

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute #2 for Senate Committee Substitute for
2 Senate Bill No. 590, Page 5, Section 565.033, Line 6, by deleting the word "fifty" and inserting in
3 lieu thereof the word "thirty-five"; and
4

5 Further amend said bill, page and section, Line 10, by deleting the word "thirty-five" and inserting
6 in lieu thereof the word "twenty-five"; and
7

8 Further amend said bill and section, Page 6, Line 18, by deleting the word "fifty" and inserting in
9 lieu thereof the word "thirty-five"; and
10

11 Further amend said bill, section and page, Line 23, by deleting the word "thirty-five" and inserting
12 in lieu thereof the word "twenty-five"; and
13

14 Further amend said bill, page and section, Line 23, by inserting after all of said section and line the
15 following:
16

17 "565.034. 1. If the state intends to seek a sentence of life without eligibility for probation or
18 parole for a person charged with murder in the first degree who was under the age of eighteen at the
19 time of the commission of the offense, the state must file with the court and serve upon the person a
20 written notice of intent to seek life without eligibility for probation or parole. This notice shall be
21 provided within one hundred twenty (120) days of the person's arraignment upon an indictment or
22 information charging the person with murder in the first degree. For good cause shown, the court
23 may extend the period for service and filing of the notice. Any notice of intent to seek life without
24 eligibility for probation or parole shall include a listing of the statutory aggravating circumstances,
25 as provided by subsection 6, upon which the state will rely in seeking that sentence.
26

27 2. Notwithstanding any other provisions of law, where the state files a notice of intent to
28 seek life without eligibility for probation or parole pursuant to this section, the defendant shall be
29 entitled to an additional sixty (60) days for the purpose of filing new motions or supplementing
30 pending motions.

31 3. A notice of intent to seek life without eligibility for probation or parole pursuant to this
32 section may be withdrawn at any time by a written notice of withdrawal filed with the court and
33 served upon the defendant. Once withdrawn, the notice of intent to seek life without eligibility for
34 probation or parole shall not be refiled.

35 4. After the state has filed a proper notice of intent to seek life without eligibility for
36 probation or parole pursuant to this section, the trial shall proceed in two stages before the same
trier. At the first stage the trier shall decide only whether the person is guilty or not guilty of any

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

submitted offense. The issue of punishment shall not be submitted to the trier at the first stage.

5. If the trier at the first stage of the trial finds the person guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared.

6. A person found guilty of murder in the first degree who was under the age of eighteen at the time of the commission of the offense is only eligible for a sentence of life without eligibility for probation or parole if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that:

(1) The victim received physical injuries personally inflicted by the defendant and the physical injuries inflicted by the defendant caused the death of the victim; and

(2) The person was found guilty of a murder in the first degree and one of the following aggravating factors was present:

(a) The person has a previous adult conviction for murder in the first degree, rape in the first degree, forcible rape, sodomy in the first degree, or forcible sodomy;

(b) The murder was committed as an act of terrorism, meaning committed for the purpose of, or in a manner of, intimidating or coercing a civilian population, influencing the policy of a government by intimidation or coercion, or affecting the conduct of a government;

(c) The person was found guilty of three or more counts of first degree murder arising out of the same incident; or

(d) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or depravity of mind.

7. If one of the above aggravating factors is proven beyond a reasonable doubt the jury, or a judge in a jury-waived proceeding, may consider a sentence of life without eligibility for probation or parole. A person who was under the age of eighteen at the time of the commission of the offense shall only be sentenced to life without eligibility for probation or parole if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that the individual cannot be rehabilitated and is permanently incorrigible, as specified in *Montgomery v. Louisiana*, 577 U.S. ____ (2016)."; and

Further amend said bill and page, Section C, Line 4, by deleting the phrase "section 565.033" in inserting in lieu there of the phrase "sections 565.033 and 565.034"; and

Further amend said bill and section, Page 7, Line 7, by deleting the phrase "section 565.033" in inserting in lieu there of the phrase "sections 565.033 and 565.034"; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.