

HOUSE BILL NO. HB0115

Death penalty repeal.

Sponsored by: Representative(s) Connolly, Halverson,
Pelkey, Petroff and Wilson and Senator(s)
Craft and Rothfuss

A BILL

for

1 AN ACT relating to crimes and offenses and criminal
2 procedure; repealing the death penalty; repealing
3 procedures related to the 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), 7-12-303(c)(i)(A) and (B),
12 7-12-305(d)(i), 7-13-107(a)(intro), 7-13-302(a)(intro),
13 7-13-424(a)(intro), 7-13-1003(b)(i), 7-16-205(a)(i),
14 7-18-102(a)(iii)(B), (C), (v)(B) and (C), 14-6-246(a)(iv)
15 and (v) and 31-7-102(a)(xx) are amended to read:

1

2 **6-1-304. Grading.**

3

4 The penalty for attempt, solicitation or conspiracy is the
5 same as the penalty for the most serious crime which is
6 attempted, solicited or is an object of the conspiracy.

7 ~~except that an attempt, solicitation or conspiracy to~~
8 ~~commit a capital crime is not punishable by the death~~
9 ~~penalty if the capital crime is not committed.~~

10

11 **6-2-101. Murder in the first degree; penalty.**

12

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

19

20 (c) For a person convicted of murder in the first
21 degree, ~~in a case in which the state seeks the death~~
22 ~~penalty shall be sentenced in accordance with the~~
23 ~~provisions of W.S. 6-2-102. In all other cases, including~~

1 ~~any case in which the state has determined not to seek the~~
2 ~~death penalty at any stage of the proceeding,~~ the judge
3 shall determine the sentence of life imprisonment without
4 parole or life imprisonment taking into consideration any
5 negotiated plea agreement and any evidence relevant to a
6 determination of sentence which the court deems to have
7 probative value.

8
9 **6-10-101. "Felony" and "misdemeanor" defined.**

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

14
15 **7-6-104. Representation of needy persons.**

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

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

1 defender deems appropriate, in a writ of certiorari to the
2 United States supreme court, and in proceedings under W.S.
3 7-14-101 through 7-14-108;

4
5 **7-10-101. Right of defendant.**

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

9
10 **7-11-103. Peremptory challenges.**

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

1 **7-11-202. Presence of defendant.**

2

3 Except as otherwise provided by this section, the defendant

4 shall be present at the arraignment, at every stage of the

5 trial, including the impaneling of the jury, and the return

6 of the verdict and at the imposition of sentence. ~~In~~

7 ~~prosecution for offenses not punishable by death,~~ The

8 defendant's voluntary absence after the trial has been

9 commenced in his presence shall not prevent continuing the

10 trial to and including the return of the verdict. A

11 corporation may appear by counsel for all purposes. In

12 prosecutions of all misdemeanor cases, the court, with the

13 written consent of the defendant, may permit arraignment,

14 plea, and imposition of sentence in a defendant's absence.

15 The defendant's presence is not required at a reduction of

16 sentence hearing.

17

18 **7-11-206. Separation of jury.**

19

20 (a) In the trial of any criminal case to a jury, the

21 court may, ~~except for capital cases~~ allow the jurors to

22 separate during the trial and after the case is submitted

23 to them.

1

2 7-12-303. New trial; motion for post-conviction
3 testing of DNA; motion contents; sufficiency of
4 allegations, consent to DNA sample; definitions.

5

6 (c) A person convicted of a felony offense may,
7 preliminary to the filing of a motion for a new trial, file
8 a motion for post-conviction DNA testing in the district
9 court that entered the judgment of conviction against him
10 if the movant asserts under oath and the motion includes a
11 good faith, particularized factual basis containing the
12 following information:

13

14 (i) Why DNA evidence is material to:

15

16 (A) The identity of the perpetrator of, or
17 accomplice to, the crime; or

18

19 (B) A sentence enhancement. ~~or~~

20

21 7-12-305. Review by the court; hearing on motion,
22 findings; order.

23

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

6

7 (i) The actual innocence of the movant of the
8 offense for which the movant was convicted. ~~or~~

9

10 **7-13-107. Split sentence of incarceration in county**
11 **jail followed by probation; civil liability of county**
12 **officers and employees.**

13

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

20

21 **7-13-302. Placing person convicted on probation;**
22 **suspension of imposition or execution of sentence;**
23 **imposition of fine.**

1

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

6

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

8

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

18

19 **7-13-1003. Establishment of program; eligibility;**
20 **rulemaking authority.**

21

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

4
5 (i) Is serving a sentence of imprisonment at a
6 state penal institution for any offense other than a felony
7 punishable by ~~death or~~ life imprisonment;

8
9 **7-16-205. Disposition of earnings; confidentiality of**
10 **amount.**

11
12 (a) Payment for services performed by any prisoner
13 under W.S. 7-16-202 shall be deposited in the trust and
14 agency account at the institution and shall be disbursed
15 for the purposes provided in this subsection and in the
16 order specified:

17
18 (i) Unless the prisoner is serving a sentence of
19 ~~death or~~ life without the possibility of parole or is
20 subject to mandatory savings under W.S. 25-13-107(b)(i),
21 ten percent (10%) shall be credited to the prisoner's
22 personal savings account within the correctional facility's
23 trust and agency account, until the prisoner's account has

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

9
10 **7-18-102. Definitions.**

11
12 (a) As used in this act:

13
14 (iii) "Inmate" means an adult serving a felony
15 sentence in any state penal institution or any correctional
16 facility operated pursuant to a contract under W.S.
17 7-22-102, excluding any inmate who:

18
19 (B) Has been convicted of first degree
20 murder; or

21
22 (C) Is serving a term of life
23 imprisonment. ~~and~~

1

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

6

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

9

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

12

13 **14-6-246. Sanction levels.**

14

15 (a) Subject to subsection (c) of this section, when a
16 child is adjudicated as a delinquent the juvenile court
17 may, in a disposition hearing, assign the child one (1) of
18 the following sanction levels according to the child's
19 conduct:

20

21 (iv) For a violent felony as defined by W.S.
22 6-1-104(a)(xii), other than a felony punishable by life or
23 life without parole, ~~or death,~~ the sanction level is four;

1

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

5

6 **31-7-102. Definitions.**

7

8 (a) As used in this act:

9

10 (xx) "Felony" means any offense under state or
11 federal law that is punishable by ~~death or~~ imprisonment for
12 a term exceeding one (1) year.

13

14 **Section 2.** W.S. 6-2-102, 6-2-103, 6-5-203(c)(iii),
15 6-10-202(a)(i), 7-10-101(b), 7-11-105(a)(iii), 7-11-206(b),
16 7-12-303(c)(i)(C), 7-12-305(d)(ii), 7-13-807, 7-13-901
17 through 7-13-916 and 7-18-102(a)(iii)(D) and (v)(D) are
18 repealed.

19

20 **Section 3.** This act does not apply to crimes
21 committed prior to the effective date of this act.
22 Prosecutions for a crime shall be governed by the law in
23 effect on the date when the crime occurred. A crime was

1 committed prior to the effective date of this act if any of
2 the elements of the crime occurred prior to the effective
3 date of this act.

4

5 **Section 4.** This act is effective July 1, 2016.

6

7

(END)