

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H3/14/97

A Bill

ACT 946 OF 1997
HOUSE BILL 1533

5 By: Representatives Vess and Flanagan
6
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 5-4-604 TO
10 ESTABLISH AS AN ADDITIONAL AGGRAVATING FACTOR IN CAPITAL
11 MURDER CASES THE MURDER OF A PERSON KNOWN OR REASONABLY
12 KNOWN TO HAVE EITHER A TEMPORARY OR PERMANENT SEVERE
13 MENTAL OR PHYSICAL DISABILITY; AND FOR OTHER PURPOSES."
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Subtitle

15 "TO ESTABLISH AS AN ADDITIONAL
16 AGGRAVATING FACTOR IN CAPITAL MURDER
17 CASES THE MURDER OF A PERSON KNOWN OR
18 REASONABLY KNOWN TO HAVE EITHER A
19 TEMPORARY OR PERMANENT SEVERE MENTAL OR
20 PHYSICAL DISABILITY"
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Annotated § 5-4-604 is amended to read as
26 follows:

27 "5-4-604. Aggravating circumstances.

28 Aggravating circumstances shall be limited to the following:

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

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

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

36 (4) The person in the commission of the capital murder knowingly

1 created a great risk of death to a person other than the victim or caused the
2 death of more than one (1) person in the same criminal episode;

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

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

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

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

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

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

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

32 (10) The capital murder was committed against a person whom the
33 defendant knew or reasonably should have known was especially vulnerable to
34 the attack because of either a temporary or permanent severe physical or
35 mental disability which would interfere with the victims ability to flee or
36 to defend himself."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Rep. Vess, et al

APPROVED:3-31-97