

SB 6052 - S AMD 615
By Senator O'Ban

RULED BEYOND SCOPE 02/14/2018

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 10.95.040 and 1981 c 138 s 4 are each amended to
4 read as follows:

5 (1) If a person is charged with aggravated first degree murder as
6 defined by RCW 10.95.020 and the victim was a law enforcement officer
7 as provided in RCW 10.95.020(1), the prosecuting attorney shall file
8 written notice of a special sentencing proceeding to determine
9 whether or not the death penalty should be imposed when there is
10 reason to believe that there are not sufficient mitigating
11 circumstances to merit leniency.

12 (2) The notice of special sentencing proceeding shall be filed
13 and served on the defendant or the defendant's attorney within thirty
14 days after the defendant's arraignment upon the charge of aggravated
15 first degree murder unless the court, for good cause shown, extends
16 or reopens the period for filing and service of the notice. Except
17 with the consent of the prosecuting attorney, during the period in
18 which the prosecuting attorney may file the notice of special
19 sentencing proceeding, the defendant may not tender a plea of guilty
20 to the charge of aggravated first degree murder nor may the court
21 accept a plea of guilty to the charge of aggravated first degree
22 murder or any lesser included offense.

23 (3) If a notice of special sentencing proceeding is not filed and
24 served as provided in this section, the prosecuting attorney may not
25 request the death penalty.

26 **Sec. 2.** RCW 10.95.050 and 1981 c 138 s 5 are each amended to
27 read as follows:

28 (1) If a defendant is adjudicated guilty of aggravated first
29 degree murder and the victim was a law enforcement officer as
30 provided in RCW 10.95.020(1), whether by acceptance of a plea of
31 guilty, by verdict of a jury, or by decision of the trial court

1 sitting without a jury, a special sentencing proceeding shall be held
2 if a notice of special sentencing proceeding was filed and served as
3 provided by RCW 10.95.040. No sort of plea, admission, or agreement
4 may abrogate the requirement that a special sentencing proceeding be
5 held.

6 (2) A jury shall decide the matters presented in the special
7 sentencing proceeding unless a jury is waived in the discretion of
8 the court and with the consent of the defendant and the prosecuting
9 attorney.

10 (3) If the defendant's guilt was determined by a jury verdict,
11 the trial court shall reconvene the same jury to hear the special
12 sentencing proceeding. The proceeding shall commence as soon as
13 practicable after completion of the trial at which the defendant's
14 guilt was determined. If, however, unforeseen circumstances make it
15 impracticable to reconvene the same jury to hear the special
16 sentencing proceeding, the trial court may dismiss that jury and
17 convene a jury pursuant to subsection (4) of this section.

18 (4) If the defendant's guilt was determined by plea of guilty or
19 by decision of the trial court sitting without a jury, or if a
20 retrial of the special sentencing proceeding is necessary for any
21 reason including but not limited to a mistrial in a previous special
22 sentencing proceeding or as a consequence of a remand from an
23 appellate court, the trial court shall impanel a jury of twelve
24 persons plus whatever alternate jurors the trial court deems
25 necessary. The defense and prosecution shall each be allowed to
26 peremptorily challenge twelve jurors. If there is more than one
27 defendant, each defendant shall be allowed an additional peremptory
28 challenge and the prosecution shall be allowed a like number of
29 additional challenges. If alternate jurors are selected, the defense
30 and prosecution shall each be allowed one peremptory challenge for
31 each alternate juror to be selected and if there is more than one
32 defendant each defendant shall be allowed an additional peremptory
33 challenge for each alternate juror to be selected and the prosecution
34 shall be allowed a like number of additional challenges."

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1 On page 1, line 4 of the title, after "murder" strike the
2 remainder of the title and insert "unless the victim was a law
3 enforcement officer; amending RCW 10.95.040 and 10.95.050; and
4 prescribing penalties."

EFFECT: Retains the death penalty as an option for aggravated
first degree murder only when the victim is a law enforcement
officer.

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