

SECOND REGULAR SESSION

# HOUSE BILL NO. 1560

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COX.

5462H.011

D. ADAM CRUMBLISS, Chief Clerk

## AN ACT

To repeal section 565.020, RSMo, and to enact in lieu thereof two new sections relating to penalties for first degree murder, with an emergency clause and penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 565.020, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 565.020 and 565.033, to read as follows:

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

2. **The offense of** murder in the first degree is a class A felony, and , **if a person is eighteen years of age or older at the time of the commission of the offense**, the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor; [except that,] if a person has not reached his or her [sixteenth] **eighteenth** birthday at the time of the commission of the [crime] **offense**, the punishment shall be **either** imprisonment for life without eligibility for probation or parole, or release except by act of the governor **or imprisonment for life with eligibility for parole after such person has served fifty years in prison.**

565.033. 1. **When a person is charged with first degree murder who was under eighteen years of age at the time of the offense, the prosecuting or circuit attorney may file a notice of his or her intent to seek a punishment of imprisonment for life without eligibility for parole. If the notice is filed, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty of any submitted offense. If the person is found guilty of first degree murder, a second stage of the trial shall then proceed at which the only issue shall be the punishment to be assessed**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 and declared. Evidence in aggravation and mitigation of punishment, including but not  
9 limited to evidence supporting any of the aggravating or mitigating circumstances listed  
10 in subsection 2 or 3 of section 565.032 may be presented subject to the rules of evidence at  
11 criminal trials. Rebuttal and surrebuttal evidence may be presented. The state shall be  
12 the first to proceed. If the trier is a jury, it shall be instructed on the law. The attorneys  
13 may then argue the issue of punishment to the jury and the state shall have the right to  
14 open and close the argument. The trier shall assess and declare the punishment and, if the  
15 trier declares the punishment to be imprisonment for life without eligibility for parole, the  
16 trier shall set out in writing in its findings or verdict the aggravating circumstances or  
17 mitigating circumstances it considered and the reasons supporting the sentence imposed.

18 2. If the prosecuting or circuit attorney does not seek a punishment of  
19 imprisonment for life without eligibility for parole, the submission to the trier and all  
20 subsequent proceedings in the case shall proceed with a single stage trial and, if the person  
21 is found guilty of first degree murder, the punishment shall be imprisonment for life with  
22 eligibility for parole after the person has served fifty years in prison. If the person is found  
23 guilty of a lesser homicide offense, the procedure for the punishment phase shall be the  
24 same as provided under subsection 3 of section 565.030.

25 3. The procedures provided under this section shall not apply to any case that is  
26 final for purposes of appeal on or before the effective date of this section. A case is final  
27 for purposes of appeal:

28 (1) When the time for filing an appeal in the Missouri court of appeals has expired;

29 (2) If an appeal was filed in the Missouri court of appeals, when the time for filing  
30 an application for transfer in the Missouri supreme court has expired;

31 (3) If an application was filed for transfer to the Missouri supreme court, when the  
32 application for transfer was denied or when a timely filed motion for rehearing was  
33 denied; or

34 (4) If the Missouri supreme court granted transfer, when the Missouri supreme  
35 court rendered its decision or when a timely filed motion for rehearing was denied.

36 4. Any person sentenced to imprisonment for life without the eligibility for parole  
37 before the effective date of this section for an offense committed when the person was  
38 under eighteen years of age may file a motion in the sentencing court for a sentencing  
39 hearing within six months of the effective date of this section. Such sentencing hearing  
40 shall be heard by the judge. The sole purpose of the sentencing hearing shall be to  
41 determine if the sentence of imprisonment for life without eligibility for parole that was  
42 originally imposed shall remain or be amended to imprisonment for life with eligibility for  
43 parole after the person has served fifty years in prison.

Section B. Because of the need to adopt a punishment scheme for first degree murderers  
2 of a certain age after the United States Supreme Court declared as unconstitutional the only  
3 punishment available under Missouri law for such offenders, section A of this act is deemed  
4 necessary for the immediate preservation of the public health, welfare, peace and safety, and is  
5 hereby declared to be an emergency act within the meaning of the constitution, and section A of  
6 this act shall be in full force and effect upon its passage and approval.

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