

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Bill No. 2084, Page 11, Section 565.030, Line 2, by inserting immediately after the  
2 word "penalty" on said line the following:

3  
4 ", or where the state waives imprisonment for life without eligibility for probation or parole with  
5 respect to a defendant who has not reached his or her eighteenth birthday at the time of the  
6 commission of the crime"; and

7  
8 Further amend said bill, section and page, Line 6, by inserting immediately after the word "penalty"  
9 on said line the following:

10  
11 ", or without a waiver of imprisonment for life without eligibility for probation or parole with  
12 respect to a defendant who has not reached his or her eighteenth birthday at the time of the  
13 commission of the crime"; and

14  
15 Further amend said bill, section and page, Line 13, by inserting immediately after the word  
16 "penalty" on said line the following:

17  
18 "or imprisonment for life without eligibility for probation or parole with respect to a defendant who  
19 has not reached his or her eighteenth birthday at the time of the commission of the crime"; and

20  
21 Further amend said bill, section and page, Lines 19-21, by deleting all of said lines and inserting in  
22 lieu thereof the following:

23  
24 "4. [If the trier at the first stage of a trial where] In a trial in which the death penalty or  
25 imprisonment for life without eligibility for probation or parole with respect to a defendant who has  
26 not reached his or her eighteenth birthday at the time of the commission of the crime was not  
27 waived, if the trier at the first stage of trial finds the defendant guilty of murder in the first degree, a  
28 second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed  
29 and declared. Evidence in aggravation and"; and

30  
31 Further amend said bill, section and page, Line 23, by inserting after the number "565.032" on said  
32 line the following:

33  
34 "or 565.033"; and

35  
36 Further amend said bill and section, Page 12, Line 29, by deleting all of said line and inserting in  
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1 lieu thereof the following:

2  
3 "the right to open and close the argument. If the death penalty has not been waived, [The] the trier  
4 shall assess and declare the punishment at life"; and

5  
6 Further amend said bill, section and page, line 30, by inserting immediately after the word  
7 "governor" on said line the following:

8  
9 "; and if imprisonment for life without eligibility for probation or parole with respect to a defendant  
10 who has not reached his or her eighteenth birthday at the time of the commission of the crime has  
11 not been waived, the trier shall assess and declare the punishment at life imprisonment with  
12 eligibility for probation or parole"; and

13  
14 Further amend said bill, section, and page, Line 34, by inserting after the number "565.032" on said  
15 line the following:

16  
17 "or subsection 2 of section 565.033"; and

18  
19 Further amend said bill, section and page, Line 37, by inserting after the number "565.032" on said  
20 line the following:

21  
22 "or subsection 3 of section 565.033"; and

23  
24 Further amend said bill, section and page, Line 40, by inserting immediately after the word "death"  
25 on said line the following:

26  
27 "or imprisonment for life without eligibility for probation or parole with respect to a defendant who  
28 has not reached his or her eighteenth birthday at the time of the commission of the crime"; and

29  
30 Further amend said bill, section and page, Line 42, by inserting immediately after the word "death"  
31 on said line the following:

32  
33 "or imprisonment for life without eligibility for probation or parole with respect to a defendant who  
34 has not reached his or her eighteenth birthday at the time of the commission of the crime"; and

35  
36 Further amend said bill, section and page, Line 44, by inserting after the number "565.032" on said  
37 line the following:

38  
39 "or subsection 2 of section 565.033"; and

40  
41 Further amend said bill, section and page, Line 47, by deleting all of said line and inserting in lieu  
42 thereof the following:

43  
44 "parole, or release except by act of the governor [or], death, or imprisonment for life with eligibility  
45 for probation or parole with respect to a defendant who has not reached his or her eighteenth  
46 birthday at the time of the commission of the crime. The court shall follow the same"; and

47  
48 Further amend said bill, Page 15, Section 565.033, Lines 23-25, by deleting all of said lines and

1 inserting in lieu thereof the following:

2  
3 "4. A case is final for purposes of appeal:"; and

4  
5 Further amend said bill and section, Page 15-16, Lines 34-41, by deleting all of said lines and  
6 inserting in lieu thereof the following:

7  
8 "5. A person who was found guilty of murder in the first degree before the effective date of  
9 this section, who was under the age of eighteen at the time of the commission of the offense, who  
10 was sentenced to and is serving a sentence of life without eligibility for probation, parole, or release  
11 except by act of the governor, and whose case is final for purposes of appeal, shall be eligible for  
12 parole as follows:

13 (1) A person who at the time of the commission of the offense was sixteen years of age or  
14 older shall be eligible for parole after he or she has served at least forty years of his or her prison  
15 sentence; and

16 (2) A person who at the time of the commission of the offense was under sixteen years of  
17 age shall be eligible for parole after he or she has served at least thirty years of his or her prison  
18 sentence."; and

19  
20  
21 Further amend said bill, Page 16, Section 565.040, Line 15, by inserting after all of said section and  
22 line the following:

23  
24 "565.034. 1. In all cases of murder in the first degree in which the defendant is a person who  
25 has not reached his or her eighteenth birthday at the time of the commission of the crime, when life  
26 imprisonment without eligibility for probation, parole, or release except by act of the governor is  
27 authorized, the judge in a jury-waived trial shall consider, or he or she shall include in the  
28 instructions to the jury for the jury to consider:

29 (1) Whether a statutory aggravating circumstance or circumstances enumerated in subsection  
30 2 of this section is established by the evidence beyond a reasonable doubt; and

31 (2) If a statutory aggravating circumstance or circumstances is proven beyond a reasonable  
32 doubt, whether the evidence as a whole justifies a sentence of life imprisonment without eligibility  
33 for probation, parole, or release except by act of the governor or a sentence of life with the  
34 eligibility for parole.

35  
36 In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall  
37 consider all evidence which it finds to be in aggravation or mitigation of punishment, including  
38 evidence received during the first stage of the trial and evidence supporting any of the statutory  
39 aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a  
40 jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation  
41 of punishment, but shall be instructed that each juror shall consider any evidence which he or she  
42 considers to be aggravating or mitigating.

43 2. Statutory aggravating circumstances for a murder in the first degree offense shall be  
44 limited to the following:

45 (1) The offense was committed by a person with a prior record of conviction for murder in  
46 the first degree, or the offense was committed by a person who has one or more serious assaultive  
47 criminal convictions;

48 (2) The murder in the first degree offense was committed while the offender was engaged in

1 the commission or attempted commission of another unlawful homicide;

2 (3) The offender by his or her act of murder in the first degree knowingly created a great risk  
3 of death to more than one person by means of a weapon or device which would normally be  
4 hazardous to the lives of more than one person;

5 (4) The offender committed the offense of murder in the first degree for himself or herself or  
6 another, for the purpose of receiving money or any other thing of monetary value from the victim of  
7 the murder or another;

8 (5) The murder in the first degree was committed against a judicial officer, former judicial  
9 officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit  
10 attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant circuit  
11 attorney or former assistant circuit attorney, peace officer or former peace officer, elected official or  
12 former elected official during or because of the exercise of his or her official duty;

13 (6) The offender caused or directed another to commit murder in the first degree or  
14 committed murder in the first degree as an agent or employee of another person;

15 (7) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in  
16 that it involved torture, or depravity of mind;

17 (8) The murder in the first degree was committed against any peace officer, or fireman while  
18 engaged in the performance of his or her official duty;

19 (9) The murder in the first degree was committed by a person in, or who has escaped from,  
20 the lawful custody of a peace officer or place of lawful confinement;

21 (10) The murder in the first degree was committed for the purpose of avoiding, interfering  
22 with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself or herself  
23 or another;

24 (11) The murder in the first degree was committed while the defendant was engaged in the  
25 perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a  
26 felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony offense in  
27 chapter 195 or chapter 579;

28 (12) The murdered individual was a witness or potential witness in any past or pending  
29 investigation or past or pending prosecution, and was killed as a result of his or her status as a  
30 witness or potential witness;

31 (13) The murdered individual was an employee of an institution or facility of the department  
32 of corrections of this state or local correction agency and was killed in the course of performing his  
33 or her official duties, or the murdered individual was an inmate of such institution or facility;

34 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,  
35 ship, bus or other public conveyance;

36 (15) The murder was committed for the purpose of concealing or attempting to conceal any  
37 felony offense defined in chapter 195 or chapter 579;

38 (16) The murder was committed for the purpose of causing or attempting to cause a person  
39 to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter 195 or  
40 chapter 579;

41 (17) The murder was committed during the commission of a crime which is part of a pattern  
42 of criminal street gang activity as defined in section 578.421.

43 3. Statutory mitigating circumstances shall include the following:

44 (1) The defendant has no significant history of prior criminal activity;

45 (2) The murder in the first degree was committed while the defendant was under the  
46 influence of extreme mental or emotional disturbance;

47 (3) The victim was a participant in the defendant's conduct or consented to the act;

48 (4) The defendant was an accomplice in the murder in the first degree committed by another

1 person and his or her participation was relatively minor;

2 (5) The defendant acted under extreme duress or under the substantial domination of another  
3 person;

4 (6) The capacity of the defendant to appreciate the criminality of his or her conduct or to  
5 conform his or her conduct to the requirements of law was substantially impaired;

6 (7) The age of the defendant at the time of the crime."; and  
7  
8

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