
HOUSE BILL 1692

State of Washington

67th Legislature

2022 Regular Session

By Representatives Simmons, Hackney, and Ryu

Prefiled 12/23/21.

1 AN ACT Relating to promoting racial equity in the criminal legal
2 system by eliminating drive-by shooting as a basis for elevating
3 murder in the first degree to aggravated murder in the first degree;
4 amending RCW 10.95.020 and 10.95.020; creating a new section;
5 providing an effective date; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 10.95.020 and 2020 c 29 s 12 are each amended to
8 read as follows:

9 A person is guilty of aggravated first degree murder, a class A
10 felony, if he or she commits first degree murder as defined by RCW
11 9A.32.030(1)(a), as now or hereafter amended, and one or more of the
12 following aggravating circumstances exist:

13 (1) The victim was a law enforcement officer, corrections
14 officer, or firefighter who was performing his or her official duties
15 at the time of the act resulting in death and the victim was known or
16 reasonably should have been known by the person to be such at the
17 time of the killing;

18 (2) At the time of the act resulting in the death, the person was
19 serving a term of imprisonment, had escaped, or was on authorized or
20 unauthorized leave in or from a state facility or program for the
21 incarceration or treatment of persons adjudicated guilty of crimes;

1 (3) At the time of the act resulting in death, the person was in
2 custody in a county or county-city jail as a consequence of having
3 been adjudicated guilty of a felony;

4 (4) The person committed the murder pursuant to an agreement that
5 he or she would receive money or any other thing of value for
6 committing the murder;

7 (5) The person solicited another person to commit the murder and
8 had paid or had agreed to pay money or any other thing of value for
9 committing the murder;

10 (6) The person committed the murder to obtain or maintain his or
11 her membership or to advance his or her position in the hierarchy of
12 an organization, association, or identifiable group;

13 ~~(7) ((The murder was committed during the course of or as a
14 result of a shooting where the discharge of the firearm, as defined
15 in RCW 9.41.010, is either from a motor vehicle or from the immediate
16 area of a motor vehicle that was used to transport the shooter or the
17 firearm, or both, to the scene of the discharge;~~

18 ~~(8))~~) The victim was:

19 (a) A judge; juror or former juror; prospective, current, or
20 former witness in an adjudicative proceeding; prosecuting attorney;
21 deputy prosecuting attorney; defense attorney; a member of the
22 indeterminate sentence review board; or a probation or parole
23 officer; and

24 (b) The murder was related to the exercise of official duties
25 performed or to be performed by the victim;

26 ~~((9))~~ (8) The person committed the murder to conceal the
27 commission of a crime or to protect or conceal the identity of any
28 person committing a crime, including, but specifically not limited
29 to, any attempt to avoid prosecution as a persistent offender as
30 defined in RCW 9.94A.030;

31 ~~((10))~~ (9) There was more than one victim and the murders were
32 part of a common scheme or plan or the result of a single act of the
33 person;

34 ~~((11))~~ (10) The murder was committed in the course of, in
35 furtherance of, or in immediate flight from one of the following
36 crimes:

37 (a) Robbery in the first or second degree;

38 (b) Rape in the first or second degree;

39 (c) Burglary in the first or second degree or residential
40 burglary;

1 (d) Kidnapping in the first degree; or

2 (e) Arson in the first degree;

3 (~~(12)~~) (11) The victim was regularly employed or self-employed
4 as a newsreporter and the murder was committed to obstruct or hinder
5 the investigative, research, or reporting activities of the victim;

6 (~~(13)~~) (12) At the time the person committed the murder, there
7 existed a court order, issued in this or any other state, which
8 prohibited the person from either contacting the victim, molesting
9 the victim, or disturbing the peace of the victim, and the person had
10 knowledge of the existence of that order;

11 (~~(14)~~) (13) At the time the person committed the murder, the
12 person and the victim were "family or household members" or "intimate
13 partners" as defined in RCW 26.50.010, and the person had previously
14 engaged in a pattern or practice of three or more of the following
15 crimes committed upon the victim within a five-year period,
16 regardless of whether a conviction resulted:

17 (a) Harassment as defined in RCW 9A.46.020; or

18 (b) Any criminal assault.

19 **Sec. 2.** RCW 10.95.020 and 2021 c 215 s 120 are each amended to
20 read as follows:

21 A person is guilty of aggravated first degree murder, a class A
22 felony, if he or she commits first degree murder as defined by RCW
23 9A.32.030(1)(a), as now or hereafter amended, and one or more of the
24 following aggravating circumstances exist:

25 (1) The victim was a law enforcement officer, corrections
26 officer, or firefighter who was performing his or her official duties
27 at the time of the act resulting in death and the victim was known or
28 reasonably should have been known by the person to be such at the
29 time of the killing;

30 (2) At the time of the act resulting in the death, the person was
31 serving a term of imprisonment, had escaped, or was on authorized or
32 unauthorized leave in or from a state facility or program for the
33 incarceration or treatment of persons adjudicated guilty of crimes;

34 (3) At the time of the act resulting in death, the person was in
35 custody in a county or county-city jail as a consequence of having
36 been adjudicated guilty of a felony;

37 (4) The person committed the murder pursuant to an agreement that
38 he or she would receive money or any other thing of value for
39 committing the murder;

1 (5) The person solicited another person to commit the murder and
2 had paid or had agreed to pay money or any other thing of value for
3 committing the murder;

4 (6) The person committed the murder to obtain or maintain his or
5 her membership or to advance his or her position in the hierarchy of
6 an organization, association, or identifiable group;

7 ~~((The murder was committed during the course of or as a
8 result of a shooting where the discharge of the firearm, as defined
9 in RCW 9.41.010, is either from a motor vehicle or from the immediate
10 area of a motor vehicle that was used to transport the shooter or the
11 firearm, or both, to the scene of the discharge;~~

12 ~~(8))~~) The victim was:

13 (a) A judge; juror or former juror; prospective, current, or
14 former witness in an adjudicative proceeding; prosecuting attorney;
15 deputy prosecuting attorney; defense attorney; a member of the
16 indeterminate sentence review board; or a probation or parole
17 officer; and

18 (b) The murder was related to the exercise of official duties
19 performed or to be performed by the victim;

20 ~~((9))~~ (8) The person committed the murder to conceal the
21 commission of a crime or to protect or conceal the identity of any
22 person committing a crime, including, but specifically not limited
23 to, any attempt to avoid prosecution as a persistent offender as
24 defined in RCW 9.94A.030;

25 ~~((10))~~ (9) There was more than one victim and the murders were
26 part of a common scheme or plan or the result of a single act of the
27 person;

28 ~~((11))~~ (10) The murder was committed in the course of, in
29 furtherance of, or in immediate flight from one of the following
30 crimes:

31 (a) Robbery in the first or second degree;

32 (b) Rape in the first or second degree;

33 (c) Burglary in the first or second degree or residential
34 burglary;

35 (d) Kidnapping in the first degree; or

36 (e) Arson in the first degree;

37 ~~((12))~~ (11) The victim was regularly employed or self-employed
38 as a newsreporter and the murder was committed to obstruct or hinder
39 the investigative, research, or reporting activities of the victim;

1 (~~(13)~~) (12) At the time the person committed the murder, there
2 existed a court order, issued in this or any other state, which
3 prohibited the person from either contacting the victim, molesting
4 the victim, or disturbing the peace of the victim, and the person had
5 knowledge of the existence of that order;

6 (~~(14)~~) (13) At the time the person committed the murder, the
7 person and the victim were "family or household members" or "intimate
8 partners" as defined in RCW 10.99.020, and the person had previously
9 engaged in a pattern or practice of three or more of the following
10 crimes committed upon the victim within a five-year period,
11 regardless of whether a conviction resulted:

- 12 (a) Harassment as defined in RCW 9A.46.020; or
13 (b) Any criminal assault.

14 NEW SECTION. **Sec. 3.** (1) This act applies retroactively to any
15 person convicted of aggravated murder based on conduct committed
16 prior to the effective date of this section where the only
17 aggravating circumstance admitted in the guilty plea or found by a
18 judge or jury at trial was that the discharge of the firearm was
19 either from a motor vehicle or from the immediate area of a motor
20 vehicle that was used to transport the shooter or the firearm, or
21 both, to the scene of the discharge.

22 (2) Any person convicted of aggravated murder based on conduct
23 committed prior to the effective date of this section where the only
24 aggravating circumstance admitted in the guilty plea or found by a
25 judge or jury at trial was that the discharge of the firearm was
26 either from a motor vehicle or from the immediate area of a motor
27 vehicle that was used to transport the shooter or the firearm, or
28 both, to the scene of the discharge, must be returned to the
29 sentencing court or the sentencing court's successor for entry of a
30 conviction of murder in the first degree and sentencing according to
31 the sentencing guidelines in effect on the date of the offense.

32 (3) For any person who is returned for sentencing under this
33 section, regardless of any other provisions of state law, if the
34 person being resentenced was under the age of 21 at the time of the
35 crime, the court has full discretion to depart from mandatory
36 sentencing requirements, including but not limited to any applicable
37 enhancements, and to take the particular circumstances surrounding
38 the person's age and all other pertinent factors into consideration
39 when determining an appropriate sentence.

1 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1,
2 2022.

3 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect July 1,
4 2022.

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