

## HOUSE BILL No. 2389

By Committee on Corrections and Juvenile Justice

2-9

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9 AN ACT concerning crimes, punishment and criminal procedure; relat-  
10 ing to aggravating circumstances involving heinous, atrocious or cruel  
11 behavior; amending K.S.A. 21-4625 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-4625 is hereby amended to read as follows: 21-  
15 4625. Aggravating circumstances shall be limited to the following:

16 ~~(1)~~ (a) The defendant was previously convicted of a felony in which  
17 the defendant inflicted great bodily harm, disfigurement, dismember-  
18 ment or death on another.

19 ~~(2)~~ (b) The defendant knowingly or purposely killed or created a great  
20 risk of death to more than one person.

21 ~~(3)~~ (c) The defendant committed the crime for the defendant's self  
22 or another for the purpose of receiving money or any other thing of  
23 monetary value.

24 ~~(4)~~ (d) The defendant authorized or employed another person to  
25 commit the crime.

26 ~~(5)~~ (e) The defendant committed the crime in order to avoid or pre-  
27 vent a lawful arrest or prosecution.

28 ~~(6)~~ (f) The defendant committed the crime in an especially heinous,  
29 atrocious or cruel manner. A *finding that the victim was aware of such*  
30 *victim's fate or had conscious pain and suffering as a result of the physical*  
31 *trauma that resulted in the victim's death is not necessary to find that the*  
32 *manner in which the defendant killed the victim was especially heinous,*  
33 *atrocious or cruel. In making a determination that the crime was com-*  
34 *mitted in an especially heinous, atrocious or cruel manner, any of the*  
35 *following conduct by the defendant may be considered sufficient:*

36 (1) *Prior stalking of or criminal threats to the victim;*

37 (2) *preparation or planning, indicating an intention that the killing*  
38 *was meant to be especially heinous, atrocious or cruel;*

39 (3) *infliction of mental anguish or physical abuse before the victim's*  
40 *death;*

41 (4) *torture of the victim;*

42 (5) *continuous acts of violence begun before or continuing after the*  
43 *killing;*

- 1     (6) *desecration of the victim's body in a manner indicating a partic-*
- 2 *ular depravity of mind, either during or following the killing; or*
- 3     (7) *any other conduct in the opinion of the court that is especially*
- 4 *heinous, atrocious or cruel.*
- 5     ~~(7)~~ (g) The defendant committed the crime while serving a sentence
- 6 of imprisonment on conviction of a felony.
- 7     ~~(8)~~ (h) The victim was killed while engaging in, or because of the
- 8 victim's performance or prospective performance of, the victim's duties
- 9 as a witness in a criminal proceeding.
- 10    Sec. 2. K.S.A. 21-4625 is hereby repealed.
- 11    Sec. 3. This act shall take effect and be in force from and after its
- 12 publication in the statute book.