

# House Joint Resolution 3

Sponsored by Representative MANNIX (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution establishing elements of and sentence for aggravated murder.

Refers proposed amendment to people for their approval or rejection at next regular general election.

## JOINT RESOLUTION

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

**PARAGRAPH 1.** Section 40, Article I of the Constitution of the State of Oregon, is amended to read:

**Sec. 40. (1)** Notwithstanding sections 15 and 16 of this Article, the penalty for aggravated murder as defined *[by law]* **in this section** shall be *[death upon unanimous affirmative jury findings as provided by law and otherwise shall be]* life imprisonment *[with minimum sentence as provided by law]* **without the possibility of parole as provided in this section.**

**(2) As used in this Article, "aggravated murder" means:**

**(a) Criminal homicide that is committed intentionally under, or accompanied by, any of the following circumstances:**

**(A) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.**

**(B) The defendant solicited another person to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.**

**(C) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of murder or manslaughter in the first degree.**

**(D) There was more than one murder victim in the same criminal episode.**

**(E) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.**

**(F) The victim of the intentional homicide was a person under 14 years of age.**

**(G) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:**

**(i) A police officer;**

**(ii) A correctional, parole or probation officer or other person charged with the duty of custody, control or supervision of convicted persons;**

**(iii) A member of the Oregon State Police;**

**(iv) A judicial officer;**

**(v) A juror or witness in a criminal proceeding;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (vi) An employee or officer of a court of justice;
- 2 (vii) A member of the State Board of Parole and Post-Prison Supervision; or
- 3 (viii) A regulatory specialist.

4 (H) The defendant was confined in a state, county or municipal penal or correctional fa-  
5 cility or was otherwise in custody when the murder occurred.

6 (I) The defendant committed murder by means of an explosive as defined by law.

7 (J) The murder was committed in an effort to conceal the commission of a crime, or to  
8 conceal the identity of the perpetrator of a crime.

9 (K) The murder was committed after the defendant had escaped from a state, county or  
10 municipal penal or correctional facility and before the defendant had been returned to the  
11 custody of the facility.

12 (b) Criminal homicide committed by the defendant personally and intentionally, acting  
13 either alone or with one or more persons, while committing or attempting to commit any  
14 of the following crimes and, in the course of and in furtherance of the crime the defendant  
15 is committing or attempting to commit, or during the immediate flight therefrom, the de-  
16 fendant causes the death of a person other than one of the participants:

17 (A) Arson in the first degree.

18 (B) Criminal mischief in the first degree by means of an explosive.

19 (C) Burglary in the first degree.

20 (D) Escape in the first degree.

21 (E) Kidnapping in the second degree.

22 (F) Kidnapping in the first degree.

23 (G) Robbery in the first degree.

24 (H) Any felony sexual offense in the first degree.

25 (I) Compelling prostitution.

26 (J) Assault in the first degree if the victim is under 14 years of age, or assault in the  
27 second degree committed intentionally or knowingly if the victim is under 14 years of age.

28 (3)(a) A person convicted of aggravated murder shall be sentenced to life imprisonment  
29 without the possibility of parole or release of any kind.

30 (b) Notwithstanding section 10 of this Article, a person convicted of aggravated murder  
31 does not have standing to bring any civil action other than an action in federal court alleging  
32 the violation of a right under the Constitution of the United States.

33 (c) A person serving a sentence for aggravated murder in a correctional facility shall  
34 receive only basic and emergency medical care, and may not receive extensive medical  
35 intervention.

36 (d) Notwithstanding section 11 of this Article, a person who has been convicted of ag-  
37 gravated murder who qualifies for appointed counsel on appeal may receive appointed counsel  
38 only for one appeal to the Court of Appeals, one appeal to the Supreme Court and one post-  
39 conviction relief proceeding and whenever required by the Constitution of the United States.

40 (4) Notwithstanding section 14, Article V of this Constitution, the granting by the Gov-  
41 ernor of a reprieve, commutation or pardon for a person convicted of aggravated murder  
42 does not take effect unless the reprieve, commutation or pardon is approved by a majority  
43 vote of the Senate.

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45 **PARAGRAPH 2.** The amendment proposed by this resolution shall be submitted to the

1 **people for their approval or rejection at the next regular general election held throughout**  
2 **this state.**

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