

- SUBJECT:** Making the murder of a state judge a capital crime
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Keel, Riddle, Denny, Escobar, Raymond, Reyna
0 nays
3 absent — Hodge, P. Moreno, Pena
- SENATE VOTE:** On final passage, May 3 — 31-0
- WITNESSES:** No public hearing
- BACKGROUND:** Murder is defined in the Penal Code as intentionally or knowingly causing the death of a person or committing an act clearly dangerous to human life that results in death with the intention to cause serious bodily injury or while committing or attempting to commit a felony. Murder is a first-degree felony punishable by a prison sentence of five to 99 years in prison with an optional fine of up to \$10,000.
- Capital murder is defined as murder in a specific situation or murder of a specific type of person. The eight types of capital murder are:
- murder of a peace officer or fireman who is acting in an official capacity;
 - intentionally committing murder while in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or retaliation, or terroristic threat;
 - murder for compensation or hiring a person to murder another for compensation;
 - murder while escaping from prison;
 - murder of certain people while in prison;
 - murder of someone while serving a prison sentence for murder or while serving a sentence of 99 years or longer;

 - murder of more than one person during the same criminal

- transaction or pursuant to the same scheme; and
- murder of a child younger than six years of age.

The penalty for capital murder is death or life in prison. Prosecutors decide whether or not to seek the death penalty in a capital murder trial. In capital cases in which the prosecutor does not seek the death penalty and the defendant is found guilty, the judge must sentence the defendant to life in prison. In capital trials in which the state seeks the death penalty, a separate sentencing procedure must be held following conviction to determine if the person will be sentenced to death or to life in prison. Persons sentenced to life in prison for capital murder are not eligible for parole until they have served 40 years of their sentence, without regard to any good conduct time.

DIGEST: SB 1791 would add to the list of capital murders in the Penal Code murder committed in retaliation for or on account of the victim's service or status as a state judge.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: In light of recent murders targeting judges across the country, additional protection is needed for judges. SB 1791 would provide that protection by making the retaliatory murder of a judge or ex-judge a capital crime. People who commit such heinous crimes deserve harsher punishment than do other murderers. In order to create the strongest deterrent against the murder of judges, the definition of capital murder explicitly should include the retaliatory murder of a judge.

OPPONENTS SAY: Arbitrarily singling out various classes of people for additional protection by increasing penalties for offenses against them is an indefensible policy. Murder should carry the same punishment regardless of the victim's job.

Expanding the list of capital murders only would exacerbate the many problems inherent in the death penalty. Until these numerous problems are resolved, Texas should institute a moratorium on the death penalty.

OTHER SB 1791 is unnecessary. Murder committed in the course of retaliation

OPPONENTS already is defined as capital murder.
SAY: