

HB 1692

WASHINGTON STATE SENTENCING GUIDELINES COMMISSION

Background

WHEREAS:

HB 1692 was introduced for the 2022 Legislature's consideration by Representative Tarra Simmons. HB 1692 title was – *Promoting racial equity by eliminating drive-by shooting as a basis for elevating murder in the first degree to aggravated murder in the first degree*. Conservative media attacked HB 1692 for being soft on crime. Because of the media attacks House leadership has said the bill will not get a hearing.

Aggravated murder is a first degree murder with/plus an aggravating circumstance. First degree murder is evil, aggravated murder is extra evil. RCW 10.95.020 contains 14 aggravating circumstances. Examples of extra evil aggravating circumstances are:

- (1) The victim was an on-duty law enforcement officer.
- (2) The murder was committed during an escape from prison.
- (3) The murder was committed while in jail.
- (4) The person committed the murder per an agreement that he would receive money.
- (5) The person solicited another person to commit the murder (murder for hire).
- (6) The person committed the murder to advance their position in an organization.

Section (7) of RCW 10.95.020 provides that first degree murder becomes aggravated murder (extra evil) if the killer discharged his firearm from a motor vehicle or near a motor vehicle.

It is the opinion of many that RCW 10.95.020 Section (7) does not have the requisite "extra evil" that the other aggravating circumstances have and its logic is questionable. In addition, it arguably has a racial bias because its original goal was to stop Black and Hispanic youth gang violence.

Section (7) was added to our aggravated murder law by the "Hard Time for Armed Crime" initiative in 1995. Section (7) received little, if any, scrutiny by the SGC and legislature back in 1995.

Currently there is one Black man (age 18 at the time of the crime in 1997) in prison and convicted under Section (7) of RCW 10.95.020. He is serving a life without any possibility of parole sentence.

PROPOSED MOTION FROM JUDGE RUMBAUGH, KIM GORDON AND TIM WETTACK

Wherefore, it is moved that the Sentencing Guidelines Commission endorses and supports Section 1 of HB 1692; that being, we ask the legislature to delete section (7) from RCW 10.95.020. The effect would be to remove "shooting from or near a motor vehicle" as an aggravating circumstance that justifies a conviction for aggravated murder.