

2SHB 1341 - H AMD 274

By Representative Appleton

1 On page 7, after line 19, insert the following:

2

3 **"Sec. 10.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to  
4 read as follows:

5 ~~((1) Except as provided in subsection (2) of this section,))~~ Any  
6 person convicted of the crime of aggravated first degree murder shall  
7 be sentenced to life imprisonment without possibility of release or  
8 parole. A person sentenced to life imprisonment under this section  
9 shall not have that sentence suspended, deferred, or commuted by any  
10 judicial officer and the indeterminate sentence review board or its  
11 successor may not parole such prisoner nor reduce the period of  
12 confinement in any manner whatsoever including but not limited to any  
13 sort of goodtime calculation. The department of social and health  
14 services or its successor or any executive official may not permit  
15 such prisoner to participate in any sort of release or furlough  
16 program.

17 ~~((2) If, pursuant to a special sentencing proceeding held under  
18 RCW 10.95.050, the trier of fact finds that there are not sufficient  
19 mitigating circumstances to merit leniency, the sentence shall be  
20 death. In no case, however, shall a person be sentenced to death if  
21 the person had an intellectual disability at the time the crime was  
22 committed, under the definition of intellectual disability set forth  
23 in (a) of this subsection. A diagnosis of intellectual disability  
24 shall be documented by a licensed psychiatrist or licensed  
25 psychologist designated by the court, who is an expert in the~~

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1 ~~diagnosis and evaluation of intellectual disabilities. The defense~~  
2 ~~must establish an intellectual disability by a preponderance of the~~  
3 ~~evidence and the court must make a finding as to the existence of an~~  
4 ~~intellectual disability.~~

5 ~~— (a) "Intellectual disability" means the individual has: (i)~~  
6 ~~Significantly subaverage general intellectual functioning; (ii)~~  
7 ~~existing concurrently with deficits in adaptive behavior; and (iii)~~  
8 ~~both significantly subaverage general intellectual functioning and~~  
9 ~~deficits in adaptive behavior were manifested during the developmental~~  
10 ~~period.~~

11 ~~— (b) "General intellectual functioning" means the results obtained~~  
12 ~~by assessment with one or more of the individually administered~~  
13 ~~general intelligence tests developed for the purpose of assessing~~  
14 ~~intellectual functioning.~~

15 ~~— (c) "Significantly subaverage general intellectual functioning"~~  
16 ~~means intelligence quotient seventy or below.~~

17 ~~— (d) "Adaptive behavior" means the effectiveness or degree with~~  
18 ~~which individuals meet the standards of personal independence and~~  
19 ~~social responsibility expected for his or her age.~~

20 ~~— (e) "Developmental period" means the period of time between~~  
21 ~~conception and the eighteenth birthday.)~~

22  
23 NEW SECTION. Sec. 1. The following acts or parts of acts are  
24 each repealed:

25 (1) RCW 10.95.040 (Special sentencing proceeding-Notice-Filing-  
26 Service) and 1981 c 138 s 4;

27 (2) RCW 10.95.050 (Special sentencing proceeding-When held-Jury to  
28 decide matters presented-Waiver-Reconvening same jury-Impanelling new  
29 jury-Peremptory challenges) and 1981 c 138 s 5;

30 (3) RCW 10.95.060 (Special sentencing proceeding-Jury  
31 instructions-Opening statements-Evidence-Arguments-Question for jury)  
32 and 1981 c 138 s 6;

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1 (4) RCW 10.95.070 (Special sentencing proceeding-Factors which  
2 jury may consider in deciding whether leniency merited) and 2010 c 94  
3 s 4, 1993 c 479 s 2, & 1981 c 138 s 7;

4 (5) RCW 10.95.080 (When sentence to death or sentence to life  
5 imprisonment shall be imposed) and 1981 c 138 s 8;

6 (6) RCW 10.95.090 (Sentence if death sentence commuted, held  
7 invalid, or if death sentence established by chapter held invalid) and  
8 1981 c 138 s 9;

9 (7) RCW 10.95.100 (Mandatory review of death sentence by supreme  
10 court-Notice-Transmittal-Contents of notice-Jurisdiction) and 1981 c  
11 138 s 10;

12 (8) RCW 10.95.110 (Verbatim report of trial proceedings-  
13 Preparation-Transmittal to supreme court-Clerk's papers-Receipt) and  
14 1981 c 138 s 11;

15 (9) RCW 10.95.120 (Information report-Form-Contents-Submission to  
16 supreme court, defendant, prosecuting attorney) and 1981 c 138 s 12;

17 (10) RCW 10.95.130 (Questions posed for determination by supreme  
18 court in death sentence review-Review in addition to appeal-  
19 Consolidation of review and appeal) and 2010 c 94 s 5, 1993 c 479 s 3,  
20 & 1981 c 138 s 13;

21 (11) RCW 10.95.140 (Invalidation of sentence, remand for  
22 resentencing-Affirmation of sentence, remand for execution) and 1993 c  
23 479 s 4 & 1981 c 138 s 14;

24 (12) RCW 10.95.150 (Time limit for appellate review of death  
25 sentence and filing opinion) and 1988 c 202 s 17 & 1981 c 138 s 15;

26 (13) RCW 10.95.160 (Death warrant-Issuance-Form-Time for execution  
27 of judgment and sentence) and 1990 c 263 s 1 & 1981 c 138 s 16;

28 (14) RCW 10.95.170 (Imprisonment of defendant) and 1983 c 255 s 1  
29 & 1981 c 138 s 17;

30 (15) RCW 10.95.180 (Death penalty-How executed) and 1996 c 251 s  
31 1, 1986 c 194 s 1, & 1981 c 138 s 18;

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1 (16) RCW 10.95.185 (Witnesses) and 1999 c 332 s 1 & 1993 c 463 s  
2 2;

3 (17) RCW 10.95.190 (Death warrant-Record-Return to trial court)  
4 and 1981 c 138 s 19;

5 (18) RCW 10.95.200 (Proceedings for failure to execute on day  
6 named) and 1990 c 263 s 2, 1987 c 286 s 1, & 1981 c 138 s 20; and

7 (19) RCW 10.95.900 (Severability-1981 c 138) and 1981 c 138 s 22."  
8

9 Renumber the remaining section consecutively and correct internal  
10 references.

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12 Correct the title.

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EFFECT: Abolishes the death penalty.

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