

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: S2/1/01*

# A Bill

**Act 308 of 2001**  
**HOUSE BILL 1264**

5 By: Representative Hutchinson  
6 By: *Senators Webb, DeLay*  
7

## **For An Act To Be Entitled**

9 AN ACT TO PROVIDE THAT THE MURDER OF A CHILD TWELVE  
10 YEARS OF AGE OR YOUNGER IS AN AGGRAVATING CIRCUMSTANCE  
11 FOR PURPOSE OF IMPOSING THE DEATH PENALTY; AND FOR  
12 OTHER PURPOSES.  
13

## **Subtitle**

14 AN ACT TO PROVIDE THAT THE MURDER OF A  
15 CHILD TWELVE YEARS OF AGE OR YOUNGER IS  
16 AN AGGRAVATING CIRCUMSTANCE FOR PURPOSE  
17 OF IMPOSING THE DEATH PENALTY.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code 5-4-604 is amended to read as follows:  
24 5-4-604. Aggravating circumstances.

25 Aggravating circumstances shall be limited to the following:

26 (1) The capital murder was committed by a person imprisoned as a  
27 result of a felony conviction;

28 (2) The capital murder was committed by a person unlawfully at  
29 liberty after being sentenced to imprisonment as a result of a felony  
30 conviction;

31 (3) The person previously committed another felony, an element of  
32 which was the use or threat of violence to another person or the creation of a  
33 substantial risk of death or serious physical injury to another person;

34 (4) The person in the commission of the capital murder knowingly  
35 created a great risk of death to a person other than the victim or caused the  
36 death of more than one (1) person in the same criminal episode;

1 (5) The capital murder was committed for the purpose of avoiding  
2 or preventing an arrest or effecting an escape from custody;

3 (6) The capital murder was committed for pecuniary gain;

4 (7) The capital murder was committed for the purpose of  
5 disrupting or hindering the lawful exercise of any government or political  
6 function;

7 (8)(A) The capital murder was committed in an especially cruel or  
8 depraved manner.

9 (B) For purposes of this subdivision (8), a capital murder  
10 is committed in an especially cruel manner when, as part of a course of  
11 conduct intended to inflict mental anguish, serious physical abuse, or torture  
12 upon the victim prior to the victim's death, mental anguish, serious physical  
13 abuse, or torture is inflicted. "Mental anguish" is defined as the victim's  
14 uncertainty as to his ultimate fate. "Serious physical abuse" is defined as  
15 physical abuse that creates a substantial risk of death or that causes  
16 protracted impairment of health, or loss or protracted impairment of the  
17 function of any bodily member or organ. "Torture" is defined as the infliction  
18 of extreme physical pain for a prolonged period of time prior to the victim's  
19 death.

20 (C) For purposes of this subdivision (8), a capital murder  
21 is committed in an especially depraved manner when the person relishes the  
22 murder, evidencing debasement or perversion, or shows an indifference to the  
23 suffering of the victim and evidences a sense of pleasure in committing the  
24 murder; ~~or~~

25 (9) The capital murder was committed by means of a destructive  
26 device, bomb, explosive, or similar device which the person planted, hid, or  
27 concealed in any place, area, dwelling, building, or structure, or mailed or  
28 delivered, or caused to be planted, hidden, concealed, mailed, or delivered,  
29 and the person knew that his act or acts would create a great risk of death to  
30 human life; or

31 (10) *The capital murder was committed against a person whom the*  
32 *defendant knew or reasonably should have known was especially vulnerable to*  
33 *the attack because:*

34 (A) ~~or~~ Of either a temporary or permanent severe physical  
35 or mental disability which would interfere with the victim's ability to flee  
36 or to defend himself; or

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(B) The person was twelve (12) years of age or younger.  
/s/ Hutchinson

APPROVED: 2/19/2001