

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute #2 for Senate Committee Substitute for Senate
2 Bill No. 590, Page 1, Section A, Line 3, by inserting after all of said section and line the following:

3
4 "558.047. 1. (1) Any person sentenced to a term of imprisonment for life without eligibility for
5 parole before August 28, 2016, who was under eighteen years of age at the time of the commission of the
6 offense or offenses, may submit to the parole board a petition for a review of his or her sentence, regardless
7 of whether the case is final for purposes of appeal, after serving twenty-five years of incarceration on the
8 sentence of life without parole.

9 (2) Any person found guilty of murder in the first degree who was sentenced on or after August 28,
10 2016, to a term of life imprisonment with eligibility for parole or a term of imprisonment of not less than
11 thirty years and not to exceed forty years, who was under eighteen years of age at the time of the commission
12 of the offense or offenses may submit to the parole board a petition for a review of his or her sentence,
13 regardless of whether the case is final for purposes of appeal, after serving twenty-five years of incarceration,
14 and a subsequent petition after serving thirty-five years of incarceration.

15 2. A copy of the petition shall be served on the office of the prosecutor in the judicial circuit of
16 original jurisdiction. The petition shall include the person's statement that he or she was under eighteen years
17 of age at the time of the offense, is eligible to petition under this section, and requests that his or her sentence
18 be reviewed.

19 3. If any of the information required in subsection 2 of this section is missing from the petition, or if
20 proof of service on the prosecuting or circuit attorney is not provided, the parole board shall return the
21 petition to the person and advise him or her that the matter cannot be considered without the missing
22 information.

23 4. The parole board shall hold a hearing and determine if the defendant shall be granted parole. At
24 such a hearing, the victim or victim's family members shall retain their rights under section 595.209.

25 5. In a parole review hearing under this section, the board shall consider, in addition to the factors
26 listed in section 565.033:

27 (1) Efforts made toward rehabilitation since the offense or offenses occurred, including participation
28 in educational, vocational, or other programs during incarceration, when available;

29 (2) The subsequent growth and increased maturity of the person since the offense or offenses
30 occurred;

31 (3) Evidence that the person has accepted accountability for the offense or offenses, except in cases
32 where the person has maintained his or her innocence;

33 (4) The person's institutional record during incarceration; and

34 (5) Whether the person remains the same risk to society as he or she did at the time of the
35 initial sentencing."; and

36
37 Further amend said bill, Pages 5-6, Section 565.033, Lines 1-23, by deleting all of said section and lines and
38 inserting in lieu thereof the following:
39

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 "565.033. 1. A person found guilty of murder in the first degree who was under the age of eighteen
 2 at the time of the commission of the offense shall be sentenced to a term of life without eligibility for
 3 probation or parole as provided in section 565.034, life imprisonment with eligibility for parole, or not less
 4 than thirty years and not to exceed forty years imprisonment.

5 2. When assessing punishment in all first degree murder cases in which the defendant was under the
 6 age of eighteen at the time of the commission of the offense or offenses, the judge in a jury-waived trial shall
 7 consider, or the judge shall include in instructions to the jury for it to consider, the following factors:

- 8 (1) The nature and circumstances of the offense committed by the defendant;
- 9 (2) The degree of the defendant's culpability in light of his or her age and role in the offense;
- 10 (3) The defendant's age, maturity, intellectual capacity, and mental and emotional health and
 11 development at the time of the offense;
- 12 (4) The defendant's background, including his or her family, home, and community environment;
- 13 (5) The likelihood for rehabilitation of the defendant;
- 14 (6) The extent of the defendant's participation in the offense;
- 15 (7) The effect of familial pressure or peer pressure on the defendant's actions;
- 16 (8) The nature and extent of the defendant's prior criminal history, including whether the offense was
 17 committed by a person with a prior record of conviction for murder in the first degree, or one or more serious
 18 assaultive criminal convictions;
- 19 (9) The effect of characteristics attributable to the defendant's youth on the defendant's judgment; and
- 20 (10) A statement by the victim or the victim's family member as provided by section 557.041 until
 21 December 31, 2016, and beginning January 1, 2017, section 595.229.

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

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

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

38 4. After the state has filed a proper notice of intent to seek life without eligibility for probation or
 39 parole pursuant to this section, the trial shall proceed in two stages before the same trier. At the first stage the
 40 trier shall decide only whether the person is guilty or not guilty of any submitted offense. The issue of
 41 punishment shall not be submitted to the trier at the first stage.

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

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

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

50 (2) The defendant was found guilty of first degree murder and one of the following aggravating
 51 factors was present:

52 (a) The defendant has a previous conviction for first degree murder, assault in the first degree, rape in
 53 the first degree, or sodomy in the first degree;

1 (b) The murder was committed during the perpetration of any other first degree murder, assault in
2 the first degree, rape in the first degree, or sodomy in the first degree;

3 (c) The murder was committed as part of an agreement with a third party that the defendant was to
4 receive money or any other thing of monetary value in exchange for the commission of the offense;

5 (d) The defendant inflicted severe pain on the victim for the pleasure of the defendant or for the
6 purpose of inflicting torture;

7 (e) The defendant killed the victim after he or she was bound or otherwise rendered helpless by the
8 defendant or another person;

9 (f) The defendant, while killing the victim or immediately thereafter, purposely mutilated or grossly
10 disfigured the body of the victim by an act or acts beyond that necessary to cause his or her death;

11 (g) The defendant, while killing the victim or immediately thereafter, had sexual intercourse with the
12 victim or sexually violated him or her;

13 (h) The defendant killed the victim for the purposes of causing suffering to a third person; or

14 (i) The first degree murder was committed against a current or former: judicial officer, prosecuting
15 attorney or assistant prosecuting attorney, law enforcement officer, firefighter, state or local corrections
16 officer; or against a witness or potential witness to a past or pending investigation or prosecution, during or
17 because of the exercise of their official duty or status as a witness."; and

18
19 Further amend said bill, Page 6, Section C, Line 4, by deleting the phrase "section 565.033" and inserting in
20 lieu thereof the following:

21
22 "sections 558.047, 565.033, and 565.034"; and

23
24 Further amend said bill and section, Page 7, Line 7, by deleting the phrase "section 565.033" and inserting in
25 lieu thereof the following:

26
27 "sections 558.047, 565.033, and 565.034"; and

28
29 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.