

As Engrossed: 4/5/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Vess**

A Bill

ACT 1205 OF 1995
HOUSE BILL 1807

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §5-4-604 TO
9 FURTHER DEFINE AGGRAVATING CIRCUMSTANCES; AND FOR OTHER
10 PURPOSES."

Subtitle

13 "TO AMEND A.C.A. § 5-4-604 TO FURTHER
14 DEFINE AGGRAVATING CIRCUMSTANCES."

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

18 SECTION 1. Arkansas Code Annotated § 5-4-604 is hereby amended to read
19 as follows:

20 "5-4-604. Aggravating circumstances.

21 Aggravating circumstances shall be limited to the following:

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

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

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

29 (4) The person in the commission of the capital murder knowingly
30 created a great risk of death to a person other than the victim or cause the
31 death of more than one (1) person in the same criminal episode;

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

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

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

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

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

14 (C) For purposes of this subdivision, a capital murder is
15 committed in an especially depraved manner when the person relishes the
16 murder, evidencing debasement or perversion, or shows an indifference to the
17 suffering of the victim and evidences a sense of pleasure in committing the
18 murder; or

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

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26 SECTION 2. *Legislative History. This is to memorialize the Arkansas*
27 *Supreme Court's decision in Cox v. State, 313 Ark. 184 (1993), recognizing*
28 *that Arkansas Code Annotated §5-4-604(4) applies when a defendant knowingly*
29 *creates a grave risk of death to another person in addition to the victim of*
30 *the offense.*

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32 SECTION 3. All provisions of this act of a general and permanent nature
33 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
34 Revision Commission shall incorporate the same in the Code.

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

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7 SECTION 5. All laws and parts of laws in conflict with this act are
8 hereby repealed.

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/s/Rep. Vess

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APPROVED: 4-11-95

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