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HOUSE AMENDMENT NO. _____

Offered by Colona of 80

Amend HCS/Senate Bill No. 100, Pages 28-30, Section 565.020, Line _____

2 by striking all of said section and inserting in lieu thereof the
3 following:

4 "565.020. 1. A person commits the [crime] offense of
5 murder in the first degree if he or she knowingly causes the
6 death of another person after deliberation upon the matter.

7 2. The offense of murder in the first degree is a class A
8 felony, and, if a person is eighteen years of age or older at the
9 time of the crime, the punishment shall be either death or
10 imprisonment for life without eligibility for probation or
11 parole, or release except by act of the governor; except that, if
12 a person has not reached his [sixteenth] or her eighteenth
13 birthday at the time of the commission of the crime, the
14 punishment shall be either imprisonment for life without
15 eligibility for probation or parole, or release except by act of
16 the governor, or imprisonment for life with eligibility for
17 parole.

18 565.033. 1. When a person is charged with first degree
19 murder who was less than eighteen years of age at the time of the
20 offense, the prosecuting or circuit attorney may file a notice of
21 his or her intent to seek a punishment of imprisonment for life

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1 without eligibility for parole. If the notice is filed, the
2 trial shall proceed in two stages before the same trier. At the
3 first stage the trier shall decide only whether the defendant is
4 guilty of any submitted offense. If the person is found guilty
5 of first degree murder, a second stage of the trial shall then
6 proceed at which the only issue shall be the punishment to be
7 assessed and declared. Evidence in aggravation and mitigation of
8 punishment, including but not limited to evidence supporting any
9 of the aggravating or mitigating circumstances listed in
10 subsection 2 or 3 of section 565.032, may be presented subject to
11 the rules of evidence at criminal trials. Rebuttal and
12 surrebuttal evidence may be presented. The state shall be the
13 first to proceed. If the trier is a jury, it shall be instructed
14 on the law. The attorneys may then argue the issue of punishment
15 to the jury, and the state shall have the right to open and close
16 the argument. The trier shall assess and declare the punishment
17 and, if the trier declares the punishment to be imprisonment for
18 life without parole, the trier shall set out in writing in its
19 findings or verdict the aggravating circumstances or mitigating
20 circumstances it considered and the reasons supporting the
21 sentence imposed.

22 2. If the prosecuting or circuit attorney does not seek a
23 punishment of imprisonment for life without eligibility for
24 parole, the submission to the trier and all subsequent
25 proceedings in the case shall proceed with a single stage trial
26 and, if the person is found guilty of first degree murder, the
27 punishment shall be imprisonment for life with eligibility for
28 parole. If the person is found guilty of a lesser homicide
29 offense, the procedure for the punishment phase shall be the same

1 as provided under subsection 3 of section 565.030.

2 3. The procedures provided under this section shall not
3 apply to any case that is final for purposes of appeal on or
4 before the effective date of this section. A case is final for
5 purposes of appeal when the time for filing an appeal in the
6 Missouri Court of Appeals has expired; if an appeal was filed in
7 the Missouri Court of Appeals, when the time for filing an
8 application for transfer in the Missouri Supreme Court has
9 expired; if an application was filed for transfer to the Missouri
10 Supreme Court, when the application for transfer was denied or
11 when a timely filed motion for rehearing was denied; or if the
12 Missouri Supreme Court granted transfer, when the Missouri
13 Supreme Court rendered its decision or when a timely-filed motion
14 for rehearing was denied.

15 4. Any person sentenced to imprisonment for life without
16 the eligibility for parole before the effective date of this
17 section for an offense committed when the person was less than
18 eighteen years of age may file a motion in the sentencing court
19 for a sentencing hearing within six months of the effective date
20 of this section. Such sentencing hearing shall be heard by the
21 judge. The sole purpose of the sentencing hearing shall be to
22 determine if the sentence of imprisonment for life without
23 eligibility for parole that was originally imposed shall remain
24 or be amended to imprisonment for life with eligibility for
25 parole."; and

26 Further amend said bill, page 37, section B, lines 3-7, by
27 striking all of said lines and inserting in lieu thereof the
28 following: "the quality representation of indigent criminal
29 defendants, the enactment of sections 537.865, 565.033, and

1 600.053 and the repeal and reenactment of section 565.020 of this
2 act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution,
5 and the enactment of sections 537.865, 565.033, and 600.053 and
6 the repeal and reenactment of section 565.020 of this act shall
7 be in full force and effect upon its passage and approval."; and

8 Further amend the title and enacting clause accordingly.

