

2023 Regular Session

SENATE BILL NO. 107

BY SENATOR SMITH

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

CRIME/PUNISHMENT. Provides relative to definitions of first and second degree murder and penalties. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:30(A) and (B) and the introductory paragraph of 30.1(A) and  
3 30.1(A)(1) and (B), and to enact R.S. 14:30.1(C) and (D), relative to murder; to  
4 provide for the elements of first and second degree murder; to provide for penalties;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:30(A) and (B) and the introductory paragraph of 30.1(A) and  
8 30.1(A)(1) and (B) are hereby amended and reenacted, and R.S. 14:30.1(C) and (D) are  
9 hereby enacted, to read as follows:

10 §30. First degree murder

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

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

1 juveniles:

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

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

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

13 ~~(5)~~**(2)** When the offender has the specific intent to kill or to inflict great  
14 bodily harm upon a victim who is under the age of twelve or sixty-five years of age  
15 or older.

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

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

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

27 ~~(9) When the offender has specific intent to kill or to inflict great bodily harm~~  
28 ~~upon a victim who was a witness to a crime or was a member of the immediate~~  
29 ~~family of a witness to a crime committed on a prior occasion and:~~

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

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

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

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

14           ~~(12)~~**(4)** When the offender has a specific intent to kill or to inflict great bodily  
15 harm upon a correctional facility employee who is in the course and scope of his  
16 employment.

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

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

28           ~~(3) For the purposes of Paragraph (A)(9) of this Section, the term "witness"~~  
29 ~~means any person who has testified or is expected to testify for the prosecution, or~~

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

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

8 \* \* \*

9 §30.1. Second degree murder

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

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

14 \* \* \*

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

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

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

1 juveniles, or second degree cruelty to juveniles.

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

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

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

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

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

18 (7) When the offender has specific intent to kill or to inflict great bodily  
19 harm upon a victim who was a witness to a crime or was a member of the  
20 immediate family of a witness to a crime committed on a prior occasion and  
21 either:

22 (a) The killing was committed for the purpose of preventing or  
23 influencing the victim's testimony in any criminal action or proceeding, whether  
24 or not such action or proceeding had been commenced.

25 (b) The killing was committed for the purpose of exacting retribution for  
26 the victim's prior testimony.

27 (8) When the offender has a specific intent to kill or to inflict great bodily  
28 harm upon a taxicab driver who is in the course and scope of his employment.

29 For purposes of this Paragraph, "taxicab" means a motor vehicle for hire,

1 carrying six passengers or less, including the driver thereof, that is subject to  
2 call from a garage, office, taxi stand, or otherwise.

3 D.(1) For the purposes of Paragraph (C)(7) of this Section, the term  
4 "member of the immediate family" means a husband, wife, father, mother,  
5 daughter, son, brother, sister, stepparent, grandparent, stepchild, or  
6 grandchild.

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

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

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

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DIGEST

SB 107 Original                      2023 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) of present law be re-designated as 2nd degree murder rather than 1st degree murder. Proposed law further requires that offenders committing these offenses re-designated as 2nd degree murder 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.
- (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) of present law 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.

Proposed law otherwise retains present law.

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

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