

**SB 5339 - S AMD 30**  
By Senator Wagoner

OUT OF ORDER 02/15/2019

1 On page 4, after line 37, insert the following:

2 "Sec. 2. RCW 10.95.040 and 1981 c 138 s 4 are each amended to  
3 read as follows:

4 (1) If a person is charged with aggravated first degree murder  
5 and the murder occurred while the person was already serving a term  
6 of incarceration as ((defined by)) provided in RCW 10.95.020 (2) or  
7 (3), the prosecuting attorney shall forward a request for review  
8 along with all relevant materials to the death penalty review panel  
9 as provided in section 3 of this act for a determination of whether  
10 the death penalty should be sought.

11 (2) If a majority of the members of the death penalty review  
12 panel recommend pursuing the death penalty, the prosecuting attorney  
13 shall file written notice of a special sentencing proceeding to  
14 determine whether or not the death penalty should be imposed ((when  
15 there is reason to believe that there are not sufficient mitigating  
16 circumstances to merit leniency)).

17 ((+2)) (3) The notice of special sentencing proceeding shall be  
18 filed and served on the defendant or the defendant's attorney within  
19 thirty days after the defendant's arraignment upon the charge of  
20 aggravated first degree murder unless the court, for good cause  
21 shown, extends or reopens the period for filing and service of the  
22 notice. Except with the consent of the prosecuting attorney, during  
23 the period in which the prosecuting attorney may file the notice of  
24 special sentencing proceeding, the defendant may not tender a plea of  
25 guilty to the charge of aggravated first degree murder nor may the  
26 court accept a plea of guilty to the charge of aggravated first  
27 degree murder or any lesser included offense.

28 ((+3)) (4) If a notice of special sentencing proceeding is not  
29 filed and served as provided in this section, the prosecuting  
30 attorney may not request the death penalty.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 10.95  
2 RCW to read as follows:

3        (1) A death penalty review panel is established. The panel  
4 includes the following permanent members:

5        (a) Four prosecuting attorneys recommended by the Washington  
6 association of prosecuting attorneys. Urban and rural areas must be  
7 equally represented among the prosecuting attorneys;

8        (b) The attorney general, or his or her designee; and

9        (c) The secretary of the department of corrections, or his or her  
10 designee.

11       (2) The prosecuting attorney from the county in which the murder  
12 occurred shall serve as an ad hoc member of the panel.

13       (3) Upon receipt of a request for review, the attorney general  
14 shall convene a meeting of the death penalty review panel. The panel  
15 shall review all materials submitted from the prosecuting attorney  
16 and any materials submitted by defense counsel and shall make a  
17 recommendation as to whether the death penalty should be sought after  
18 considering:

19       (a) Whether there are sufficient mitigating circumstances to  
20 merit leniency;

21       (b) Whether imposition of the death penalty measurably  
22 contributes to the core purposes of retribution and deterrence of  
23 capital crimes by prospective offenders; and

24       (c) Whether imposition of the death penalty meets the goal of  
25 fairness and consistency in the criminal justice system.

26       (4) The panel shall memorialize its recommendation in a  
27 memorandum and submit the recommendation to the prosecuting attorney  
28 of the county in which the murder occurred."

29       Renumber the remaining section consecutively.

30       On page 5, beginning on line 1, strike all of subsection (1)

31       Renumber the remaining subsections consecutively.

32       On page 1, line 4 of the title, after "10.95.030" insert "and  
33 10.95.040"

34       On page 1, line 4 of the title, after "10.95.030;" insert "adding  
35 a new section to chapter 10.95 RCW;"

1 On page 1, line 5 of the title, after "RCW" strike "10.95.040,"

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