

SECOND REGULAR SESSION

HOUSE BILL NO. 1620

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SASSMANN.

4257H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 558.047, 565.020, 565.033, and 565.034, RSMo, and to enact in lieu thereof four new sections relating to the sentencing of persons under nineteen years of age, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 558.047, 565.020, 565.033, and 565.034, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 558.047, 565.020,
3 565.033, and 565.034, to read as follows:

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

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

14 2. A copy of the petition shall be served on the office of the prosecutor in the judicial
15 circuit of original jurisdiction. The petition shall include the person's statement that he or she

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 was under ~~[eighteen]~~ **nineteen** years of age at the time of the offense, is eligible to petition
17 under this section, and requests that his or her sentence be reviewed.

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

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

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

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

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

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

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

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

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

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

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

6 2. When assessing punishment in all first degree murder cases in which the defendant
7 was under the age of ~~[eighteen]~~ **nineteen** at the time of the commission of the offense or

8 offenses, the judge in a jury-waived trial shall consider, or the judge shall include in
9 instructions to the jury for it to consider, the following factors:

- 10 (1) The nature and circumstances of the offense committed by the defendant;
- 11 (2) The degree of the defendant's culpability in light of his or her age and role in the
12 offense;
- 13 (3) The defendant's age, maturity, intellectual capacity, and mental and emotional
14 health and development at the time of the offense;
- 15 (4) The defendant's background, including his or her family, home, and community
16 environment;
- 17 (5) The likelihood for rehabilitation of the defendant;
- 18 (6) The extent of the defendant's participation in the offense;
- 19 (7) The effect of familial pressure or peer pressure on the defendant's actions;
- 20 (8) The nature and extent of the defendant's prior criminal history, including whether
21 the offense was committed by a person with a prior record of conviction for murder in the first
22 degree, or one or more serious assaultive criminal convictions;
- 23 (9) The effect of characteristics attributable to the defendant's youth on the
24 defendant's judgment; and
- 25 (10) A statement by the victim or the victim's family member as provided by section
26 557.041 until December 31, 2016, and beginning January 1, 2017, section 595.229.

565.034. 1. If the state intends to seek a sentence of life without eligibility for
2 probation or parole for a person charged with murder in the first degree who was under the
3 age of ~~[eighteen]~~ **nineteen** at the time of the commission of the offense, the state must file
4 with the court and serve upon the person a written notice of intent to seek life without
5 eligibility for probation or parole. This notice shall be provided within one hundred twenty
6 days of the person's arraignment upon an indictment or information charging the person with
7 murder in the first degree. For good cause shown, the court may extend the period for service
8 and filing of the notice. Any notice of intent to seek life without eligibility for probation or
9 parole shall include a listing of the statutory aggravating circumstances, as provided by
10 subsection 6 of this section, 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
12 to seek life without eligibility for probation or parole pursuant to this section, the defendant
13 shall be entitled to an additional sixty days for the purpose of filing new motions or
14 supplementing pending motions.

15 3. A notice of intent to seek life without eligibility for probation or parole pursuant to
16 this section may be withdrawn at any time by a written notice of withdrawal filed with the
17 court and served upon the defendant. Once withdrawn, the notice of intent to seek life
18 without eligibility for 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
21 same trier. At the first stage the trier shall decide only whether the person is guilty or not
22 guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at
23 the first stage.

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

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

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

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

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

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

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

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

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

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

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

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

53 (i) The first degree murder was committed against a current or former: judicial
54 officer, prosecuting attorney or assistant prosecuting attorney, law enforcement officer,
55 firefighter, state or local corrections officer; or against a witness or potential witness to a past

56 or pending investigation or prosecution, during or because of the exercise of their official duty
57 or status as a witness.

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