

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)

1 AN ACT

2 To amend and reenact R.S. 14:30.1 and Code of Criminal Procedure Article 814(A)(1)

3 through (4) and to enact R.S. 14:30.2, R.S. 15:827.2(E), and Code of Criminal

4 Procedure Article 814(A)(72) and (73), relative to murder; to provide relative to

5 elements of the offense of second degree murder; to provide for penalties; to create

6 the crime of felony murder; to provide for responsive verdicts; to provide for

7 tracking of persons imprisoned for second degree murder; and to provide for related

8 matters.

9 Be it enacted by the Legislature of Louisiana:

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

11 §30.1. Second degree murder

12 A. Second degree murder is the killing of a human being **under any of the**

13 **following circumstances:**

14 (1) When the offender has a specific intent to kill or to inflict great bodily

15 harm; ~~or,~~

16 (2) ~~When the offender is engaged in the perpetration or attempted~~

17 ~~perpetration of aggravated or first degree rape, forcible or second degree rape,~~

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

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

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

17 **(3)(a) When the offender unlawfully distributes or dispenses fentanyl or**
18 **a mixture or substance containing a detectable amount of fentanyl or its**
19 **analogues, or carfentanil or a mixture or substance containing a detectable**
20 **amount of carfentanil or its analogues, which is the direct cause of the death of**
21 **the recipient who ingested or consumed the controlled dangerous substance.**

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

25 ~~(4)(a)~~ When the offender unlawfully distributes or dispenses a controlled
26 dangerous substance listed in Schedules I through V of the Uniform Controlled
27 Dangerous Substances Law, or any combination thereof, **except fentanyl or a**
28 **mixture or substance containing a detectable amount of fentanyl or its**
29 **analogues, or carfentanil or a mixture or substance containing a detectable**

1 amount of carfentanil or its analogues, to another who subsequently distributes or
2 dispenses such controlled dangerous substance which is the direct cause of the death
3 of the person who ingested or consumed the controlled dangerous substance.

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

8 (5)(a) When the offender unlawfully distributes or dispenses fentanyl or
9 a mixture or substance containing a detectable amount of fentanyl or its
10 analogues, or carfentanil or a mixture or substance containing a detectable
11 amount of carfentanil or its analogues, to another who subsequently distributes
12 or dispenses such controlled dangerous substance which is the direct cause of
13 the death of the person who ingested or consumed the controlled dangerous
14 substance.

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

18 B. Except as otherwise provided in this Section, whoever ~~Whoever~~
19 commits the crime of second degree murder shall be punished by life imprisonment
20 at hard labor without benefit of parole, probation, or suspension of sentence.

21 §30.2. Felony murder

22 Felony murder is the killing of a human being under either of the
23 following circumstances:

24 (1)(a) When the offender is engaged in the perpetration or attempted
25 perpetration of aggravated or first degree rape or forcible or second degree
26 rape, even though he has no intent to kill or to inflict great bodily harm.

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.

1 **(2)(a)When the offender is engaged in the perpetration or attempted**
 2 **perpetration of aggravated arson, aggravated burglary, aggravated kidnapping,**
 3 **second degree kidnapping, aggravated escape, assault by drive-by shooting,**
 4 **armed robbery, first degree robbery, second degree robbery, simple robbery,**
 5 **cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even**
 6 **though he has no intent to kill or to inflict great bodily harm.**

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

11 Section 2. R.S. 15:827.2(E) is hereby enacted to read as follows:

12 §827.2. Data collection and reporting requirements

13 * * *

14 **E. By September 1, 2023, and annually on September 1 thereafter, the**
 15 **department shall compile and make publicly available a list of all individuals**
 16 **confined for a violation of R.S. 14:30.1. The list shall include the individual's**
 17 **date of confinement, the individual's Department of Public Safety and**
 18 **Correction's identification number, and the parish where the individual was**
 19 **convicted.**

20 Section 3. Code of Criminal Procedure Article 814(A)(1) through (4) are hereby
 21 amended and reenacted and Code of Criminal Procedure Article 814(A)(72) and (73) are
 22 hereby enacted to read as follows:

23 Art. 814. Responsive verdicts; in particular

24 A. The only responsive verdicts which may be rendered when the indictment
 25 charges the following offenses are:

26 1. First Degree Murder:

27 Guilty.

28 Guilty of second degree murder.

29 **Guilty of felony murder.**

1 Guilty of manslaughter.
2 Not guilty.
3 2. Attempted First Degree Murder:
4 Guilty.
5 Guilty of attempted second degree murder.
6 **Guilty of attempted felony murder.**
7 Guilty of attempted manslaughter.
8 Guilty of aggravated battery.
9 Guilty of aggravated assault with a firearm.
10 Not guilty.
11 3. Second Degree Murder:
12 Guilty.
13 **Guilty of felony murder.**
14 Guilty of manslaughter.
15 Guilty of negligent homicide.
16 Not guilty.
17 4. Attempted Second Degree Murder:
18 Guilty.
19 **Guilty of attempted felony murder.**
20 Guilty of attempted manslaughter.
21 Guilty of aggravated battery.
22 Guilty of aggravated assault with a firearm.
23 Not guilty.
24 * * *
25 **72. Felony Murder:**
26 **Guilty.**
27 **Guilty of manslaughter.**
28 **Guilty of negligent homicide.**
29 **Not guilty.**

1 **73. Attempted Felony Murder:**

2 **Guilty.**

3 **Guilty of attempted manslaughter.**

4 **Guilty of aggravated battery.**

5 **Guilty of aggravated assault with a firearm.**

6 **Not guilty.**

7 * * *

8 Section 4. The provisions of this Act shall be given prospective application only.

9 Section 5. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 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 Whitney Kauffeld.

SB 112 Engrossed DIGEST 2023 Regular Session Abraham

Present law provides that second 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.
- (2) When the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second 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 Schedules I through V 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 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 deletes present law that provides that second degree murder is committed when the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.

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 creates the crime of felony murder, which is the killing of a human being when the offender is engaged in the perpetration or attempted perpetration of aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.

Proposed law provides that felony murder committed when the offender is engaged in the perpetration or attempted perpetration first degree rape or second degree rape will be punished by life imprisonment at hard labor.

Proposed law provides that felony murder committed when the offender is engaged in the perpetration or attempted perpetration of aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm and 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 for responsive verdicts for first degree murder, attempted first degree murder, second degree murder, attempted second degree murder, felony murder and attempted felony murder.

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 and felony murder are given prospective application only.

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

(Amends R.S. 14:30.1 and C.Cr.P. Art. 814(A)(1) - (4); adds R.S. 14:30.2, R.S. 15:827.2(E), and C.Cr.P. Art. 814(A)(72) and (73))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete certain provisions of proposed law relative to second degree murder.
2. Create crime of felony murder.
3. Add certain responsive verdicts.
4. Make technical changes