

## HOUSE BILL NO. HB0097

Death penalty repeal.

Sponsored by: Representative(s) Connolly, Baker, Halverson,  
Miller and Pelkey and Senator(s) Craft

A BILL

for

1 AN ACT relating to crimes and offenses and criminal  
2 procedure; repealing the death penalty; repealing  
3 procedures related to imposition and execution of death  
4 sentences; conforming provisions; providing applicability;  
5 and providing for an effective date.

6

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

8

9       **Section 1.** W.S. 6-1-304, 6-2-101(b) and (c),  
10 6-10-101, 7-6-104(c) (ii), 7-10-101(a), 7-11-103(a),  
11 7-11-202, 7-11-206(a), 7-12-305(d) (i), 7-13-107(a) (intro),  
12 7-13-302(a) (intro), 7-13-424(a) (intro), 7-13-1003(b) (i),  
13 7-16-205(a) (i) and 7-18-102(a) (iii) (B), (C), (v) (B) and (C)  
14 are amended to read:

15

1           **6-1-304. Grading.**

2

3     The penalty for attempt, solicitation or conspiracy is the  
4     same as the penalty for the most serious crime which is  
5     attempted, solicited or is an object of the conspiracy.  
6     ~~except that an attempt, solicitation or conspiracy to~~  
7     ~~commit a capital crime is not punishable by the death~~  
8     ~~penalty if the capital crime is not committed.~~

9

10           **6-2-101. Murder in the first degree; penalty.**

11

12           (b) A person convicted of murder in the first degree  
13     shall be punished by ~~death,~~ life imprisonment without  
14     parole or life imprisonment, ~~according to law,~~ except that  
15     a person convicted of murder in the first degree who was  
16     under the age of eighteen (18) years at the time of the  
17     offense shall be punished by life imprisonment.

18

19           (c) For a person convicted of murder in the first  
20     degree, ~~in a case in which the state seeks the death~~  
21     ~~penalty shall be sentenced in accordance with the~~  
22     ~~provisions of W.S. 6-2-102. In all other cases, including~~  
23     ~~any case in which the state has determined not to seek the~~

1 ~~death penalty at any stage of the proceeding,~~ the judge  
2 shall determine the sentence of life imprisonment without  
3 parole or life imprisonment taking into consideration any  
4 negotiated plea agreement and any evidence relevant to a  
5 determination of sentence which the court deems to have  
6 probative value.

7

8 **6-10-101. "Felony" and "misdemeanor" defined.**

9

10 Crimes which may be punished ~~by death or~~ by imprisonment  
11 for more than one (1) year are felonies. All other crimes  
12 are misdemeanors.

13

14 **7-6-104. Representation of needy persons.**

15

16 (c) A needy person who is entitled to be represented  
17 by an attorney under subsection (a) of this section is  
18 entitled:

19

20 (ii) To be represented in any appeal to a  
21 Wyoming court, and in cases ~~in which the death penalty has~~  
22 ~~been imposed or in such other cases as~~ the state public  
23 defender deems appropriate, in a writ of certiorari to the

1 United States supreme court, and in proceedings under W.S.  
2 7-14-101 through 7-14-108;

3

4 **7-10-101. Right of defendant.**

5

6 (a) A person arrested for an offense ~~not punishable~~  
7 ~~by death~~ may be admitted to bail.

8

9 **7-11-103. Peremptory challenges.**

10

11 (a) The defendant may challenge peremptorily, ~~in~~  
12 ~~capital cases, twelve (12) jurors,~~ in ~~other felonies~~ felony  
13 cases eight (8) jurors, and in ~~misdemeanors~~ misdemeanor  
14 cases four (4) jurors. The prosecution may challenge  
15 peremptorily, ~~in capital cases, twelve (12) jurors,~~ in  
16 ~~other felonies~~ felony cases eight (8) jurors, and in  
17 ~~misdemeanors~~ misdemeanor cases four (4) jurors. The number  
18 of peremptory challenges allowed to the prosecution shall  
19 be multiplied by the number of defendants on trial in each  
20 case. Each defendant shall be allowed separate peremptory  
21 challenges.

22

23 **7-11-202. Presence of defendant.**

1

2 Except as otherwise provided by this section, the defendant  
3 shall be present at the arraignment, at every stage of the  
4 trial, including the impaneling of the jury, and the return  
5 of the verdict and at the imposition of sentence. ~~In~~  
6 ~~prosecution for offenses not punishable by death,~~ ~~The~~  
7 defendant's voluntary absence after the trial has been  
8 commenced in his presence shall not prevent continuing the  
9 trial to and including the return of the verdict. A  
10 corporation may appear by counsel for all purposes. In  
11 prosecutions of all misdemeanor cases, the court, with the  
12 written consent of the defendant, may permit arraignment,  
13 plea, and imposition of sentence in a defendant's absence.  
14 The defendant's presence is not required at a reduction of  
15 sentence hearing.

16

17 **7-11-206. Separation of jury.**

18

19 (a) In the trial of any criminal case to a jury, the  
20 court may, ~~except for capital cases~~ allow the jurors to  
21 separate during the trial and after the case is submitted  
22 to them.

23

1           **7-12-305. Review by the court; hearing on motion,**  
2 **findings; order.**

3  
4           (d) The movant shall be required to present a prima  
5 facie case showing that the evidence supports findings  
6 consistent with the facts asserted under W.S. 7-12-303(c)  
7 and DNA testing of the specified evidence would, assuming  
8 exculpatory results, establish:

9  
10           (i) The actual innocence of the movant of the  
11 offense for which the movant was convicted. ~~or~~

12  
13           **7-13-107. Split sentence of incarceration in county**  
14 **jail followed by probation; civil liability of county**  
15 **officers and employees.**

16  
17           (a) Following a defendant's conviction of, or his  
18 plea of guilty to any felony, other than a felony  
19 punishable by ~~death or~~ life imprisonment, the court may  
20 impose any sentence of imprisonment authorized by law and  
21 except as provided in subsection (g) of this section, may  
22 in addition provide:

23

1           **7-13-302. Placing person convicted on probation;**  
2 **suspension of imposition or execution of sentence;**  
3 **imposition of fine.**

4

5           (a) After conviction or plea of guilty for any  
6 offense, except crimes punishable by ~~death or~~ life  
7 imprisonment, and following entry of the judgment of  
8 conviction, the court may:

9

10           **7-13-424. Medical parole; conditions.**

11

12           (a) Notwithstanding any other provision of law  
13 restricting the grant of parole, except for inmates  
14 sentenced to ~~death or~~ life imprisonment without parole, the  
15 board may grant a medical parole to any inmate meeting the  
16 conditions specified in this section. The board shall  
17 consider a medical parole upon receipt of written  
18 certification by a licensed treating physician that, within  
19 a reasonable degree of certainty, one (1) of the following  
20 circumstances exist:

21

22           **7-13-1003. Establishment of program; eligibility;**  
23 **rulemaking authority.**

1

2 (b) In addition to any other eligibility requirements  
3 adopted by the department, an inmate is eligible for  
4 placement in the youthful offender program only if he:

5

6 (i) Is serving a sentence of imprisonment at a  
7 state penal institution for any offense other than a felony  
8 punishable by ~~death or~~ life imprisonment;

9

10 **7-16-205. Disposition of earnings; confidentiality of**  
11 **amount.**

12

13 (a) Payment for services performed by any prisoner  
14 under W.S. 7-16-202 shall be deposited in the trust and  
15 agency account at the institution and shall be disbursed  
16 for the purposes provided in this subsection and in the  
17 order specified:

18

19 (i) Unless the prisoner is serving a sentence of  
20 ~~death or~~ life without the possibility of parole or is  
21 subject to mandatory savings under W.S. 25-13-107(b)(i),  
22 ten percent (10%) shall be credited to the prisoner's  
23 personal savings account within the correctional facility's



1 trust and agency account, until the prisoner's account has  
2 a balance of one thousand dollars (\$1,000.00). Once the  
3 prisoner's personal savings account balance reaches one  
4 thousand dollars (\$1,000.00), the income otherwise  
5 distributed to the prisoner's savings account under this  
6 paragraph shall be distributed to the prisoner as provided  
7 by paragraphs (ii) through (vi) of this subsection. Funds  
8 in the prisoner's personal savings account shall be paid to  
9 the prisoner upon parole or final discharge;

10

11 **7-18-102. Definitions.**

12

13 (a) As used in this act:

14

15 (iii) "Inmate" means an adult serving a felony  
16 sentence in any state penal institution or any correctional  
17 facility operated pursuant to a contract under W.S.  
18 7-22-102, excluding any inmate who:

19

20 (B) Has been convicted of first degree  
21 murder; or

22

1 (C) Is serving a term of life  
2 imprisonment. ~~and~~

3

4 (v) "Offender" means an adult who has entered a  
5 plea of guilty or has been convicted of a misdemeanor  
6 punishable by imprisonment or a felony, excluding any  
7 person who:

8

9 (B) Has been convicted of, or pled guilty  
10 to, first degree murder; or

11

12 (C) Has been convicted of, or pled guilty  
13 to, a crime punishable by life imprisonment. ~~and~~

14

15 **Section 2.** W.S. 6-2-102, 6-2-103, 6-5-203(c)(iii),  
16 6-10-202(a)(i), 7-10-101(b), 7-11-105(a)(iii), 7-11-206(b),  
17 7-12-303(c)(i)(C), 7-12-305(d)(ii), 7-13-807, 7-13-901  
18 through 7-13-915 and 7-18-102(a)(iii)(D) and (v)(D) are  
19 repealed.

20

21 **Section 3.** This act does not apply to crimes  
22 committed prior to the effective date of this  
23 act. Prosecutions for a crime shall be governed by the law

1 in effect on the date when the crime occurred. A crime was  
2 committed prior to the effective date of this act if any of  
3 the elements of the crime occurred prior to the effective  
4 date of this act.

5

6 **Section 4.** This act is effective July 1, 2015.

7

8

(END)