imprisonment without benefit of parole, probation, or suspension of sentence for second degree murder committed when the offender distributes or dispenses fentanyl or carfentanil which is the direct cause of the death of the recipient, or when the offender unlawfully distributes or dispenses fentanyl or carfentanil, to another who subsequently distributes or dispenses the controlled dangerous substance which is the direct cause of the death of recipient.

Proposed law requires the Dept. of Public Safety and Corrections to compile and make available a list of inmates in the custody of the department for a conviction of second degree murder. Proposed law further provides that the list must include the date of imprisonment, the Dept. of Corrections identification number, and the parish where the offender was convicted.

Proposed law relative to second degree murder is given prospective application only.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:30.1; adds R.S. 15:827.2(E))