

ASSEMBLY BILL NO. 58—ASSEMBLYMAN OCEGUERA

PREFILED FEBRUARY 1, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing murder of the first degree. (BDR 15-935)

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; providing that murder committed in the perpetration or attempted perpetration of child neglect or abuse or neglect of an older person or vulnerable person constitutes murder of the first degree; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that murder of the first degree includes murder
2 committed in the perpetration or attempted perpetration of sexual assault,
3 kidnapping, arson, robbery, burglary, invasion of the home, sexual abuse of a child,
4 sexual molestation of a child under the age of 14 years or child abuse. (NRS
5 200.030) This bill expands that list to provide that murder of the first degree also
6 includes murder committed in the perpetration or attempted perpetration of child
7 neglect, or abuse or neglect of an older person or vulnerable person.

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



the age of 14 years , ~~for~~ child abuse ~~for~~ *or neglect, or abuse or neglect of an older person or vulnerable person pursuant to NRS 200.5099;*

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

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

(e) Committed in the perpetration or attempted perpetration of an act of terrorism.

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

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

4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished:

(a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to NRS 174.098 that the defendant is mentally retarded and has stricken the notice of intent to seek the death penalty; or

(b) By imprisonment in the state prison:

(1) For life without the possibility of parole;

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

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

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

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

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

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

6. As used in this section:



- 1 (a) "Act of terrorism" has the meaning ascribed to it in
2 NRS 202.4415;
- 3 (b) "Child abuse" means physical injury of a nonaccidental
4 nature to a child under the age of 18 years;
- 5 (c) *"Child neglect" means the negligent treatment or*
6 *maltreatment of a child under the age of 18 years as set forth in*
7 *NRS 432B.140;*
- 8 (d) "School bus" has the meaning ascribed to it in NRS 483.160;
- 9 ~~(d)~~ (e) "Sexual abuse of a child" means any of the acts
10 described in NRS 432B.100; and
- 11 ~~(e)~~ (f) "Sexual molestation" means any willful and lewd or
12 lascivious act, other than acts constituting the crime of sexual
13 assault, upon or with the body, or any part or member thereof, of a
14 child under the age of 14 years, with the intent of arousing,
15 appealing to, or gratifying the lust, passions or sexual desires of the
16 perpetrator or of the child.

