

2016 Regular Session

HOUSE BILL NO. 1012

BY REPRESENTATIVE SEABAUGH

CRIMINAL/PROCEDURE: Provides with respect to capital offenses

1 AN ACT

2 To enact Chapter 7 of Title XIII of the Code of Criminal Procedure, comprised of Articles
3 501 through 503, Code of Criminal Procedure Article 702.1, and R.S. 15:143(2.5),
4 relative to capital cases; to provide for the definition of a "capital case"; to provide
5 for procedures after indictment in capital cases; to provide with respect to notice to
6 seek the death penalty; to provide for exceptions; to provide with respect to pending
7 death penalty cases; to provide with respect to setting capital cases for trial; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 7 of Title XIII of the Code of Criminal Procedure, comprised of
11 Articles 501 through 503, and Code of Criminal Procedure Article 702.1 are hereby enacted
12 to read as follows:

13 CHAPTER 7. PROCEDURE AFTER INDICTMENT IN CAPITAL CASES

14 Art. 501. Notice of intent to seek the death penalty

15 A. A district attorney seeking the imposition of the death penalty in a first
16 degree murder case shall file a written notice of intent to seek the death penalty
17 within six months of the filing of an indictment for first degree murder. If an
18 indictment for a lesser offense is amended to include an indictment for first degree
19 murder, the date of the original indictment shall commence the running of the six-
20 month period, subject to the provisions of Article 503. If the district attorney fails

1 to file a timely notice of intent to seek the death penalty, the state cannot seek to
2 impose the death penalty for the indicted offense.

3 B. The notice of intent to seek the death penalty shall be served upon counsel
4 for the defendant, the trial judge presiding over the case, and the Louisiana Supreme
5 Court. The district attorney shall also serve the state public defender, although the
6 vacancy of that position shall not prohibit the notice from having full legal effect.

7 C. If the district attorney withdraws the notice of intent to seek the death
8 penalty, a new notice may not be filed unless the conditions of Article 503 are met.
9 Art. 502. Pending first degree murder cases

10 For any case indicted prior to August 1, 2016, the time period to file a notice
11 of intent to seek the death penalty shall commence on August 1, 2016.

12 Art. 503. Untimely notice of intent to seek the death penalty; exceptions for good
13 cause shown

14 A. If the district attorney files a notice of intent to seek the death penalty
15 after six months from the date of indictment, he must show cause at a contradictory
16 hearing as to why the deadline should be extended in the interests of justice.

17 B. The filing of a notice of intent to seek the death penalty shall not be
18 permitted after the deadline provided in this Chapter unless the trial judge finds by
19 clear and convincing evidence that new evidence or information has been discovered
20 after the deadline and this discovery occurred through no lack of due diligence on the
21 part of the district attorney. The types of new evidence that shall serve as good cause
22 for an otherwise untimely notice of intent to be filed shall include but are not limited
23 to any of the following:

24 (1) The death of an alleged victim when the defendant was previously
25 charged with a non-homicide offense against that person whose subsequent death
26 was the result of the defendant's alleged acts.

27 (2) The district attorney newly discovers evidence of the existence of an
28 aggravating circumstance that was previously unknown despite due diligence by the
29 district attorney and all investigative agencies involved in the case.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1012 Original

2016 Regular Session

Seabaugh

Abstract: Provides procedures for giving notice in certain cases that the district attorney seeks to impose the death penalty.

Proposed law defines a "capital case" as any case in which a sentence of death has been imposed or any case in which the district attorney has filed a notice of intent to seek the death penalty.

Proposed law provides that a district attorney seeking the imposition of the death penalty in a first degree murder case shall file a written notice of intent to seek the death penalty within six months of the filing of an indictment for first degree murder. If an indictment for a lesser offense is amended to an indictment for first degree murder, the date of the original indictment shall commence the running of the six-month period. If the district attorney fails to file a timely notice of intent to seek the death penalty, the state cannot seek to impose the death penalty for the indicted offense. Provides for exceptions upon a showing of good cause.

Proposed law provides that the district attorney may not set a capital case for trial for six months from the filing of a notice of intent to seek the death penalty unless either of the following occur:

- (1) The defendant has filed a motion for speedy trial either pro se or through counsel and does not abandon that motion.
- (2) The defendant consents thereto in writing.

Proposed law provides that if the district attorney files a notice of intent to seek the death penalty after six months from the date of indictment, he must show cause at a contradictory hearing as to why the deadline should be extended in the interests of justice.

(Adds C.Cr.P. Arts. 501-503 and 702.1 and R.S. 15:143(2.5))