

HB 2084 with HCA 1 -- FIRST DEGREE MURDER

SPONSOR: Corlew

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Civil and Criminal Proceedings by a vote of 7 to 1.

Currently, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. This act repeals the mandatory life sentence found to be unconstitutional in the United States Supreme Court case *Miller v. Alabama*. Under these provisions, a person 16 years of age or older at the time of the crime may be sentenced to either life imprisonment without parole or imprisonment for at least 40 years. A person who was under the age of 16 may be sentenced to imprisonment for at least 30 years or life without parole. Any person who was sentenced to life imprisonment without parole for a crime committed before the person turned 18 whose case is not final for purposes of appeal may, within six months of the effective date of the act, file a motion with the sentencing court for a review of the person's sentence. This act specifies that the new procedures for juvenile first degree murderers do not apply to cases that are final for purposes of appeal.

The offense of murder in the first degree was added to the definition of "dangerous felony."

This act contains an emergency clause for the provisions regarding the penalty for first degree murder.

HCA #1: The amendment addresses the *Montgomery v. Louisiana*, 577 U.S. (2016) decision by retroactively applying *Miller v. Alabama* through the use of a parole hearing. The factfinder must consider specified mitigating and aggravating circumstances in assessing the appropriate sentence.

This bill is similar to SB 590 (2016).

PROPOSERS: Supporters say that this bill addresses sentencing issues for juveniles guilty of first degree murder. This bill would still permit life without parole (LWOP) as a sentencing option for juveniles, but it would also give the option of a mandatory minimum of imprisonment of 30 years if the offender is under the age of 16 at the time of the commission of the crime, or 40 years if the offender is age 16 or 17 at the time of the commission of the crime. We should not take the LWOP sentence off the table, we should continue to allow the jury to issue this sentence for those heinous crimes where such a sentence for a

juvenile would be appropriate. A state may remedy a Miller v. Alabama, 567 U.S. (2012) violation by allowing a juvenile currently sentenced to LWOP to be eligible for parole as opposed to being resentenced. Prosecutors are in favor of this bill because it leaves the LWOP option in tact.

Testifying for the bill were Representative Corlew; Kevin Hillman, Missouri Association Of Prosecuting Attorneys; and Nancy Whitmarsh.

OPPONENTS: Those who oppose the bill say that the mandatory minimums of 30 or 40 years may end up being a de facto life sentence, and preserving the LWOP provision as an option for sentencing minors causes concern. A 40 year mandatory minimum is a life sentence, especially for a juvenile

Testifying against the bill were Campaign For The Fair Sentencing Of Youth; Anthony Williams; Missouri Catholic Conference; Mid-Missouri Fellowship Of Reconciliation; Billy Harris; Rachel Greathouse, Empower Missouri; and Rev. Dr. Cassandra Gould, Missouri Faith Voices.