

## HOUSE BILL NO. HB0240

Death penalty repeal.

Sponsored by: Representative(s) Halverson, Baker, Connolly,  
Piiparinen and Wilson and Senator(s) Boner  
and Rothfuss

A BILL

for

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

7

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

9

10       **Section 1.** W.S. 6-1-304, 6-2-101(b) and (c),  
11 6-10-101, 7-6-104(c) (ii), 7-10-101(a), 7-11-103(a),  
12 7-11-202, 7-11-206(a), 7-12-303(c) (i) (A) and (B),  
13 7-12-305(d) (i), 7-13-107(a) (intro), 7-13-302(a) (intro),  
14 7-13-424(a) (intro), 7-13-1003(b) (i), 7-16-205(a) (i),

1 7-18-102(a) (iii) (B), (C), (v) (B) and (C) and  
2 14-6-246(a) (iv) and (v) are amended to read:

3

4 **6-1-304. Grading.**

5

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

12

13 **6-2-101. Murder in the first degree; penalty.**

14

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

21

22 (c) For a person convicted of murder in the first  
23 degree, ~~in a case in which the state seeks the death~~

1 ~~penalty shall be sentenced in accordance with the~~  
2 ~~provisions of W.S. 6-2-102. In all other cases, including~~  
3 ~~any case in which the state has determined not to seek the~~  
4 ~~death penalty at any stage of the proceeding,~~ the judge  
5 shall determine the sentence of life imprisonment without  
6 parole or life imprisonment taking into consideration any  
7 negotiated plea agreement and any evidence relevant to a  
8 determination of sentence, l which the court deems to have  
9 probative value.

10

11 **6-10-101. "Felony" and "misdemeanor" defined.**

12

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

16

17 **7-6-104. Representation of needy persons.**

18

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

22

1           (ii) To be represented in any appeal to a  
2 Wyoming court, and in cases ~~in which the death penalty has~~  
3 ~~been imposed or in such other cases as~~ the state public  
4 defender deems appropriate, in a writ of certiorari to the  
5 United States supreme court, and in proceedings under W.S.  
6 7-14-101 through 7-14-108;

7  
8           **7-10-101. Right of defendant.**

9  
10          (a) A person arrested for an offense ~~not punishable~~  
11 ~~by death~~ may be admitted to bail.

12  
13           **7-11-103. Peremptory challenges.**

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

1 case. Each defendant shall be allowed separate peremptory  
2 challenges.

3

4 **7-11-202. Presence of defendant.**

5

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

20

21 **7-11-206. Separation of jury.**

22

1 (a) In the trial of any criminal case to a jury, the  
2 court may, ~~except for capital cases~~ allow the jurors to  
3 separate during the trial and after the case is submitted  
4 to them.

5  
6 **7-12-303. New trial; motion for post-conviction**  
7 **testing of DNA; motion contents; sufficiency of**  
8 **allegations, consent to DNA sample; definitions.**

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

17  
18 (i) Why DNA evidence is material to:

19  
20 (A) The identity of the perpetrator of, or  
21 accomplice to, the crime; or

22  
23 (B) A sentence enhancement. ~~;~~ ~~or~~

1

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

4

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

10

11           (i) The actual innocence of the movant of the  
12 offense for which the movant was convicted. ~~7-12-303~~

13

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

17

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

1

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

5

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

10

11           **7-13-424. Medical parole; conditions.**

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

22



1           **7-13-1003. Establishment of program; eligibility;**  
2 **rulemaking authority.**

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

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

11  
12           **7-16-205. Disposition of earnings; confidentiality of**  
13 **amount.**

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

20  
21           (i) Unless the prisoner is serving a sentence of  
22 ~~death or~~ life without the possibility of parole or is  
23 subject to mandatory savings under W.S. 25-13-107(b)(i),

1 ten percent (10%) shall be credited to the prisoner's  
2 personal savings account within the correctional facility's  
3 trust and agency account, until the prisoner's account has  
4 a balance of one thousand dollars (\$1,000.00). Once the  
5 prisoner's personal savings account balance reaches one  
6 thousand dollars (\$1,000.00), the income otherwise  
7 distributed to the prisoner's savings account under this  
8 paragraph shall be distributed to the prisoner as provided  
9 by paragraphs (ii) through (vi) of this subsection. Funds  
10 in the prisoner's personal savings account shall be paid to  
11 the prisoner upon parole or final discharge;

12

13 **7-18-102. Definitions.**

14

15 (a) As used in this act:

16

17 (iii) "Inmate" means an adult serving a felony  
18 sentence in any state penal institution or any correctional  
19 facility operated pursuant to a contract under W.S.  
20 7-22-102, excluding any inmate who:

21

22 (B) Has been convicted of first degree  
23 murder; or

1

2

(C) Is serving a term of life imprisonment. ~~;~~ ~~or~~

4

5

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

9

10

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

12

13

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

15

16

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

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

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23

1           (iv) For a violent felony as defined by W.S.  
2 6-1-104(a)(xii), other than a felony punishable by life,  
3 life without parole, ~~or death~~, the sanction level is four;

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

8  
9           **Section 2.** W.S. 6-2-102, 6-2-103, 6-5-203(c)(iii),  
10 6-10-202(a)(i), 7-10-101(b), 7-11-105(a)(iii), 7-11-206(b),  
11 7-12-303(c)(i)(C), 7-12-305(d)(ii), 7-13-807, 7-13-901  
12 through 7-13-916 and 7-18-102(a)(iii)(D) and (v)(D) are  
13 repealed.

14  
15           **Section 3.** This act applies to crimes and offenses  
16 committed before, on or after July 1, 2017.

17  
18           **Section 4.** No defendant shall be sentenced to death  
19 on or after July 1, 2017.

20  
21           **Section 5.** Any existing death sentence imposed before  
22 July 1, 2017, shall be remanded to the sentencing court to  
23 enter a new sentence of life imprisonment without parole.

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2

**Section 6.** This act is effective July 1, 2017.

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4

(END)