**6052 AMS RIVE S5337.1 - NOT FOR FLOOR USE**

**SB 6052** - S AMD **681**

By Senator Rivers

**RULED BEYOND SCOPE 02/14/2018**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  RCW 10.95.040 (Special sentencing proceeding—Notice—Filing—Service) and 1981 c 138 s 4 are each repealed.

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

(1) If a defendant is adjudicated guilty of aggravated first degree murder and has made a request for the death penalty in lieu of a sentence of life without parole, whether by acceptance of a plea of guilty, by verdict of a jury, or by decision of the trial court sitting without a jury, a special sentencing proceeding shall be held ((~~if a notice of special sentencing proceeding was filed and served as provided by RCW 10.95.040~~)). No sort of plea, admission, or agreement may abrogate the requirement that a special sentencing proceeding be held.

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

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

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

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On page 1, line 4 of the title, after "murder" strike the remainder of the title and insert "unless the defendant has requested the death penalty; amending RCW 10.95.050; repealing RCW 10.95.040; and prescribing penalties."

EFFECT: Retains the death penalty as an option for aggravated first degree murder only when the defendant has requested the death penalty.