
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-0185.3/21 3rd draft

ATTY/TYPIST: AI:lcl

BRIEF DESCRIPTION: Concerning sentencing.

AN ACT Relating to eliminating drive-by shooting as a basis for elevating murder in the first degree to aggravated murder in the first degree; amending RCW 10.95.020; and adding a new section to chapter 10.95 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 10.95.020 and 2020 c 29 s 12 are each amended to read as follows:

A person is guilty of aggravated first degree murder, a class A felony, if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or firefighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on

authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The person committed the murder to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group;

~~(7) ((The murder was committed during the course of or as a result of a shooting where the discharge of the firearm, as defined in RCW 9.41.010, is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge;~~

~~(8))~~) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the indeterminate sentence review board; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

~~((9))~~ (8) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, including, but specifically not limited to, any attempt to avoid prosecution as a persistent offender as defined in RCW 9.94A.030;

~~((10))~~ (9) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

~~((11))~~ (10) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

- (a) Robbery in the first or second degree;
- (b) Rape in the first or second degree;
- (c) Burglary in the first or second degree or residential burglary;
- (d) Kidnapping in the first degree; or
- (e) Arson in the first degree;

~~((12))~~ (11) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim;

~~((13))~~ (12) At the time the person committed the murder, there existed a court order, issued in this or any other state, which prohibited the person from either contacting the victim, molesting the victim, or disturbing the peace of the victim, and the person had knowledge of the existence of that order;

~~((14))~~ (13) At the time the person committed the murder, the person and the victim were "family or household members" or "intimate partners" as defined in RCW 26.50.010, and the person had previously engaged in a pattern or practice of three or more of the following crimes committed upon the victim within a five-year period, regardless of whether a conviction resulted:

- (a) Harassment as defined in RCW 9A.46.020; or
- (b) Any criminal assault.

NEW SECTION. **Sec. 2.**

(1) This act applies retroactively to persons incarcerated on the effective date of this section, regardless of the date of the offense or conviction.

(2) Any person convicted prior to the effective date of this act, of aggravated murder where the only aggravating circumstance admitted in the guilty plea or found by a judge or jury at trial was that the discharge of the firearm was either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge, shall be returned to the sentencing court or the sentencing court's successor for entry of a conviction of murder in the first degree and sentencing according to the sentencing guidelines in effect on the date of the crime.

(2) For any person who is returned for sentencing, regardless of any other provisions of state law, if the person being resentenced was under the age of 21 at the time of the crime, the court has full discretion to depart from mandatory sentencing requirements, including but not limited to any applicable enhancements, and to take the particular circumstances surrounding the defendant's age and all other pertinent factors into consideration when determining an appropriate sentence.

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