

As Engrossed: 2/22/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A BILL ACT 683 OF 1991
SENATE BILL 452

4 **By: Senators Hardin, Beebe, Hopkins, Bearden, Gordon and Ross**

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For An Act To Be Entitled

8 *"AN ACT TO AMEND ARKANSAS CODE ANNOTATED §5-10-101(a) TO*
9 *DEFINE CAPITAL MURDER TO INCLUDE KNOWINGLY CAUSING THE*
10 *DEATH OF A PERSON FOURTEEN (14) YEARS OF AGE OR YOUNGER*
11 *UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO*
12 *THE VALUE OF HUMAN LIFE; TO AMEND ARKANSAS CODE ANNOTATED*
13 *§5-10-102(a) (3) TO DEFINE MURDER IN THE FIRST DEGREE TO*
14 *INCLUDE KNOWINGLY CAUSING THE DEATH OF A PERSON FOURTEEN*
15 *(14) YEARS OF AGE OR YOUNGER; TO AMEND ARKANSAS CODE*
16 *ANNOTATED §5-4-604(8) TO PROVIDE FOR THE AGGRAVATING*
17 *CIRCUMSTANCE THAT THE CAPITAL MURDER WAS COMMITTED IN AN*
18 *ESPECIALLY CRUEL OR DEPRAVED MANNER; TO INCLUDE THE*
19 *AGGRAVATING CIRCUMSTANCE THAT THE CAPITAL MURDER WAS*
20 *CAUSED BY A DESTRUCTIVE DEVICE; AND FOR OTHER PURPOSES."*

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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code Annotated §5-10-101(a) is amended to read as
25 follows by adding the following subsection:

26 "(9) Under circumstances manifesting extreme indifference to the value
27 of human life, he knowingly causes the death of a person fourteen (14) years
28 of age or younger at the time the murder was committed provided that the
29 defendant was eighteen (18) years of age or older at the time the murder was
30 committed. *It shall be an affirmative defense to any prosecution under this*
31 *subsubsection (9) arising from the failure of the parent, guardian, or person*
32 *standing in loco parentis to provide specified medical or surgical treatment,*
33 *that the parent, guardian, or person standing in loco parentis relied solely*
34 *on spiritual treatment through prayer in accordance with the tenets and*
35 *practices of an established church or religious denomination of which he is a*
36 *member."*

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SECTION 2. Arkansas Code Annotated §5-10-102(a) (3) is amended to read as follows:

"(3) *He knowingly causes the death of a person fourteen (14) years of age or younger at the time the murder was committed.*"

SECTION 3. Arkansas Code Annotated §5-4-604(8) is amended to read as follows:

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

For purposes of this section, a capital murder is committed in an especially cruel manner when, as part of a course of conduct intended to inflict mental anguish, serious physical abuse, or torture upon the victim prior to the victim's death, mental anguish, serious physical abuse or torture is inflicted. Mental anguish is defined as the victim's uncertainty as to his ultimate fate. Serious physical abuse is defined as physical abuse that creates a substantial risk of death or that causes protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ. Torture is defined as the infliction of extreme physical pain for a prolonged period of time prior to the victim's death.

For purposes of this section, a capital murder is committed in an especially depraved manner when the person relishes the murder, evidencing debasement or perversion, or shows an indifference to the suffering of the victim and evidences a sense of pleasure in committing the murder."

SECTION 4. Arkansas Code Annotated §5-4-604 is amended to add the following subparagraph:

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

SECTION 5. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 6. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 7. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 /s/Hardin, et al

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15 APPROVED: 3-21-91

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