
SENATE BILL 5093

State of Washington

55th Legislature

1997 Regular Session

By Senator Roach

Read first time 01/14/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to capital punishment sentencing; and amending RCW
2 10.95.130 and 10.95.140.

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

4 **Sec. 1.** RCW 10.95.130 and 1993 c 479 s 3 are each amended to read
5 as follows:

6 (1) The sentence review required by RCW 10.95.100 shall be in
7 addition to any appeal. The sentence review and an appeal shall be
8 consolidated for consideration. The defendant and the prosecuting
9 attorney may submit briefs within the time prescribed by the court and
10 present oral argument to the court.

11 (2) With regard to the sentence review required by ~~((this act))~~
12 chapter 138, Laws of 1981, the supreme court of Washington shall
13 determine:

14 (a) Whether there was sufficient evidence to justify the
15 affirmative finding to the question posed by RCW 10.95.060(4); and

16 (b) ~~((Whether the sentence of death is excessive or
17 disproportionate to the penalty imposed in similar cases, considering
18 both the crime and the defendant. For the purposes of this subsection,
19 "similar cases" means cases reported in the Washington Reports or~~

1 ~~Washington Appellate Reports since January 1, 1965, in which the judge~~
2 ~~or jury considered the imposition of capital punishment regardless of~~
3 ~~whether it was imposed or executed, and cases in which reports have~~
4 ~~been filed with the supreme court under RCW 10.95.120;~~

5 ~~(e))~~ Whether the sentence of death was brought about through
6 passion or prejudice; and

7 ~~((d))~~ (c) Whether the defendant was mentally retarded within the
8 meaning of RCW 10.95.030(2).

9 **Sec. 2.** RCW 10.95.140 and 1993 c 479 s 4 are each amended to read
10 as follows:

11 Upon completion of a sentence review:

12 (1) The supreme court of Washington shall invalidate the sentence
13 of death and remand the case to the trial court for resentencing in
14 accordance with RCW 10.95.090 if:

15 (a) The court makes a negative determination as to the question
16 posed by RCW 10.95.130(2)(a); or

17 (b) The court makes an affirmative determination as to any of the
18 questions posed by RCW 10.95.130(2) (b)~~((7))~~ or (c)~~((7 or (d)))~~.

19 (2) The court shall affirm the sentence of death and remand the
20 case to the trial court for execution in accordance with RCW 10.95.160
21 if:

22 (a) The court makes an affirmative determination as to the question
23 posed by RCW 10.95.130(2)(a); and

24 (b) The court makes a negative determination as to the questions
25 posed by RCW 10.95.130(2) (b)~~((7))~~ or (c)~~((7 and (d)))~~.

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