

SENATE FILE NO. SF0138

Commutation of sentences.

Sponsored by: Senator(s) Burns and Representative(s)
Greene

A BILL

for

1 AN ACT relating to sentencing; repealing provisions for
 2 life sentences without parole not subject to commutation;
 3 specifying retroactive application of the act; and
 4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 6-2-101(b) and (c),
 9 6-2-102(a) (intro), (b) and (d) (ii), 6-2-103(e) (ii),
 10 6-2-306(d) (intro) and (e), 6-10-301, 7-13-402(a),
 11 7-13-424(a) (intro), 7-13-807, 7-16-205(a) (i) and
 12 14-6-246(a) (iv) and (v) are amended to read:

13

14 **6-2-101. Murder in the first degree; penalty.**

15

1 (b) A person convicted of murder in the first degree
2 shall be punished by death, ~~life imprisonment without~~
3 ~~parole~~ or life imprisonment according to law, except that
4 no person shall be subject to the penalty of death for any
5 murder committed before the defendant attained the age of
6 eighteen (18) years.

7

8 (c) A person convicted of murder in the first degree
9 in a case in which the state seeks the death penalty shall
10 be sentenced in accordance with the provisions of W.S.
11 6-2-102. In all other cases, including any case in which
12 the state has determined not to seek the death penalty at
13 any stage of the proceeding, the judge shall ~~determine the~~
14 ~~sentence of life imprisonment without parole or life~~
15 ~~imprisonment taking into consideration any negotiated plea~~
16 ~~agreement and any evidence relevant to a determination of~~
17 ~~sentence which the court deems to have probative value~~
18 impose the sentence of life imprisonment.

19

20 **6-2-102. Presentence hearing for murder in the first**
21 **degree; mitigating and aggravating circumstances; effect of**
22 **error in hearing.**

23

1 (a) Upon conviction of a person for murder in the
2 first degree in a case in which the state seeks the death
3 penalty, the judge shall conduct a separate sentencing
4 hearing to determine whether the defendant should be
5 sentenced to death, ~~life imprisonment without parole~~ or
6 life imprisonment. The hearing shall be conducted before
7 the judge alone if:

8

9 (b) In all other cases the sentencing hearing shall
10 be conducted before the jury which determined the
11 defendant's guilt or, if the judge for good cause shown
12 discharges that jury, with a new jury impaneled for that
13 purpose. The jury shall be instructed that if the jury does
14 not unanimously determine that the defendant should be
15 sentenced to death, then the defendant shall be sentenced
16 to life imprisonment. ~~without parole or life imprisonment.~~

17

18 (d) Upon conclusion of the evidence and arguments the
19 judge shall give the jury appropriate instructions,
20 including instructions as to any aggravating or mitigating
21 circumstances, as defined in subsections (h) and (j) of
22 this section, or proceed as provided by paragraph (iii) of
23 this subsection:

24

1 (ii) Based upon the considerations in paragraph
2 (i) of this subsection, the jury shall unanimously
3 determine whether the defendant should be sentenced to
4 death or life imprisonment. The jury shall consider
5 aggravating and mitigating circumstances unanimously found
6 to exist, and each individual juror may also consider any
7 mitigating circumstances found by that juror to exist. If
8 the jury reports unanimous agreement to impose the sentence
9 of death, the court shall discharge the jury and shall
10 impose the sentence of death. If the jury is unable to
11 reach a unanimous verdict imposing the sentence of death
12 within a reasonable time, ~~the court shall instruct the jury~~
13 ~~to determine by a unanimous vote whether the penalty of~~
14 ~~life imprisonment without parole shall be imposed. If the~~
15 ~~jury is unable to reach a unanimous verdict imposing the~~
16 ~~penalty of life imprisonment without parole within a~~
17 ~~reasonable time,~~ the court shall discharge the jury and
18 impose the sentence of life imprisonment;

19

20 **6-2-103. Review of death sentences; notice from clerk**
21 **of trial court; factors to be considered by supreme court;**
22 **disposition of appeal.**

23

1 (e) In addition to its authority regarding correction
2 of errors, the court, with regard to review of death
3 sentences, may:

4
5 (ii) Set the sentence aside and impose a
6 sentence of ~~life imprisonment without parole, or~~ life
7 imprisonment; or

8

9 **6-2-306. Penalties for sexual assault.**

10

11 (d) An actor who is convicted of sexual assault under
12 W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor
13 under W.S. 6-2-316 through 6-2-317, shall be punished by
14 life imprisonment ~~without parole~~ if the actor has two (2)
15 or more previous convictions for any of the following
16 designated offenses, which convictions resulted from
17 charges separately brought and which arose out of separate
18 occurrences in this state or elsewhere:

19

20 (e) An actor who is convicted of sexual abuse of a
21 minor under W.S. 6-2-314 or 6-2-315 shall be punished by
22 life imprisonment ~~without parole~~ if the actor has one (1)
23 or more previous convictions for a violation of W.S.
24 6-2-302 through 6-2-304, 6-2-314 or 6-2-315, or a criminal

1 statute containing the same or similar elements as the
2 crimes defined by W.S. 6-2-302 through 6-2-304, 6-2-314 or
3 6-2-315, which convictions resulted from charges separately
4 brought and which arose out of separate occurrences in this
5 state or elsewhere.

6

7 **6-10-301. Sentence of life imprisonment without**
8 **parole abrogated.**

9

10 (a) ~~Pursuant to article 3, section 53 of the Wyoming~~
11 ~~constitution, a~~ No sentence of life imprisonment without
12 parole ~~is created for specified crimes designated in the~~
13 ~~Wyoming Criminal Code~~ shall be imposed on or after July 1,
14 2013 regardless of when the act upon which the sentence is
15 based occurred. A sentence of life imprisonment without
16 parole imposed prior to July 1, 2013 shall be subject to
17 commutation by the governor.

18

19 (b) A person sentenced to life imprisonment ~~without~~
20 ~~parole~~ shall not be eligible for parole and shall remain
21 imprisoned under the jurisdiction of the department of
22 corrections during the remainder of his life unless his
23 sentence is commuted by the governor or he is pardoned by
24 the governor.

1

2 (c) ~~A sentence specifically designated as a sentence~~
3 ~~of life imprisonment without parole is not subject to~~
4 ~~commutation by the governor. A sentence of life or life~~
5 ~~imprisonment which is not specifically designated as a~~
6 ~~sentence of life imprisonment without parole is subject to~~
7 ~~commutation by the governor.~~ A person sentenced to ~~life or~~
8 life imprisonment is not eligible for parole unless the
9 governor has commuted the person's sentence to a term of
10 years.

11

12 **7-13-402. General powers and duties of board;**
13 **eligibility for parole; immunity.**

14

15 (a) The board may grant a parole to any person
16 imprisoned in any institution under sentence, except ~~a~~
17 ~~sentence of life imprisonment without parole or~~ a life
18 sentence, ordered by any district court of this state,
19 provided the person has served the minimum term pronounced
20 by the trial court less good time, if any, granted under
21 rules promulgated pursuant to W.S. 7-13-420.

22

23 **7-13-424. Medical parole; conditions.**

24

1 (a) Notwithstanding any other provision of law
2 restricting the grant of parole, except for inmates
3 sentenced to death, ~~or life imprisonment without parole,~~
4 the board may grant a medical parole to any inmate meeting
5 the conditions specified in this section. The board shall
6 consider a medical parole upon receipt of written
7 certification by a licensed treating physician that, within
8 a reasonable degree of certainty, one (1) of the following
9 circumstances exist:

10

11 **7-13-807. Commutation of death sentences.**

12

13 ~~Pursuant to article 3, section 53 of the Wyoming~~
14 ~~constitution,~~ A death sentence may be commuted to a
15 sentence of life imprisonment, ~~without parole but that~~
16 ~~sentence shall not be subject to further commutation.~~

17

18 **7-16-205. Disposition of earnings; confidentiality of**
19 **amount.**

20

21 (a) Payment for services performed by any prisoner
22 under W.S. 7-16-202 shall be deposited in the trust and
23 agency account at the institution and shall be disbursed

1 for the purposes provided in this subsection and in the
2 order specified:

3
4 (i) Unless the prisoner is serving a sentence of
5 death ~~or life without the possibility of parole~~ or is
6 subject to mandatory savings under W.S. 25-13-107(b)(i),
7 ten percent (10%) shall be credited to the prisoner's
8 personal savings account within the correctional facility's
9 trust and agency account, until the prisoner's account has
10 a balance of one thousand dollars (\$1,000.00). Once the
11 prisoner's personal savings account balance reaches one
12 thousand dollars (\$1,000.00), the income otherwise
13 distributed to the prisoner's savings account under this
14 paragraph shall be distributed to the prisoner as provided
15 by paragraphs (ii) through (vi) of this subsection. Funds
16 in the prisoner's personal savings account shall be paid to
17 the prisoner upon parole or final discharge;

18

19 **14-6-246. Sanction levels.**

20

21 (a) Subject to subsection (c) of this section, when a
22 child is adjudicated as a delinquent the juvenile court
23 may, in a disposition hearing, assign the child one (1) of

1 the following sanction levels according to the child's
2 conduct:

3

4 (iv) For a violent felony as defined by W.S.
5 6-1-104(a)(xii), other than a felony punishable by life,
6 ~~life without parole~~ or death, the sanction level is four;

7

8 (v) For a felony punishable under the Wyoming
9 Criminal Code by life, ~~life without parole~~ or death, the
10 sanction level is five.

11

12 **Section 2.** W.S. 6-10-202(a)(ii) is repealed.

13

14 **Section 3.** This act shall apply to those currently
15 under a sentence of death or life without parole.

16

17 **Section 4.** This act is effective July 1, 2013.

18

19

(END)