

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

As Engrossed: H1/29/97

A Bill

HOUSE BILL 1065

4 By: Representatives Flanagan, Madison, Broadway, Capps, Choate, Cunningham, Curran, Davis, Dietz, Faris, Ferguson, Ferrell, Goodwin, Hogue, Johnson,
5 Jones, Kidd, Lynn, McGehee, McGinnis, Miller, Molinaro, Pollan, Rorie, Schexnayder, Simmons, Judy Smith, Terry Smith, Stalnaker, Teague, Thicksten,
6 Trammel, Wagner, Willems, Wilkinson, Wren, Wooldridge, *Bennett, Horn, Ingram, Lavery, Roberts, and Wallis*

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For An Act To Be Entitled

10 "AND ACT TO AMEND ARKANSAS CODE 5-4-604 TO ADD TO THE LIST
11 OF AGGRAVATING CIRCUMSTANCES FOR CONSIDERATION IN DEATH
12 PENALTY CASES THE FACT THAT THE VICTIM WAS 18 YEARS OF AGE
13 OR LESS; AND FOR OTHER PURPOSES."

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Subtitle

16 "TO ADD TO THE LIST OF AGGRAVATING
17 CIRCUMSTANCES FOR CONSIDERATION IN DEATH
18 PENALTY CASES THE FACT THAT THE VICTIM
19 WAS 18 YEARS OF AGE OR LESS"

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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 result
27 of a felony conviction;

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

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

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

36 (5) The capital murder was committed for the purpose of avoiding or

1 preventing an arrest or effecting an escape from custody;

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

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

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

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

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

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

29 (10) The victim of the capital murder was eighteen years of age or
30 less."

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32 SECTION 2. 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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36 SECTION 3. If any provision of this act or the application thereof to

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

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

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/s/Rep. Flanagan, et al

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