

SB 6052 - S AMD 681  
By Senator Rivers

RULED BEYOND SCOPE 02/14/2018

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

3 "NEW SECTION. **Sec. 1.** RCW 10.95.040 (Special sentencing  
4 proceeding—Notice—Filing—Service) and 1981 c 138 s 4 are each  
5 repealed.

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

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

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

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

29 (4) If the defendant's guilt was determined by plea of guilty or  
30 by decision of the trial court sitting without a jury, or if a  
31 retrial of the special sentencing proceeding is necessary for any

1 reason including but not limited to a mistrial in a previous special  
2 sentencing proceeding or as a consequence of a remand from an  
3 appellate court, the trial court shall impanel a jury of twelve  
4 persons plus whatever alternate jurors the trial court deems  
5 necessary. The defense and prosecution shall each be allowed to  
6 peremptorily challenge twelve jurors. If there is more than one  
7 defendant, each defendant shall be allowed an additional peremptory  
8 challenge and the prosecution shall be allowed a like number of  
9 additional challenges. If alternate jurors are selected, the defense  
10 and prosecution shall each be allowed one peremptory challenge for  
11 each alternate juror to be selected and if there is more than one  
12 defendant each defendant shall be allowed an additional peremptory  
13 challenge for each alternate juror to be selected and the prosecution  
14 shall be allowed a like number of additional challenges."

**SB 6052** - S AMD **681**  
By Senator Rivers

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

15 On page 1, line 4 of the title, after "murder" strike the  
16 remainder of the title and insert "unless the defendant has requested  
17 the death penalty; amending RCW 10.95.050; repealing RCW 10.95.040;  
18 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.

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