



Sen. Robert Peters

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1 AMENDMENT TO SENATE BILL 2292

2 AMENDMENT NO. _____. Amend Senate Bill 2292 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 2012 is amended by
5 changing Section 9-1 as follows:

6 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

7 Sec. 9-1. First degree murder; death penalties;
8 exceptions; separate hearings; proof; findings; appellate
9 procedures; reversals.

10 (a) A person who kills an individual without lawful
11 justification commits first degree murder if, in performing the
12 acts which cause the death:

13 (1) he or she either intends to kill or do great bodily
14 harm to that individual or another, or knows that such acts
15 will cause death to that individual or another; or

16 (2) he or she knows that such acts create a strong

1 probability of death or great bodily harm to that
2 individual or another; or

3 (3) he or she is attempting or committing a forcible
4 felony other than second degree murder, and the death is
5 caused by a person engaged as a principal or an accessory
6 in the attempted commission or commission of that felony.

7 (b) Aggravating Factors. A defendant who at the time of the
8 commission of the offense has attained the age of 18 or more
9 and who has been found guilty of first degree murder may be
10 sentenced to death if:

11 (1) the murdered individual was a peace officer or
12 fireman killed in the course of performing his official
13 duties, to prevent the performance of his or her official
14 duties, or in retaliation for performing his or her
15 official duties, and the defendant knew or should have
16 known that the murdered individual was a peace officer or
17 fireman; or

18 (2) the murdered individual was an employee of an
19 institution or facility of the Department of Corrections,
20 or any similar local correctional agency, killed in the
21 course of performing his or her official duties, to prevent
22 the performance of his or her official duties, or in
23 retaliation for performing his or her official duties, or
24 the murdered individual was an inmate at such institution
25 or facility and was killed on the grounds thereof, or the
26 murdered individual was otherwise present in such

1 institution or facility with the knowledge and approval of
2 the chief administrative officer thereof; or

3 (3) the defendant has been convicted of murdering two
4 or more individuals under subsection (a) of this Section or
5 under any law of the United States or of any state which is
6 substantially similar to subsection (a) of this Section
7 regardless of whether the deaths occurred as the result of
8 the same act or of several related or unrelated acts so
9 long as the deaths were the result of either an intent to
10 kill more than one person or of separate acts which the
11 defendant knew would cause death or create a strong
12 probability of death or great bodily harm to the murdered
13 individual or another; or

14 (4) the murdered individual was killed as a result of
15 the hijacking of an airplane, train, ship, bus, or other
16 public conveyance; or

17 (5) the defendant committed the murder pursuant to a
18 contract, agreement, or understanding by which he or she
19 was to receive money or anything of value in return for
20 committing the murder or procured another to commit the
21 murder for money or anything of value; or

22 (6) the murdered individual was killed in the course of
23 another felony if:

24 (a) the murdered individual:

25 (i) was actually killed by the defendant, or

26 (ii) received physical injuries personally

1 inflicted by the defendant substantially
2 contemporaneously with physical injuries caused by
3 one or more persons for whose conduct the defendant
4 is legally accountable under Section 5-2 of this
5 Code, and the physical injuries inflicted by
6 either the defendant or the other person or persons
7 for whose conduct he is legally accountable caused
8 the death of the murdered individual; and

9 (b) in performing the acts which caused the death
10 of the murdered individual or which resulted in
11 physical injuries personally inflicted by the
12 defendant on the murdered individual under the
13 circumstances of subdivision (ii) of subparagraph (a)
14 of paragraph (6) of subsection (b) of this Section, the
15 defendant acted with the intent to kill the murdered
16 individual or with the knowledge that his acts created
17 a strong probability of death or great bodily harm to
18 the murdered individual or another; and

19 (c) the other felony was an inherently violent
20 crime or the attempt to commit an inherently violent
21 crime. In this subparagraph (c), "inherently violent
22 crime" includes, but is not limited to, armed robbery,
23 robbery, predatory criminal sexual assault of a child,
24 aggravated criminal sexual assault, aggravated
25 kidnapping, aggravated vehicular hijacking, aggravated
26 arson, aggravated stalking, residential burglary, and

1 home invasion; or

2 (7) the murdered individual was under 12 years of age
3 and the death resulted from exceptionally brutal or heinous
4 behavior indicative of wanton cruelty; or

5 (8) the defendant committed the murder with intent to
6 prevent the murdered individual from testifying or
7 participating in any criminal investigation or prosecution
8 or giving material assistance to the State in any
9 investigation or prosecution, either against the defendant
10 or another; or the defendant committed the murder because
11 the murdered individual was a witness in any prosecution or
12 gave material assistance to the State in any investigation
13 or prosecution, either against the defendant or another;
14 for purposes of this paragraph (8), "participating in any
15 criminal investigation or prosecution" is intended to
16 include those appearing in the proceedings in any capacity
17 such as trial judges, prosecutors, defense attorneys,
18 investigators, witnesses, or jurors; or

19 (9) the defendant, while committing an offense
20 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
21 407 or 407.1 or subsection (b) of Section 404 of the
22 Illinois Controlled Substances Act, or while engaged in a
23 conspiracy or solicitation to commit such offense,
24 intentionally killed an individual or counseled,
25 commanded, induced, procured or caused the intentional
26 killing of the murdered individual; or

1 (10) the defendant was incarcerated in an institution
2 or facility of the Department of Corrections at the time of
3 the murder, and while committing an offense punishable as a
4 felony under Illinois law, or while engaged in a conspiracy
5 or solicitation to commit such offense, intentionally
6 killed an individual or counseled, commanded, induced,
7 procured or caused the intentional killing of the murdered
8 individual; or

9 (11) the murder was committed in a cold, calculated and
10 premeditated manner pursuant to a preconceived plan,
11 scheme or design to take a human life by unlawful means,
12 and the conduct of the defendant created a reasonable
13 expectation that the death of a human being would result
14 therefrom; or

15 (12) the murdered individual was an emergency medical
16 technician - ambulance, emergency medical technician -
17 intermediate, emergency medical technician - paramedic,
18 ambulance driver, or other medical assistance or first aid
19 personnel, employed by a municipality or other
20 governmental unit, killed in the course of performing his
21 official duties, to prevent the performance of his official
22 duties, or in retaliation for performing his official
23 duties, and the defendant knew or should have known that
24 the murdered individual was an emergency medical
25 technician - ambulance, emergency medical technician -
26 intermediate, emergency medical technician - paramedic,

1 ambulance driver, or other medical assistance or first aid
2 personnel; or

3 (13) the defendant was a principal administrator,
4 organizer, or leader of a calculated criminal drug
5 conspiracy consisting of a hierarchical position of
6 authority superior to that of all other members of the
7 conspiracy, and the defendant counseled, commanded,
8 induced, procured, or caused the intentional killing of the
9 murdered person; or

10 (14) the murder was intentional and involved the
11 infliction of torture. For the purpose of this Section
12 torture means the infliction of or subjection to extreme
13 physical pain, motivated by an intent to increase or
14 prolong the pain, suffering or agony of the victim; or

15 (15) the murder was committed as a result of the
16 intentional discharge of a firearm by the defendant from a
17 motor vehicle and the victim was not present within the
18 motor vehicle; or

19 (16) the murdered individual was 60 years of age or
20 older and the death resulted from exceptionally brutal or
21 heinous behavior indicative of wanton cruelty; or

22 (17) the murdered individual was a person with a
23 disability and the defendant knew or should have known that
24 the murdered individual was a person with a disability. For
25 purposes of this paragraph (17), "person with a disability"
26 means a person who suffers from a permanent physical or

1 mental impairment resulting from disease, an injury, a
2 functional disorder, or a congenital condition that
3 renders the person incapable of adequately providing for
4 his or her own health or personal care; or

5 (18) the murder was committed by reason of any person's
6 activity as a community policing volunteer or to prevent
7 any person from engaging in activity as a community
8 policing volunteer; or

9 (19) the murdered individual was subject to an order of
10 protection and the murder was committed by a person against
11 whom the same order of protection was issued under the
12 Illinois Domestic Violence Act of 1986; or

13 (20) the murdered individual was known by the defendant
14 to be a teacher or other person employed in any school and
15 the teacher or other employee is upon the grounds of a
16 school or grounds adjacent to a school, or is in any part
17 of a building used for school purposes; or

18 (21) the murder was committed by the defendant in
19 connection with or as a result of the offense of terrorism
20 as defined in Section 29D-14.9 of this Code; or

21 (22) the murdered individual was a member of a
22 congregation engaged in prayer or other religious
23 activities at a church, synagogue, mosque, or other
24 building, structure, or place used for religious worship.

25 (b-5) Aggravating Factor; Natural Life Imprisonment. A
26 defendant who has been found guilty of first degree murder and

1 who at the time of the commission of the offense had attained
2 the age of 18 years or more may be sentenced to natural life
3 imprisonment if (i) the murdered individual was a physician,
4 physician assistant, psychologist, nurse, or advanced practice
5 registered nurse, (ii) the defendant knew or should have known
6 that the murdered individual was a physician, physician
7 assistant, psychologist, nurse, or advanced practice
8 registered nurse, and (iii) the murdered individual was killed
9 in the course of acting in his or her capacity as a physician,
10 physician assistant, psychologist, nurse, or advanced practice
11 registered nurse, or to prevent him or her from acting in that
12 capacity, or in retaliation for his or her acting in that
13 capacity.

14 (c) Consideration of factors in Aggravation and
15 Mitigation.

16 The court shall consider, or shall instruct the jury to
17 consider any aggravating and any mitigating factors which are
18 relevant to the imposition of the death penalty. Aggravating
19 factors may include but need not be limited to those factors
20 set forth in subsection (b). Mitigating factors may include but
21 need not be limited to the following:

22 (1) the defendant has no significant history of prior
23 criminal activity;

24 (2) the murder was committed while the defendant was
25 under the influence of extreme mental or emotional
26 disturbance, although not such as to constitute a defense

1 to prosecution;

2 (3) the murdered individual was a participant in the
3 defendant's homicidal conduct or consented to the
4 homicidal act;

5 (4) the defendant acted under the compulsion of threat
6 or menace of the imminent infliction of death or great
7 bodily harm;

8 (5) the defendant was not personally present during
9 commission of the act or acts causing death;

10 (6) the defendant's background includes a history of
11 extreme emotional or physical abuse;

12 (7) the defendant suffers from a reduced mental
13 capacity.

14 Provided, however, that an action that does not otherwise
15 mitigate first degree murder cannot qualify as a mitigating
16 factor for first degree murder because of the discovery,
17 knowledge, or disclosure of the victim's sexual orientation as
18 defined in Section 1-103 of the Illinois Human Rights Act.

19 (d) Separate sentencing hearing.

20 Where requested by the State, the court shall conduct a
21 separate sentencing proceeding to determine the existence of
22 factors set forth in subsection (b) and to consider any
23 aggravating or mitigating factors as indicated in subsection
24 (c). The proceeding shall be conducted:

25 (1) before the jury that determined the defendant's
26 guilt; or

1 (2) before a jury impanelled for the purpose of the
2 proceeding if:

3 A. the defendant was convicted upon a plea of
4 guilty; or

5 B. the defendant was convicted after a trial before
6 the court sitting without a jury; or

7 C. the court for good cause shown discharges the
8 jury that determined the defendant's guilt; or

9 (3) before the court alone if the defendant waives a
10 jury for the separate proceeding.

11 (e) Evidence and Argument.

12 During the proceeding any information relevant to any of
13 the factors set forth in subsection (b) may be presented by
14 either the State or the defendant under the rules governing the
15 admission of evidence at criminal trials. Any information
16 relevant to any additional aggravating factors or any
17 mitigating factors indicated in subsection (c) may be presented
18 by the State or defendant regardless of its admissibility under
19 the rules governing the admission of evidence at criminal
20 trials. The State and the defendant shall be given fair
21 opportunity to rebut any information received at the hearing.

22 (f) Proof.

23 The burden of proof of establishing the existence of any of
24 the factors set forth in subsection (b) is on the State and
25 shall not be satisfied unless established beyond a reasonable
26 doubt.

1 (g) Procedure - Jury.

2 If at the separate sentencing proceeding the jury finds
3 that none of the factors set forth in subsection (b) exists,
4 the court shall sentence the defendant to a term of
5 imprisonment under Chapter V of the Unified Code of
6 Corrections. If there is a unanimous finding by the jury that
7 one or more of the factors set forth in subsection (b) exist,
8 the jury shall consider aggravating and mitigating factors as
9 instructed by the court and shall determine whether the
10 sentence of death shall be imposed. If the jury determines
11 unanimously, after weighing the factors in aggravation and
12 mitigation, that death is the appropriate sentence, the court
13 shall sentence the defendant to death. If the court does not
14 concur with the jury determination that death is the
15 appropriate sentence, the court shall set forth reasons in
16 writing including what facts or circumstances the court relied
17 upon, along with any relevant documents, that compelled the
18 court to non-concur with the sentence. This document and any
19 attachments shall be part of the record for appellate review.
20 The court shall be bound by the jury's sentencing
21 determination.

22 If after weighing the factors in aggravation and
23 mitigation, one or more jurors determines that death is not the
24 appropriate sentence, the court shall sentence the defendant to
25 a term of imprisonment under Chapter V of the Unified Code of
26 Corrections.

1 (h) Procedure - No Jury.

2 In a proceeding before the court alone, if the court finds
3 that none of the factors found in subsection (b) exists, the
4 court shall sentence the defendant to a term of imprisonment
5 under Chapter V of the Unified Code of Corrections.

6 If the Court determines that one or more of the factors set
7 forth in subsection (b) exists, the Court shall consider any
8 aggravating and mitigating factors as indicated in subsection
9 (c). If the Court determines, after weighing the factors in
10 aggravation and mitigation, that death is the appropriate
11 sentence, the Court shall sentence the defendant to death.

12 If the court finds that death is not the appropriate
13 sentence, the court shall sentence the defendant to a term of
14 imprisonment under Chapter V of the Unified Code of
15 Corrections.

16 (h-5) Decertification as a capital case.

17 In a case in which the defendant has been found guilty of
18 first degree murder by a judge or jury, or a case on remand for
19 resentencing, and the State seeks the death penalty as an
20 appropriate sentence, on the court's own motion or the written
21 motion of the defendant, the court may decertify the case as a
22 death penalty case if the court finds that the only evidence
23 supporting the defendant's conviction is the uncorroborated
24 testimony of an informant witness, as defined in Section 115-21
25 of the Code of Criminal Procedure of 1963, concerning the
26 confession or admission of the defendant or that the sole

1 evidence against the defendant is a single eyewitness or single
2 accomplice without any other corroborating evidence. If the
3 court decertifies the case as a capital case under either of
4 the grounds set forth above, the court shall issue a written
5 finding. The State may pursue its right to appeal the
6 decertification pursuant to Supreme Court Rule 604(a)(1). If
7 the court does not decertify the case as a capital case, the
8 matter shall proceed to the eligibility phase of the sentencing
9 hearing.

10 (i) Appellate Procedure.

11 The conviction and sentence of death shall be subject to
12 automatic review by the Supreme Court. Such review shall be in
13 accordance with rules promulgated by the Supreme Court. The
14 Illinois Supreme Court may overturn the death sentence, and
15 order the imposition of imprisonment under Chapter V of the
16 Unified Code of Corrections if the court finds that the death
17 sentence is fundamentally unjust as applied to the particular
18 case. If the Illinois Supreme Court finds that the death
19 sentence is fundamentally unjust as applied to the particular
20 case, independent of any procedural grounds for relief, the
21 Illinois Supreme Court shall issue a written opinion explaining
22 this finding.

23 (j) Disposition of reversed death sentence.

24 In the event that the death penalty in this Act is held to
25 be unconstitutional by the Supreme Court of the United States
26 or of the State of Illinois, any person convicted of first

1 degree murder shall be sentenced by the court to a term of
2 imprisonment under Chapter V of the Unified Code of
3 Corrections.

4 In the event that any death sentence pursuant to the
5 sentencing provisions of this Section is declared
6 unconstitutional by the Supreme Court of the United States or
7 of the State of Illinois, the court having jurisdiction over a
8 person previously sentenced to death shall cause the defendant
9 to be brought before the court, and the court shall sentence
10 the defendant to a term of imprisonment under Chapter V of the
11 Unified Code of Corrections.

12 (k) Guidelines for seeking the death penalty.

13 The Attorney General and State's Attorneys Association
14 shall consult on voluntary guidelines for procedures governing
15 whether or not to seek the death penalty. The guidelines do not
16 have the force of law and are only advisory in nature.

17 (Source: P.A. 100-460, eff. 1-1-18; 100-513, eff. 1-1-18;
18 100-863, eff. 8-14-18; 101-223, eff. 1-1-20.)".