

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

**Offered By**

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1 AMEND House Committee Substitute for House Bill Nos. 2747 & 2047, Page 1, Section  
2 476.411, Line 15, by inserting after said section and line the following:

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

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

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

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

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

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

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

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

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

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

6 (5) Whether the person remains the same risk to society as he or she did at the time of  
7 the initial sentencing.

8 565.020. 1. A person commits the offense of murder in the first degree if he or she  
9 knowingly causes the death of another person after deliberation upon the matter.

10 2. The offense of murder in the first degree is a class A felony, and, if a person is  
11 ~~[eighteen]~~ nineteen years of age or older at the time of the offense, the punishment shall be either  
12 death or imprisonment for life without eligibility for probation or parole, or release except by act  
13 of the governor. If a person has not reached his or her ~~[eighteenth]~~ nineteenth birthday at the  
14 time of the commission of the offense, the punishment shall be as provided under section  
15 565.033."; and

16  
17 Further amend said bill, Page 3, Section 565.030, Line 64, by inserting after said section and line  
18 the following:

19  
20 "565.033. 1. A person found guilty of murder in the first degree who was under the age  
21 of ~~[eighteen]~~ nineteen at the time of the commission of the offense shall be sentenced to a term  
22 of ~~[life without eligibility for probation or parole as provided in section 565.034,]~~ life  
23 imprisonment with eligibility for parole~~]~~ or not less than thirty years and not to exceed forty  
24 years imprisonment.

25 2. When assessing punishment in all first degree murder cases in which the defendant  
26 was under the age of ~~[eighteen]~~ nineteen at the time of the commission of the offense or  
27 offenses, the judge in a jury-waived trial shall consider, or the judge shall include in instructions  
28 to the jury for it to consider, the following factors:

29 (1) The nature and circumstances of the offense committed by the defendant;

30 (2) The degree of the defendant's culpability in light of his or her age and role in the  
31 offense;

32 (3) The defendant's age, maturity, intellectual capacity, and mental and emotional health  
33 and development at the time of the offense;

34 (4) The defendant's background, including his or her family, home, and community  
35 environment;

36 (5) The likelihood for rehabilitation of the defendant;

37 (6) The extent of the defendant's participation in the offense;

38 (7) The effect of familial pressure or peer pressure on the defendant's actions;

1 (8) The nature and extent of the defendant's prior criminal history, including whether the  
2 offense was committed by a person with a prior record of conviction for murder in the first  
3 degree, or one or more serious assaultive criminal convictions;

4 (9) The effect of characteristics attributable to the defendant's youth on the defendant's  
5 judgment; and

6 (10) A statement by the victim or the victim's family member as provided by section  
7 557.041 until December 31, 2016, and beginning January 1, 2017, section 595.229.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26  
27 Further amend said bill by amending the title, enacting clause, and intersectional references  
28 accordingly.