

FIRST REGULAR SESSION

# SENATE BILL NO. 192

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCHNEIDER, WIGGINS, GOODE AND SCOTT.

Pre-filed December 13, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0640S.011

## AN ACT

To repeal section 565.020, RSMo 2000, relating to murder, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

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

Section A. Section 565.020, RSMo 2000, is repealed and two new sections enacted in lieu thereof, to be known as sections 552.091 and 565.020, to read as follows:

**552.091. 1. Any other law to the contrary notwithstanding, any information, evidence, statement, admission or confession obtained during a custodial interrogation of a person who has mental retardation at the time of the custodial interrogation shall be excluded from introduction as evidence in a criminal trial unless an attorney was present during the custodial interrogation to represent the person who has mental retardation.**

**2. Any individual who interrogates a person with mental retardation for purposes of criminal or abuse investigations shall immediately, prior to any interrogation, make reasonable efforts to notify such person's parent, guardian, attorney or designated protector.**

**3. As used in this section, the term "mental retardation" has the same meaning as that contained in section 630.005, RSMo.**

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

2. Murder in the first degree is a class A felony, and the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the

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

governor; except that, if a [person] **defendant** has not reached [his] **such person's** sixteenth birthday at the time of the commission of the crime **or is mentally retarded as defined in section 630.005, RSMo at the time of sentencing**, the punishment shall be imprisonment for life without eligibility for probation or parole, or release except by act of the governor.

**3. Evidence of mental retardation shall be heard and determined by the trial court out of hearing of the jury prior to the commencement of the trial, for the purpose of determining whether the death penalty may be imposed upon the defendant. Any evidence submitted during this pretrial phase may be submitted at trial in the presence of the jury if such evidence is relevant to any other issue.**

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