

House _____ Amendment NO. _____

Offered By

AMEND House Committee Substitute for House Bill Nos. 2637 & 3155, Page 24, Section 558.046, Line 14, by inserting after said line and section the following:

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

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

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

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

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

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

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

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

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

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

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

Further amend said bill, Page 26, Section 559.115, Line 74, by inserting after said line and section the following:

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

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

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

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

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

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

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

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

(5) The likelihood for rehabilitation of the defendant;

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

(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.