

ASSEMBLY BILL

No. 2340

Introduced by Assembly Member Rod Pacheco

February 21, 2002

An act to amend Section 190 of the Penal Code, relating to murder.

LEGISLATIVE COUNSEL'S DIGEST

AB 2340, as introduced, Rod Pacheco. Murder.

Existing law, as amended by initiative statute, establishes the offense of 2nd degree murder of a peace officer, as specified. Existing law provides one of the elements of that crime is the personal use of a firearm in violation of specified provisions of law. The initiative statute requires submission to the voters for amendment of its provisions.

This bill would include within that element of that crime, the personal use of a firearm in violation of an additional specified provision of law.

This bill would provide that its provisions amending would only become effective when submitted to, and approved by, the voters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 190 of the Penal Code is amended to
2 read:

3 190. (a) Every person guilty of murder in the first degree
4 shall be punished by death, imprisonment in the state prison for life
5 without the possibility of parole, or imprisonment in the state
6 prison for a term of 25 years to life. The penalty to be applied shall

1 be determined as provided in Sections 190.1, 190.2, 190.3, 190.4,
2 and 190.5.

3 Except as provided in subdivision (b), (c), or (d), every person
4 guilty of murder in the second degree shall be punished by
5 imprisonment in the state prison for a term of 15 years to life.

6 (b) Except as provided in subdivision (c), every person guilty
7 of murder in the second degree shall be punished by imprisonment
8 in the state prison for a term of 25 years to life if the victim was
9 a peace officer, as defined in subdivision (a) of Section 830.1,
10 subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of
11 Section 830.33, or Section 830.5, who was killed while engaged
12 in the performance of his or her duties, and the defendant knew, or
13 reasonably should have known, that the victim was a peace officer
14 engaged in the performance of his or her duties.

15 (c) Every person guilty of murder in the second degree shall be
16 punished by imprisonment in the state prison for a term of life
17 without the possibility of parole if the victim was a peace officer,
18 as defined in subdivision (a) of Section 830.1, subdivision (a), (b),
19 or (c) of Section 830.2, subdivision (a) of Section 830.33, or
20 Section 830.5, who was killed while engaged in the performance
21 of his or her duties, and the defendant knew, or reasonably should
22 have known, that the victim was a peace officer engaged in the
23 performance of his or her duties, and any of the following facts has
24 been charged and found true:

25 (1) The defendant specifically intended to kill the peace officer.

26 (2) The defendant specifically intended to inflict great bodily
27 injury, as defined in Section 12022.7, on a peace officer.

28 (3) The defendant personally used a dangerous or deadly
29 weapon in the commission of the offense, in violation of
30 subdivision (b) of Section 12022.

31 (4) The defendant personally used a firearm in the commission
32 of the offense, in violation of Section 12022.5 *or* 12022.53.

33 (d) Every person guilty of murder in the second degree shall be
34 punished by imprisonment in the state prison for a term of 20 years
35 to life if the killing was perpetrated by means of shooting a firearm
36 from a motor vehicle, intentionally at another person outside of the
37 vehicle with the intent to inflict great bodily injury.

38 (e) Article 2.5 (commencing with Section 2930) of Chapter 7
39 of Title 1 of Part 3 shall not apply to reduce any minimum term of
40 a sentence imposed pursuant to this section. A person sentenced



1 pursuant to this section shall not be released on parole prior to
2 serving the minimum term of confinement prescribed by this
3 section.

4 SEC. 2. This act affects an initiative statute and shall become
5 effective only when submitted to, and approved by, the voters
6 pursuant to subdivision (c) of Section 10 of Article II of the
7 California Constitution.

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