

FIRST REGULAR SESSION

SENATE BILL NO. 377

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 25, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1701S.01I

AN ACT

To repeal section 565.020, RSMo, and to enact in lieu thereof two new sections relating to penalties for first degree murder when the offender was under the age of eighteen at the time the offense was committed, with an emergency clause and penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 565.020, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 565.020 and 526.033, to read as
3 follows:

565.020. 1. A person commits the [crime] **offense** of murder in the first
2 degree if he **or she** knowingly causes the death of another person after
3 deliberation upon the matter.

4 2. **The offense of** murder in the first degree is a class A felony, and , **if**
5 **a person is eighteen years of age or older at the time of the crime**, the
6 punishment shall be either death or imprisonment for life without eligibility for
7 probation or parole, or release except by act of the governor; except that, if a
8 person has not reached his **or her** [sixteenth] **eighteenth** birthday at the time
9 of the commission of the crime, the punishment shall be **either** imprisonment for
10 life without eligibility for probation or parole, or release except by act of the
11 governor, **or imprisonment for life with eligibility for parole after such**
12 **person has served fifty years in prison.**

565.033. 1. **When a person is charged with first degree murder**
2 **who was less than eighteen years of age at the time of the offense, the**
3 **prosecuting or circuit attorney may file a notice of his or her intent to**
4 **seek a punishment of imprisonment for life without eligibility for**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 parole. If the notice is filed, the trial shall proceed in two stages before
6 the same trier. At the first stage the trier shall decide only whether the
7 defendant is guilty of any submitted offense. If the person is found
8 guilty of first degree murder, a second stage of the trial shall then
9 proceed at which the only issue shall be the punishment to be assessed
10 and declared. Evidence in aggravation and mitigation of punishment,
11 including but not limited to evidence supporting any of the aggravating
12 or mitigating circumstances listed in subsection 2 or 3 of section
13 565.032, may be presented subject to the rules of evidence at criminal
14 trials. Rebuttal and surrebuttal evidence may be presented. The state
15 shall be the first to proceed. If the trier is a jury, it shall be instructed
16 on the law. The attorneys may then argue the issue of punishment to
17 the jury, and the state shall have the right to open and close the
18 argument. The trier shall assess and declare the punishment and, if the
19 trier declares the punishment to be imprisonment for life without
20 parole, the trier shall set out in writing in its findings or verdict the
21 aggravating circumstances or mitigating circumstances it considered
22 and the reasons supporting the sentence imposed.

23 2. If the prosecuting or circuit attorney does not seek a
24 punishment of imprisonment for life without eligibility for parole, the
25 submission to the trier and all subsequent proceedings in the case shall
26 proceed with a single stage trial and, if the person is found guilty of
27 first degree murder, the punishment shall be imprisonment for life with
28 eligibility for parole after the person has served fifty years in prison.
29 If the person is found guilty of a lesser homicide offense, the procedure
30 for the punishment phase shall be the same as provided under
31 subsection 3 of section 565.030.

32 3. The procedures provided under this section shall not apply to
33 any case that is final for purposes of appeal on or before the effective
34 date of this section. A case is final for purposes of appeal when the
35 time for filing an appeal in the Missouri Court of Appeals has expired;
36 if an appeal was filed in the Missouri Court of Appeals, when the time
37 for filing an application for transfer in the Missouri Supreme Court has
38 expired; if an application was filed for transfer to the Missouri
39 Supreme Court, when the application for transfer was denied or when
40 a timely filed motion for rehearing was denied; or if the Missouri
41 Supreme Court granted transfer, when the Missouri Supreme Court

42 rendered its decision or when a timely-filed motion for rehearing was
43 denied.

44 4. Any person sentenced to imprisonment for life without the
45 eligibility for parole before the effective date of this section for an
46 offense committed when the person was less than eighteen years of age
47 may file a motion in the sentencing court for a sentencing hearing
48 within six months of the effective date of this section. Such sentencing
49 hearing shall be heard by the judge. The sole purpose of the sentencing
50 hearing shall be to determine if the sentence of imprisonment for life
51 without eligibility for parole that was originally imposed shall remain
52 or be amended to imprisonment for life with eligibility for parole after
53 the person has served fifty years in prison.

Section B. Because of the need to adopt a punishment scheme for first
2 degree murderers of a certain age after the United States Supreme Court
3 declared as unconstitutional the only punishment available under Missouri law
4 for such offenders, section A of this act is deemed necessary for the immediate
5 preservation of the public health, welfare, peace and safety, and is hereby
6 declared to be an emergency act within the meaning of the constitution, and
7 section A of this act shall be in full force and effect upon its passage and
8 approval.

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