
Public Safety Committee

SB 5339

Brief Description: Reducing criminal justice expenses by eliminating the death penalty and instead requiring life imprisonment without possibility of release or parole as the sentence for aggravated first degree murder.

Sponsors: Senators Carlyle, Walsh, Pedersen, Wellman, Keiser, Lias, Hunt, Kuderer, Nguyen and Saldaña; by request of Attorney General.

Brief Summary of Bill

- Repeals the statutory authority to impose a death sentence, and provides that any adult defendant convicted of Aggravated First Degree Murder must be sentenced to life in prison without the possibility of release.

Hearing Date: 3/25/19

Staff: Kelly Leonard (786-7147).

Background:

Status of the Death Penalty in Washington.

The death penalty existed in Washington from territorial days to 2018, with the exception of several periods where the death penalty was either legislatively abolished or ruled unconstitutional. Washington's current death penalty statute was enacted in 1981. Since then, 33 persons have received death sentences, and the state has carried out five of those executions. In 2014 the Governor placed a moratorium on executions. In 2018 the Washington Supreme Court issued a decision in *State v. Gregory*, 192 Wn.2d 1, 427 P.3d 621, finding that the current death penalty statute is unconstitutional as a result of being imposed in an arbitrary and racially biased manner. The death sentences for the remaining eight defendants awaiting execution were converted to life in prison without the possibility of release.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Aggravated First Degree Murder and the Death Penalty Statute.

Under the death penalty statute, a death sentence may be imposed only against adult defendants convicted of Aggravated First Degree Murder. Aggravated First Degree Murder is premeditated Murder in the first degree when at least one of fourteen aggravating circumstances exists.

Examples of aggravating circumstances include:

- the victim was a police officer performing official duties, or a judge, juror, witness, or attorney, and the murder was related to the victim's official duties;
- the murder was committed in the course of, in furtherance of, or in immediate flight from certain crimes, such as Robbery, Rape, or Burglary;
- the murder was committed in exchange for money or to conceal the commission of a crime;
- the person committed the murder to obtain or maintain a position in the hierarchy of an organization; or
- there was more than one victim and the murders were part of a common scheme or plan, or the result of a single act.

The statute allows a death sentence only after a special sentencing proceeding. During this proceeding, the jury must determine unanimously that "there are not sufficient mitigating circumstances to merit leniency" in order to impose a death sentence. If the prosecutor does not initiate the special sentencing proceeding or the jury finds sufficient mitigating circumstances to merit leniency, the defendant is sentenced to life in prison without the possibility of release. If the jury imposes a death sentence, the sentence is subject to a mandatory review by the Washington Supreme Court, in addition to other appellate rights.

Prior to 2018, executions were carried out by lethal injection or, at the election of the condemned person, by hanging. Executions occurred at the Washington State Penitentiary in Walla Walla under the supervision of the Superintendent of the Department of Corrections.

As a result of *State v. Gregory*, the only available sentence for an adult defendant convicted of Aggravated First Degree Murder is life in prison without the possibility of release.

Summary of Bill:

The statutory authority for the death penalty is eliminated, and all procedures for imposing and carrying out a death sentence are repealed. An adult defendant convicted of Aggravated First Degree Murder must be sentenced to life in prison without the possibility of release.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.