
ASSEMBLY BILL NO. 90—ASSEMBLYMAN WHEELER

PREFILED JANUARY 30, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the penalty imposed for the murder of a peace officer in certain circumstances. (BDR 15-528)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising provisions governing the penalty imposed for the murder of a peace officer in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law makes murder of the first degree a category A felony punishable
2 by death, life imprisonment without the possibility of parole, life imprisonment
3 with the possibility of parole or imprisonment for a term of 50 years. (NRS
4 200.030) This bill makes the killing of a peace officer murder of the first degree
5 punishable only by death or life imprisonment without the possibility of parole if
6 the peace officer was killed while engaged in the performance of his or her official
7 duty or because of an act performed in his or her official capacity, and the
8 defendant knew or reasonably should have known that the victim was a peace
9 officer.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 200.030 is hereby amended to read as follows:
2 200.030 1. Murder of the first degree is murder which is:
3 (a) Perpetrated by means of poison, lying in wait or torture, or
4 by any other kind of willful, deliberate and premeditated killing;
5 (b) Committed in the perpetration or attempted perpetration of
6 sexual assault, kidnapping, arson, robbery, burglary, invasion of the
7 home, sexual abuse of a child, sexual molestation of a child under



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1 the age of 14 years, child abuse or abuse of an older person or
2 vulnerable person pursuant to NRS 200.5099;

3 (c) Committed to avoid or prevent the lawful arrest of any
4 person by a peace officer or to effect the escape of any person from
5 legal custody;

6 (d) Committed on the property of a public or private school, at
7 an activity sponsored by a public or private school or on a school
8 bus while the bus was engaged in its official duties by a person who
9 intended to create a great risk of death or substantial bodily harm to
10 more than one person by means of a weapon, device or course of
11 action that would normally be hazardous to the lives of more than
12 one person; ~~††~~

13 (e) Committed in the perpetration or attempted perpetration of
14 an act of terrorism ~~††~~; or

15 *(f) Committed upon a peace officer who was killed while*
16 *engaged in the performance of his or her official duty or because*
17 *of an act performed in his or her official capacity by a person who*
18 *knew or reasonably should have known that the victim was a*
19 *peace officer. For the purposes of this paragraph, "peace officer"*
20 *means:*

21 *(1) An employee of the Department of Corrections who*
22 *does not exercise general control over offenders imprisoned within*
23 *the institutions and facilities of the Department, but whose normal*
24 *duties require the employee to come into contact with those*
25 *offenders when carrying out the duties prescribed by the Director*
26 *of the Department.*

27 *(2) Any person upon whom some or all of the powers of a*
28 *peace officer are conferred pursuant to NRS 289.150 to 289.360,*
29 *inclusive, when carrying out those powers.*

30 2. Murder of the second degree is all other kinds of murder.

31 3. The jury before whom any person indicted for murder is
32 tried shall, if they find the person guilty thereof, designate by their
33 verdict whether the person is guilty of murder of the first or second
34 degree.

35 4. ~~††~~ *Except as otherwise provided in subsection 5, a person*
36 *convicted of murder of the first degree is guilty of a category A*
37 *felony and shall be punished:*

38 (a) By death, only if one or more aggravating circumstances are
39 found and any mitigating circumstance or circumstances which are
40 found do not outweigh the aggravating circumstance or
41 circumstances, unless a court has made a finding pursuant to NRS
42 174.098 that the defendant is a person with an intellectual disability
43 and has stricken the notice of intent to seek the death penalty; or

44 (b) By imprisonment in the state prison:

45 (1) For life without the possibility of parole;



1 (2) For life with the possibility of parole, with eligibility for
2 parole beginning when a minimum of 20 years has been served; or

3 (3) For a definite term of 50 years, with eligibility for parole
4 beginning when a minimum of 20 years has been served.

5 ➤ A determination of whether aggravating circumstances exist is
6 not necessary to fix the penalty at imprisonment for life with or
7 without the possibility of parole.

8 5. *A person convicted of murder of the first degree pursuant*
9 *to paragraph (f) of subsection 1 is guilty of a category A felony*
10 *and shall be punished:*

11 (a) *By death, only if one or more aggravating circumstances*
12 *are found and any mitigating circumstance or circumstances*
13 *which are found do not outweigh the aggravating circumstance or*
14 *circumstances, unless a court has made a finding pursuant to*
15 *NRS 174.098 that the defendant is a person with an intellectual*
16 *disability and has stricken the notice of intent to seek the death*
17 *penalty; or*

18 (b) *By imprisonment in the state prison for life without the*
19 *possibility of parole.*

20 6. A person convicted of murder of the second degree is guilty
21 of a category A felony and shall be punished by imprisonment in the
22 state prison:

23 (a) For life with the possibility of parole, with eligibility for
24 parole beginning when a minimum of 10 years has been served; or

25 (b) For a definite term of 25 years, with eligibility for parole
26 beginning when a minimum of 10 years has been served.

27 ~~16.1~~ 7. As used in this section:

28 (a) "Act of terrorism" has the meaning ascribed to it in
29 NRS 202.4415;

30 (b) "Child abuse" means physical injury of a nonaccidental
31 nature to a child under the age of 18 years;

32 (c) "School bus" has the meaning ascribed to it in NRS 483.160;

33 (d) "Sexual abuse of a child" means any of the acts described in
34 NRS 432B.100; and

35 (e) "Sexual molestation" means any willful and lewd or
36 lascivious act, other than acts constituting the crime of sexual
37 assault, upon or with the body, or any part or member thereof, of a
38 child under the age of 14 years, with the intent of arousing,
39 appealing to, or gratifying the lust, passions or sexual desires of the
40 perpetrator or of the child.

41 **Sec. 2.** NRS 453.333 is hereby amended to read as follows:

42 453.333 If the death of a person is proximately caused by a
43 controlled substance which was sold, given, traded or otherwise
44 made available to him or her by another person in violation of this
45 chapter, the person who sold, gave or traded or otherwise made the



1 substance available to him or her is guilty of murder. If convicted of
2 murder in the second degree, the person is guilty of a category A
3 felony and shall be punished as provided in subsection ~~4~~ 6 of NRS
4 200.030. If convicted of murder in the first degree, the person is
5 guilty of a category A felony and shall be punished as provided in
6 subsection 4 of NRS 200.030, except that the punishment of death
7 may be imposed only if the requirements of paragraph (a) of
8 subsection 4 of that section have been met and if the defendant is or
9 has previously been convicted of violating NRS 453.3385, 453.339
10 or 453.3395 or a law of any other jurisdiction which prohibits the
11 same conduct.

