

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 1995, Page 13, Section 558.047, Line 5,
2 by inserting after the word "appeal." the following:

3
4 "Any person sentenced on or after August 28, 2016, who was under eighteen years of age at the
5 time of the commission of the offense or offenses may submit to the sentencing court of original
6 jurisdiction a petition for a review of his or her sentence, regardless of whether the case is final for
7 purposes of appeal, after serving 20 years of incarceration, and a subsequent petition after serving
8 30 years of incarceration."; and

9
10 Further amend said bill, section and page, Line 22, by inserting after all of said line the following:

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12 "6. In a resentencing hearing under this section, the judge or jury shall consider, in addition
13 to the factors listed in section 565.033:

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

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

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

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

21 (5) Whether the person remains the same risk to society as he or she did at the time of the
22 initial sentencing; and

23 (6) Other relevant factors not inconsistent with Miller v. Alabama, 132 S.Ct. 2455 (U.S.
24 2012) and Montgomery v. Louisiana, 577 U.S. ____ (2016)."; and

25
26 Further amend said bill, Page 17, Section 565.033, Line 3, by deleting the word "or" on said line;
27 and

28
29 Further amend said bill, section and page, Line 4, by inserting immediately after the word "parole"
30 on said line the following:

31
32 ",or life without eligibility for probation or parole as provided in section 565.034"; and

33
34 Further amend said bill and section, Page 18, Lines 25-27, by deleting all of said lines and inserting
35 in lieu thereof the following:

36 "(11) Other relevant factors not inconsistent with Miller v. Alabama, 132 S.Ct. 2455 (U.S.

Standing Action Taken _____ Date _____

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1 2012) and Montgomery v. Louisiana, 577 U.S. ____ (2016).

2 565.034. 1. If the state intends to seek a sentence of life without eligibility for probation or
3 parole for a person charged with murder in the first degree who was under the age of eighteen at the
4 time of the commission of the offense, the state must file with the court and serve upon the person a
5 written notice of intent to seek life without eligibility for probation or parole. This notice shall be
6 provided within one hundred twenty (120) days of the person's arraignment upon an indictment or
7 information charging the person with murder in the first degree. For good cause shown, the court
8 may extend the period for service and filing of the notice. Any notice of intent to seek life without
9 eligibility for probation or parole shall include a listing of the statutory aggravating circumstances,
10 as provided by subsection 6, upon which the state will rely in seeking that sentence.

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

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

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

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

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

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

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

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

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

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

41 7. If one of the above aggravating factors is proven beyond a reasonable doubt the jury, or a
42 judge in a jury-waived proceeding, may consider a sentence of life without eligibility for probation
43 or parole. A person who was under the age of eighteen at the time of the commission of the offense
44 shall only be sentenced to life without eligibility for probation or parole if a unanimous jury, or a
45 judge in a jury-waived sentencing, finds beyond a reasonable doubt that the individual cannot be
46 rehabilitated and is permanently incorrigible, as specified in Montgomery v. Louisiana, 577 U.S.
47 ____ (2016)."; and
48

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