

2018 Regular Session

SENATE BILL NO. 52

BY SENATOR MORRELL

CRIME/PUNISHMENT. Provides that making a false report triggering a law enforcement response resulting in a person's death constitutes second degree murder. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:30.1(A)(2) and 126.1, relative to the crime of false swearing
3 for purpose of violating public health or safety; to provide that the triggering of a law
4 enforcement response by false swearing that results in a person's death constitutes
5 second degree murder; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:30.1(A)(2) and 126.1 are hereby amended and reenacted to read
8 as follows:

9 §30.1. Second degree murder

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

11 * * *

12 (2) When the offender is engaged in the perpetration or attempted
13 perpetration of aggravated or first degree rape, forcible or second degree rape,
14 aggravated arson, aggravated burglary, aggravated kidnapping, second degree
15 kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first
16 degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second
17 degree cruelty to juveniles, or terrorism, or has engaged in false swearing for

1 **purpose of violating public health or safety that has triggered a law enforcement**
2 **response**, even though he has no intent to kill or to inflict great bodily harm.

3 * * *

4 §126.1. False swearing for purpose of violating public health or safety

5 A. No person shall make a false statement, report, or allegation concerning
6 the commission of a crime for the purpose of violating, disrupting, interfering with,
7 or endangering the public health or safety, or to deprive any person or persons of any
8 right, privilege, or immunity secured by the United States Constitution and laws or
9 by the Louisiana Constitution and laws, or cause such false statement or report to be
10 made to any official or agency of the state or any parish, city, or political subdivision
11 thereof, or to any judicial, executive, or legislative body or subdivision thereof
12 within this state, knowing or having reason to believe the same or any material part
13 thereof to be false and with the intent to cause **a law enforcement response to or**
14 an investigation of **the alleged crime**, or any other action to be taken as a result
15 thereof **of the false statement, report, or allegation**.

16 B. **Any Except as provided in R.S. 14:30.1(A)(2), any** person or persons
17 convicted of violating the provisions of this Section shall be punished by
18 imprisonment for not less than one year nor more than five years, with or without
19 hard labor, or by a fine of not less than one hundred dollars nor more than one
20 thousand dollars, or by both such fine and imprisonment.

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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 Alden A. Clement Jr.

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Present law defines second degree murder as 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 present law (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 present law (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 relative to the crime of false swearing for purposes of violating public health or safety. Present law provides that no person can make a false statement, report, or allegation concerning the commission of a crime for the purpose of violating, disrupting, interfering with, or endangering the public health or safety, or to deprive any person or persons of any right, privilege, or immunity secured by the U.S. Constitution and laws or by the La. Constitution and laws, or cause such false statement or report to be made to any official or agency of the state or any parish, city, or political subdivision thereof, or to any judicial, executive, or legislative body or subdivision thereof within the state, knowing or having reason to believe the same or any material part thereof to be false and with the intent to cause an investigation of or any other action to be taken as a result thereof.

Proposed law retains present law and does the following:

- (1) Adds the crime of false swearing for purposes of violating public health or safety to the list of crimes that, if resulting in death, constitute second degree murder.
- (2) Adds that the intent to trigger a law enforcement response to a false report of an alleged crime is included in the crime of false swearing for purposes of violating public health or safety.

Present law provides that whoever commits the crime of second degree murder is to be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Proposed law retains present law.

Present law provides that any person convicted of the crime of false swearing for purposes of violating public health or safety is to be imprisoned, with or without hard labor, for between one and five years, or fined between \$100 and \$1,000, or both.

Proposed law retains present law but adds that these present law penalties apply except when the crime of false swearing has triggered a law enforcement response and results in death, in which case the present law penalty for second degree murder applies.

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

(Amends R.S. 14:30.1(A)(2) and 126.1)