

FIRST REGULAR SESSION

SENATE BILL NO. 232

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Pre-filed January 2, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0862S.011

AN ACT

To repeal section 565.032, RSMo 2000, relating to the death penalty, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 565.032, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 565.032, to read as follows:

565.032. 1. In all cases of murder in the first degree for which the death penalty is authorized, the judge in a jury-waived trial shall consider, or he shall include in his instructions to the jury for it to consider:

(1) Whether a statutory aggravating circumstance or circumstances enumerated in subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

(2) If a statutory aggravating circumstance or circumstances is proven beyond a reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of life imprisonment without eligibility for probation, parole, or release except by act of the governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall consider all evidence which it finds to be in aggravation or mitigation of punishment, including evidence received during the first stage of the trial and evidence supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation of punishment, but shall be instructed that each juror shall consider any evidence which he considers to be aggravating or mitigating.

2. Statutory aggravating circumstances for a murder in the first degree offense shall be limited to the following:

(1) The offense was committed by a person with a prior record of conviction for murder in

the first degree, or the offense was committed by a person who has one or more serious assaultive criminal convictions;

(2) The murder in the first degree offense was committed while the offender was engaged in the commission or attempted commission of another unlawful homicide;

(3) The offender by his act of murder in the first degree knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person;

(4) The offender committed the offense of murder in the first degree for himself or another, for the purpose of receiving money or any other thing of monetary value from the victim of the murder or another;

(5) The murder in the first degree was committed against a judicial officer, former judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected official or former elected official during or because of the exercise of his official duty;

(6) The offender caused or directed another to commit murder in the first degree or committed murder in the first degree as an agent or employee of another person;

(7) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or depravity of mind;

(8) The murder in the first degree was committed against any peace officer, or fireman while engaged in the performance of his official duty;

(9) The murder in the first degree was committed by a person in, or who has escaped from, the lawful custody of a peace officer or place of lawful confinement;

(10) The murder in the first degree was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself or another;

(11) The murder in the first degree was committed while the defendant was engaged in the perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony offense in chapter 195, RSMo;

(12) The murdered individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was killed as a result of his status as a witness or potential witness;

(13) The murdered individual was an employee of an institution or facility of the department of corrections of this state or local correction agency and was killed in the course of performing his official duties, or the murdered individual was an inmate of such institution or facility;

(14) The murdered individual was killed as a result of the hijacking of an airplane, train, ship, bus or other public conveyance;

(15) The murder was committed for the purpose of concealing or attempting to conceal any felony offense defined in chapter 195, RSMo;

(16) The murder was committed for the purpose of causing or attempting to cause a person to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter 195, RSMo;

(17) The murder was committed during the commission of a crime which is part of a pattern of criminal street gang activity as defined in section 578.421;

(18) The murder was of a child twelve years of age or less.

3. Statutory mitigating circumstances shall include the following:

(1) The defendant has no significant history of prior criminal activity;

(2) The murder in the first degree was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(3) The victim was a participant in the defendant's conduct or consented to the act;

(4) The defendant was an accomplice in the murder in the first degree committed by another person and his participation was relatively minor;

(5) The defendant acted under extreme duress or under the substantial domination of another person;

(6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired;

(7) The age of the defendant at the time of the crime.

T

Copy