

2022 Regular Session

SENATE BILL NO. 468

BY SENATOR SMITH

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

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AN ACT

To amend and reenact R.S. 14:30, the introductory paragraph of 30.1(A), and 30.1(A)(1) and (B), and to enact R.S. 14:30.1(C) and (D), relative to murder; to provide for first degree murder; to provide for second degree murder; to provide for elements of the crimes; to provide for requirements in seeking a capital verdict; to provide for punishments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:30, the introductory paragraph of 30.1(A), and 30.1(A)(1) and (B) are hereby amended and reenacted, and R.S. 14:30.1(C) and (D) are hereby enacted to read as follows:

§30. First degree murder

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

(1) ~~When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the perpetration or attempted perpetration of aggravated kidnapping, second degree kidnapping, aggravated escape, aggravated arson, aggravated or first degree rape, forcible or second degree rape, aggravated burglary, armed robbery, assault by drive-by shooting, first degree robbery, second degree~~

1 robbery, simple robbery, terrorism, cruelty to juveniles, or second degree cruelty to
2 juveniles:

3 (2) When the offender has a specific intent to kill or to inflict great bodily
4 harm upon a fireman, peace officer, or civilian employee of the Louisiana State
5 Police Crime Laboratory or any other forensic laboratory engaged in the
6 performance of his lawful duties, or when the specific intent to kill or to inflict great
7 bodily harm is directly related to the victim's status as a fireman, peace officer, or
8 civilian employee.

9 ~~(3) When the offender has a specific intent to kill or to inflict great bodily~~
10 ~~harm upon more than one person.~~

11 ~~(4) When the offender has specific intent to kill or inflict great bodily harm~~
12 ~~and has offered, has been offered, has given, or has received anything of value for~~
13 ~~the killing.~~

14 ~~(5)~~**(2)** When the offender has the specific intent to kill or to inflict great
15 bodily harm upon a victim who is under the age of twelve or sixty-five years of age
16 or older.

17 ~~(6) When the offender has the specific intent to kill or to inflict great bodily~~
18 ~~harm while engaged in the distribution, exchange, sale, or purchase, or any attempt~~
19 ~~thereof, of a controlled dangerous substance listed in Schedules I, II, III, IV, or V of~~
20 ~~the Uniform Controlled Dangerous Substances Law.~~

21 ~~(7) When the offender has specific intent to kill or to inflict great bodily harm~~
22 ~~and is engaged in the activities prohibited by R.S. 14:107.1(C)(1).~~

23 ~~(8) When the offender has specific intent to kill or to inflict great bodily harm~~
24 ~~and there has been issued by a judge or magistrate any lawful order prohibiting~~
25 ~~contact between the offender and the victim in response to threats of physical~~
26 ~~violence or harm which was served on the offender and is in effect at the time of the~~
27 ~~homicide.~~

28 ~~(9) When the offender has specific intent to kill or to inflict great bodily harm~~
29 ~~upon a victim who was a witness to a crime or was a member of the immediate~~

1 ~~family of a witness to a crime committed on a prior occasion and:~~

2 ~~(a) The killing was committed for the purpose of preventing or influencing~~
3 ~~the victim's testimony in any criminal action or proceeding whether or not such~~
4 ~~action or proceeding had been commenced; or~~

5 ~~(b) The killing was committed for the purpose of exacting retribution for the~~
6 ~~victim's prior testimony.~~

7 ~~(10) When the offender has a specific intent to kill or to inflict great bodily~~
8 ~~harm upon a taxicab driver who is in the course and scope of his employment. For~~
9 ~~purposes of this Paragraph, "taxicab" means a motor vehicle for hire, carrying six~~
10 ~~passengers or less, including the driver thereof, that is subject to call from a garage,~~
11 ~~office, taxi stand, or otherwise.~~

12 ~~(11)~~(3) When the offender has a specific intent to kill or inflict great bodily
13 harm and the offender has previously acted with a specific intent to kill or inflict
14 great bodily harm that resulted in the killing of one or more persons.

15 ~~(12)~~(4) When the offender has a specific intent to kill or to inflict great bodily
16 harm upon a correctional facility employee who is in the course and scope of his
17 employment.

18 B.(1) For the purposes of Paragraph (A)~~(2)~~(1) of this Section, the term "peace
19 officer" means any peace officer, as defined in R.S. 40:2402, and includes any
20 constable, marshal, deputy marshal, sheriff, deputy sheriff, local or state policeman,
21 commissioned wildlife enforcement agent, federal law enforcement officer, jail or
22 prison guard, parole officer, probation officer, judge, attorney general, assistant
23 attorney general, attorney general's investigator, district attorney, assistant district
24 attorney, or district attorney's investigator, coroner, deputy coroner, or coroner
25 investigator.

26 ~~(2) For the purposes of Paragraph (A)(9) of this Section, the term "member~~
27 ~~of the immediate family" means a husband, wife, father, mother, daughter, son,~~
28 ~~brother, sister, stepparent, grandparent, stepchild, or grandchild.~~

29 ~~(3) For the purposes of Paragraph (A)(9) of this Section, the term "witness"~~

1 means any person who has testified or is expected to testify for the prosecution, or
2 who, by reason of having relevant information, is subject to call or likely to be called
3 as a witness for the prosecution, whether or not any action or proceeding has yet
4 commenced.

5 (4) For purposes of Paragraph (A)(12)(4) of this Section, the term
6 "correctional facility employee" means any employee of any jail, prison, or
7 correctional facility who is not a peace officer as defined by the provisions of
8 Paragraph (1) of this Subsection.

9 C.(1) If the district attorney seeks a capital verdict, **the following**
10 **requirements shall apply:**

11 **(a) The parish governing authority shall appropriate and deposit a**
12 **minimum of five hundred thousand dollars into the registry of the court within**
13 **fifteen days of the accused's arrest to pay for the costs of the offender's defense,**
14 **including but not limited to attorney fees, investigator fees, expert witness fees,**
15 **and any other incidental costs of his defense. Failure to comply shall result in**
16 **the district attorney forfeiting his ability to seek a capital verdict. The time**
17 **period shall be peremptory and shall not be extended.**

18 **(b) The payments shall be disbursed to defense counsel upon the**
19 **production of accrued costs for *in camera, ex parte* inspection by the trial judge**
20 **assigned to this matter. The produced documents shall be provided under seal**
21 **and the state shall have no right to review these documents.**

22 **(2) Subject to compliance with Paragraph (1) of this Subsection, upon**
23 **conviction** the offender shall be punished by death or life imprisonment at hard labor
24 without benefit of parole, probation, or suspension of sentence, in accordance with
25 the determination of the jury. The provisions of Code of Criminal Procedure Article
26 782 relative to cases in which punishment may be capital shall apply.

27 (2)(3) If the district attorney does not seek a capital verdict, the offender shall
28 be punished by life imprisonment at hard labor without benefit of parole, probation
29 or suspension of sentence. The provisions of Code of Criminal Procedure Article 782

1 relative to cases in which punishment is necessarily confinement at hard labor shall
2 apply.

3 §30.1. Second degree murder

4 A. Second degree murder is the killing of a human being under any of the
5 following circumstances:

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

8 * * *

9 B. ~~Whoever~~ Subject to the limitations set forth in Subsection C of this
10 Section, whoever commits the crime of second degree murder shall be punished by
11 life imprisonment at hard labor, with the first forty years of the sentence served
12 without benefit of parole, probation, or suspension of sentence. The provisions of
13 Code of Criminal Procedure Art. 782 relative to cases in which punishment is
14 necessarily confinement at hard labor shall apply.

15 C. Whoever commits the crime of second degree murder under any of
16 the following circumstances shall be punished by life imprisonment at hard
17 labor without benefit of parole, probation, or suspension of sentence.

18 (1) When the offender has specific intent to kill or to inflict great bodily
19 harm and is engaged in the perpetration or attempted perpetration of
20 aggravated kidnapping, second degree kidnapping, aggravated escape,
21 aggravated arson, aggravated or first degree rape, forcible or second degree
22 rape, aggravated burglary, armed robbery, assault by drive-by shooting, first
23 degree robbery, second degree robbery, simple robbery, terrorism, cruelty to
24 juveniles, or second degree cruelty to juveniles.

25 (2) When the offender has a specific intent to kill or to inflict great bodily
26 harm upon more than one person.

27 (3) When the offender has specific intent to kill or inflict great bodily
28 harm and has offered, has been offered, has given, or has received anything of
29 value for the killing.

1 **(4) When the offender has the specific intent to kill or to inflict great**
2 **bodily harm while engaged in the distribution, exchange, sale, or purchase, or**
3 **any attempt thereof, of a controlled dangerous substance listed in Schedules I,**
4 **II, III, IV, or V of the Uniform Controlled Dangerous Substances Law.**

5 **(5) When the offender has specific intent to kill or to inflict great bodily**
6 **harm and is engaged in the activities prohibited by R.S. 14:107.1(C)(1).**

7 **(6) When the offender has specific intent to kill or to inflict great bodily**
8 **harm and there has been issued by a judge or magistrate any lawful order**
9 **prohibiting contact between the offender and the victim in response to threats**
10 **of physical violence or harm which was served on the offender and is in effect**
11 **at the time of the homicide.**

12 **(7) When the offender has specific intent to kill or to inflict great bodily**
13 **harm upon a victim who was a witness to a crime or was a member of the**
14 **immediate family of a witness to a crime committed on a prior occasion and**
15 **either:**

16 **(a) The killing was committed for the purpose of preventing or**
17 **influencing the victim's testimony in any criminal action or proceeding whether**
18 **or not such action or proceeding had been commenced.**

19 **(b) The killing was committed for the purpose of exacting retribution for**
20 **the victim's prior testimony.**

21 **(8) When the offender has a specific intent to kill or to inflict great bodily**
22 **harm upon a taxicab driver who is in the course and scope of his employment.**
23 **For purposes of this Paragraph, "taxicab" means a motor vehicle for hire,**
24 **carrying six passengers or less, including the driver thereof, that is subject to**
25 **call from a garage, office, taxi stand, or otherwise.**

26 **D.(1) For the purposes of Paragraph (C)(7) of this Section, the term**
27 **"member of the immediate family" means a husband, wife, father, mother,**
28 **daughter, son, brother, sister, stepparent, grandparent, stepchild, or**
29 **grandchild.**

1 **(2) For the purposes of Paragraph (C)(7) of this Section, the term**
 2 **"witness" means any person who has testified or is expected to testify for the**
 3 **prosecution, or who, by reason of having relevant information, is subject to call**
 4 **or likely to be called as a witness for the prosecution, whether or not any action**
 5 **or proceeding has yet commenced.**

6 Section 2. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Alan Miller.

	DIGEST	
SB 468 Original	2022 Regular Session	Smith

Present law provides that 1st degree murder is the killing of a human being:

- (1) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the perpetration or attempted perpetration of aggravated kidnapping, 2nd degree kidnapping, aggravated escape, aggravated arson, aggravated or 1st degree rape, forcible or 2nd degree rape, aggravated burglary, armed robbery, assault by drive-by shooting, 1st degree robbery, 2nd degree robbery, simple robbery, terrorism, cruelty to juveniles, or 2nd degree cruelty to juveniles.
- (2) When the offender has a specific intent to kill or to inflict great bodily harm upon a fireman, peace officer, or civilian employee of the La. State Police Crime Lab or any other forensic laboratory engaged in the performance of his lawful duties, or when the specific intent to kill or to inflict great bodily harm is directly related to the victim's status as a fireman, peace officer, or civilian employee.
- (3) When the offender has a specific intent to kill or to inflict great bodily harm upon more than one person.
- (4) When the offender has specific intent to kill or inflict great bodily harm and has offered, has been offered, has given, or has received anything of value for the killing.
- (5) When the offender has the specific intent to kill or to inflict great bodily harm upon a victim who is under the age of 12 or 65 years of age or older.
- (6) When the offender has the specific intent to kill or to inflict great bodily harm while engaged in the distribution, exchange, sale, or purchase, or any attempt thereof, of a controlled dangerous substance listed in certain schedules of the Uniform Controlled Dangerous Substances Law.
- (7) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in ritualistic acts defined and prohibited by present law.

- (8) When the offender has specific intent to kill or to inflict great bodily harm and there has been issued by a judge or magistrate any lawful order prohibiting contact between the offender and the victim in response to threats of physical violence or harm which was served on the offender and is in effect at the time of the homicide.
- (9) When the offender has specific intent to kill or to inflict great bodily harm upon a victim who was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and either:
 - (a) The killing was committed for the purpose of preventing or influencing the victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced.
 - (b) The killing was committed for the purpose of exacting retribution for the victim's prior testimony.
- (10) When the offender has a specific intent to kill or to inflict great bodily harm upon a taxicab driver who is in the course and scope of his employment.
- (11) When the offender has a specific intent to kill or inflict great bodily harm and the offender has previously acted with a specific intent to kill or inflict great bodily harm that resulted in the killing of one or more persons.
- (12) When the offender has a specific intent to kill or to inflict great bodily harm upon a correctional facility employee who is in the course and scope of his employment.

Proposed law provides that offenses described in items (1), (3), (4), (6), (7), (8), (9), and (10) above be re-designated as 2nd degree murder rather than 1st degree murder. Proposed law requires that offenders committing these re-designated offenses be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Present law requires that, if the district attorney seeks a capital verdict, and the offender is convicted with a capital verdict, then the offender be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury.

Proposed law requires that, if the district attorney seeks a capital verdict for offenses described in items (2), (5), (11), or (12) above, then the following requirements apply:

- (1) The parish governing authority appropriate and deposit a minimum of \$500,000 into the registry of the court within 15 days of the accused's arrest to pay for the costs of the offender's defense, including but not limited to attorney fees, investigator fees, expert witness fees, and any other incidental costs of his defense.
- (2) The payments be disbursed to defense counsel upon the production of accrued costs for *in camera*, *ex parte* inspection by the trial judge assigned to the matter, with the produced documents provided under seal and without review by the state.

Present law requires that, if the district attorney does not seek a capital verdict, and the offender is convicted, the offender be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Present law provides that 2nd degree murder is the killing of a human being:

- (1) When the offender has a specific intent to kill or to inflict great bodily harm; or
- (2) When the offender is engaged in the perpetration or attempted perpetration of aggravated or 1st degree rape, forcible or 2nd degree rape, aggravated arson,

- aggravated burglary, aggravated kidnapping, 2nd degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, 1st degree robbery, 2nd degree robbery, simple robbery, cruelty to juveniles, 2nd degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.
- (3) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in certain schedules of the Uniform Controlled Dangerous Substances Law, or any combination thereof, which is the direct cause of the death 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 certain schedules 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 requires that whoever commits the crime of second degree murder be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Proposed law provides that the offenses described in items (1), (2), (3), and (4) above be punished by life imprisonment at hard labor, with the first 40 years of the sentence served without benefit of parole, probation, or suspension of sentence.

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

(Amends R.S. 14:30, 30.1(A)(intro para), and 30.1(A)(1) and (B); adds R.S. 14:30.1(C) and (D))