

Judiciary Committee

HB 1647

Title: *An act relating to the death penalty.*

Brief Description: *Creating a task force to study the death penalty.*

Sponsors: *Representatives Murray, Miloscia, Veloria, Tokuda, Ruderman, McDermott and Santos.*

Brief Summary of Bill

- *Provides a stay on death sentences until July 1, 2003.*
- *Creates a death penalty task force to review the imposition of the death penalty and to review statutes and court rules regarding the death penalty.*

Hearing Date: *2/13/01*

Staff: *Trudes Hutcheson (786-7384).*

Background:

A person is guilty of aggravated first-degree murder if the person committed premeditated first-degree murder and at least one of the aggravating circumstance listed in statute exists. The sentence for aggravated first-degree murder is either life imprisonment without the possibility of release or death.

If the prosecutor seeks the death penalty, there must be a special sentencing proceeding following the conviction of aggravated first-degree murder to determine if the death penalty will be imposed. The question at the special sentencing proceeding is whether there are sufficient mitigating circumstances to merit leniency. The jury must find beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency.

If there are not sufficient mitigating circumstances to merit leniency, the sentence will be death. If the prosecutor did not seek the death penalty or if there are sufficient mitigating circumstances, the sentence is life imprisonment without possibility of release.

In deciding whether there are sufficient mitigating circumstances to merit leniency, the jury or court may consider any relevant factors, including but not limited to, whether the defendant has a significant history of prior criminal activity, whether the murder was committed while the defendant was under extreme mental disturbance, the age of the defendant at the time of the crime, and the likelihood that the defendant will pose a danger to others in the future.

Whenever a defendant is sentenced to death, the state supreme court must review the sentence. The sentence review is in addition to any appeal that may be available to the defendant. The supreme court must answer four questions:

- (a) whether there was sufficient evidence to justify the jury's finding beyond a reasonable doubt that there were not sufficient mitigating circumstances to merit leniency;*
- (b) whether the sentence is excessive or disproportionate to the penalty imposed in similar cases considering both the crime and defendant;*
- (c) whether the sentence was brought about through passion or prejudice; and*
- (d) whether the defendant was mentally retarded.*

In all cases where a death sentence is imposed, the appeal and sentence review must be filed within one year the report of the proceedings is filed from the trial court to the state supreme court.

Summary of Bill:

Until July 1, 2003, death sentences are stayed. A death penalty task force is created to conduct a review of the existing statutes and court rules to determine:

- (a) the adequacy of the counsel and resources provided to defendants in capital cases;*
- (b) the uniformity of decision making by prosecuting attorneys regarding charging defendants with aggravated first-degree murder and the criteria in such decisions;*
- (c) the impact of race, ethnicity, gender, and economic status on the likelihood of a defendant being charged with aggravated first-degree murder; and*
- (d) whether there are revisions to the statutes and court rules that would decrease the likelihood of an inappropriate imposition of the death penalty.*

The task force is made up of 11 members. Two members are appointed by the chief justice of the state supreme court. Two members are appointed by the president of the Senate. Two members are appointed by the speaker of the House. Two members are appointed by the Governor. Three members are appointed by the president of the Washington State Bar

Association. Not more than one member may be an attorney whose practice is primarily criminal defense and who has experience in death penalty cases. Not more than one member may be a current or former prosecuting attorney.

The task force may conduct meetings, prescribe rules of procedure, and cooperate with legislative committees and executive agencies as necessary. Members do not receive compensation but may be reimbursed for travel expenses.

The task force must make a report and recommendations to the Legislature, Governor, and state supreme court by January 1, 2003.

The sum of \$50,000, or as much thereof as needed, is appropriated for the fiscal year ending June 30, 2001, from the general fund to the Office of the Administrator for the Courts (OAC) for the purposes of providing staffing and support to the task force. The sum of \$100,000, or as much thereof as needed, is appropriated for the fiscal year ending June 30, 2002, from the general fund to the OAC for staffing and support of the task force.

Section 1 of the bill expires July 1, 2003.

Appropriation: \$150,000 from the state general fund.

Fiscal Note: Requested on February 10, 2001.

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