

SB 6052 - S AMD 616
By Senator Padden

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 corrections officer as
7 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 corrections officer as provided in
30 RCW 10.95.020(1), whether by acceptance of a plea of guilty, by
31 verdict of a jury, or by decision of the trial court sitting without

1 a jury, a special sentencing proceeding shall be held if a notice of
2 special sentencing proceeding was filed and served as provided by RCW
3 10.95.040. No sort of plea, admission, or agreement may abrogate the
4 requirement that a special sentencing proceeding be held.

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

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

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

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