

HOUSE BILL ANALYSIS

HB 1406

Title: An act relating to the death penalty.

Brief Description: Making the death penalty applicable to criminals sixteen years of age or older.

Sponsors: Representative Sheahan.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Edie Adams (786-7180).

Background: Under the state's death penalty law, only persons convicted of aggravated first-degree murder may be sentenced to death.

First-degree murder is the killing of a person under any of the following circumstances:

- With premeditated intent;
- With extreme indifference to human life, while engaged in conduct that creates a grave risk of death to a person;
- While committing, attempting to commit, or in the immediate flight from the commission of first- or second-degree robbery, rape, arson, or kidnapping, or first-degree burglary.

A person is guilty of aggravated first-degree murder if the person commits first-degree murder with premeditation and if at least one aggravating circumstance exists. A special sentencing hearing must be held to determine whether the death penalty will be imposed. The death penalty may only be imposed on a person convicted of aggravated first-degree murder if there are not sufficient mitigating circumstances that merit leniency. If sufficient mitigating circumstances are found, the sentence will be life imprisonment without the possibility of release.

Aggravating circumstances include:

- The victim was a law enforcement officer, corrections officer, or firefighter who was performing his or her official duties;
- The person was serving a term of confinement in prison or jail at the time of the murder, or was on leave or had escaped from prison at the time of the murder;

- The person committed the murder for money or valuables or paid another person to commit the murder;
- The person committed the murder to conceal the commission of a crime or to protect the identity of a person who committed a crime;
- The person murdered more than one victim as part of a common scheme or in a single act; or
- The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes: first- or second-degree robbery, rape, or burglary; residential burglary; or first-degree kidnapping or arson.

In determining whether there are sufficient mitigating factors to merit leniency, the jury in the special sentencing proceeding may consider any relevant factor, including whether:

- The offender has prior adult or juvenile criminal history;
- The offender was under an extreme mental disturbance at the time of the murder;
- The victim consented to the act of murder;
- The offender was an accomplice in the murder with a relatively minor role;
- The offender acted under duress or domination of another person;
- The offender, due to a mental disease or defect, did not have the capacity to understand the nature of his or her conduct, or that it was wrong;
- The age of the offender at the time of the murder calls for leniency; or
- The offender is likely to pose a danger to others in the future.

The death penalty may not be imposed on a person who was under the age of 18 at the time of the crime. Although the death penalty law is not specifically limited to persons 18 or older, the Washington Supreme Court, in State v. Furman, 122 Wn.2d 440 (1993), interpreted the law to apply only to adults. The U.S. Supreme Court has ruled that the death penalty may be applied to a juvenile who is 16 or 17 years old at the time of the crime. Stanford v. Kentucky, 492 U.S. 361 (1989). The U.S. Supreme Court overturned the imposition of the death penalty on a 15-year-old juvenile in Thompson v. Oklahoma, 487 U.S. 815 (1988).

Summary of Bill: A person who is 16 or 17 years old and convicted of aggravated first-degree murder is subject to the death penalty.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research