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HOUSE BILL 2468

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State of Washington

62nd Legislature

2012 Regular Session

**By** Representatives Carlyle, Pedersen, Orwall, Kenney, Ryu, Hunt, Hasegawa, Maxwell, Goodman, Roberts, Ladenburg, Moscoso, Appleton, Kagi, Green, Fitzgibbon, Darneille, Hudgins, Santos, and Pollet

Read first time 01/16/12. Referred to Committee on Judiciary.

1 AN ACT Relating to reducing criminal justice expenses by  
2 eliminating the death penalty in favor of life incarceration; amending  
3 RCW 10.95.030; and repealing RCW 10.95.040, 10.95.050, 10.95.060,  
4 10.95.070, 10.95.080, 10.95.090, 10.95.100, 10.95.110, 10.95.120,  
5 10.95.130, 10.95.140, 10.95.150, 10.95.160, 10.95.170, 10.95.180,  
6 10.95.185, 10.95.190, 10.95.200, and 10.95.900.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read  
9 as follows:

10 ~~((1) Except as provided in subsection (2) of this section,)~~ Any  
11 person convicted of the crime of aggravated first degree murder shall  
12 be sentenced to life imprisonment without possibility of release or  
13 parole. A person sentenced to life imprisonment under this section  
14 shall not have that sentence suspended, deferred, or commuted by any  
15 judicial officer and the indeterminate sentence review board or its  
16 successor may not parole such prisoner nor reduce the period of  
17 confinement in any manner whatsoever including but not limited to any  
18 sort of good-time calculation. The department of social and health

1 services or its successor or any executive official may not permit such  
2 prisoner to participate in any sort of release or furlough program.

3 ~~((2) If, pursuant to a special sentencing proceeding held under  
4 RCW 10.95.050, the trier of fact finds that there are not sufficient  
5 mitigating circumstances to merit leniency, the sentence shall be  
6 death. In no case, however, shall a person be sentenced to death if  
7 the person had an intellectual disability at the time the crime was  
8 committed, under the definition of intellectual disability set forth in  
9 (a) of this subsection. A diagnosis of intellectual disability shall  
10 be documented by a licensed psychiatrist or licensed psychologist  
11 designated by the court, who is an expert in the diagnosis and  
12 evaluation of intellectual disabilities. The defense must establish an  
13 intellectual disability by a preponderance of the evidence and the  
14 court must make a finding as to the existence of an intellectual  
15 disability.~~

16 ~~(a) "Intellectual disability" means the individual has: (i)  
17 Significantly subaverage general intellectual functioning; (ii)  
18 existing concurrently with deficits in adaptive behavior; and (iii)  
19 both significantly subaverage general intellectual functioning and  
20 deficits in adaptive behavior were manifested during the developmental  
21 period.~~

22 ~~(b) "General intellectual functioning" means the results obtained  
23 by assessment with one or more of the individually administered general  
24 intelligence tests developed for the purpose of assessing intellectual  
25 functioning.~~

26 ~~(c) "Significantly subaverage general intellectual functioning"  
27 means intelligence quotient seventy or below.~~

28 ~~(d) "Adaptive behavior" means the effectiveness or degree with  
29 which individuals meet the standards of personal independence and  
30 social responsibility expected for his or her age.~~

31 ~~(e) "Developmental period" means the period of time between  
32 conception and the eighteenth birthday.)~~

33 NEW SECTION. **Sec. 2.** The following acts or parts of acts are each  
34 repealed:

35 (1) RCW 10.95.040 (Special sentencing proceeding--Notice--Filing--  
36 Service) and 1981 c 138 s 4;

1 (2) RCW 10.95.050 (Special sentencing proceeding--When held--Jury  
2 to decide matters presented--Waiver--Reconvening same jury--Impanelling  
3 new jury--Peremptory challenges) and 1981 c 138 s 5;

4 (3) RCW 10.95.060 (Special sentencing proceeding--Jury  
5 instructions--Opening statements--Evidence--Arguments--Question for  
6 jury) and 1981 c 138 s 6;

7 (4) RCW 10.95.070 (Special sentencing proceeding--Factors which  
8 jury may consider in deciding whether leniency merited) and 2010 c 94  
9 s 4, 1993 c 479 s 2, & 1981 c 138 s 7;

10 (5) RCW 10.95.080 (When sentence to death or sentence to life  
11 imprisonment shall be imposed) and 1981 c 138 s 8;

12 (6) RCW 10.95.090 (Sentence if death sentence commuted, held  
13 invalid, or if death sentence established by chapter held invalid) and  
14 1981 c 138 s 9;

15 (7) RCW 10.95.100 (Mandatory review of death sentence by supreme  
16 court--Notice--Transmittal--Contents of notice--Jurisdiction) and 1981  
17 c 138 s 10;

18 (8) RCW 10.95.110 (Verbatim report of trial proceedings--  
19 Preparation--Transmittal to supreme court--Clerk's papers--Receipt) and  
20 1981 c 138 s 11;

21 (9) RCW 10.95.120 (Information report--Form--Contents--Submission  
22 to supreme court, defendant, prosecuting attorney) and 1981 c 138 s 12;

23 (10) RCW 10.95.130 (Questions posed for determination by supreme  
24 court in death sentence review--Review in addition to appeal--  
25 Consolidation of review and appeal) and 2010 c 94 s 5, 1993 c 479 s 3,  
26 & 1981 c 138 s 13;

27 (11) RCW 10.95.140 (Invalidation of sentence, remand for  
28 resentencing--Affirmation of sentence, remand for execution) and 1993  
29 c 479 s 4 & 1981 c 138 s 14;

30 (12) RCW 10.95.150 (Time limit for appellate review of death  
31 sentence and filing opinion) and 1988 c 202 s 17 & 1981 c 138 s 15;

32 (13) RCW 10.95.160 (Death warrant--Issuance--Form--Time for  
33 execution of judgment and sentence) and 1990 c 263 s 1 & 1981 c 138 s  
34 16;

35 (14) RCW 10.95.170 (Imprisonment of defendant) and 1983 c 255 s 1  
36 & 1981 c 138 s 17;

37 (15) RCW 10.95.180 (Death penalty--How executed) and 1996 c 251 s  
38 1, 1986 c 194 s 1, & 1981 c 138 s 18;

1           (16) RCW 10.95.185 (Witnesses) and 1999 c 332 s 1 & 1993 c 463 s 2;  
2           (17) RCW 10.95.190 (Death warrant--Record--Return to trial court)  
3 and 1981 c 138 s 19;  
4           (18) RCW 10.95.200 (Proceedings for failure to execute on day  
5 named) and 1990 c 263 s 2, 1987 c 286 s 1, & 1981 c 138 s 20; and  
6           (19) RCW 10.95.900 (Severability--1981 c 138) and 1981 c 138 s 22.

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