

HOUSE BILL NO. HB0145

Death penalty repeal-2.

Sponsored by: Representative(s) Olsen, Barlow, Brown,
Burkhart, Connolly, Dayton, Flitner,
Harshman, Lindholm, Miller, Pelkey, Schwartz
and Wilson and Senator(s) Anselmi-Dalton,
Boner, Landen, Pappas and Rothfuss

A BILL

for

1 AN ACT relating to crimes and offenses and criminal procedure;
2 repealing the death penalty; eliminating procedures related
3 to the imposition and execution of death sentences; making
4 conforming amendments; providing applicability; remanding
5 existing death sentences; repealing obsolete provisions; and
6 providing for an 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), 6-10-101,
11 7-6-104(c)(ii), 7-10-101(a) and (b), 7-11-103(a), 7-11-202,
12 7-11-206(a), 7-12-303(c)(i)(A) and (B), 7-12-305(d)(i),
13 7-13-107(a)(intro), 7-13-302(a)(intro), 7-13-424(a)(intro),
14 7-13-1003(b)(i), 7-16-205(a)(i), 7-18-102(a)(iii)(B), (C),

(v)(B) and (C), 7-19-107(g) and 14-6-246(a)(iv) and (v) are amended to read:

6-1-304. Grading.

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

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

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

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

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

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

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

15
16 **7-6-104. Representation of needy persons.**

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

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

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

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

6
7 (a) A person arrested for an offense not punishable by
8 ~~death~~life imprisonment without parole may be admitted to
9 bail.

10
11 (b) A person arrested for an offense punishable by
12 ~~death~~life imprisonment without parole may be admitted to
13 bail at the discretion of the authorized judicial officer as
14 defined by W.S. 7-10-104, except the defendant shall not be
15 admitted to bail if the proof is evident or the presumption
16 great in the case.

17
18 **7-11-103. Peremptory challenges.**

19
20 (a) The defendant may challenge peremptorily, ~~in~~
21 ~~capital cases, twelve (12) jurors,~~ in ~~other felonies~~felony
22 cases eight (8) jurors, and in ~~misdemeanors~~misdemeanor cases
23 four (4) jurors. The prosecution may challenge peremptorily,

1 ~~in capital cases, twelve (12) jurors,~~ in ~~other felonies~~ felony
2 cases eight (8) jurors, and in ~~misdemeanors~~ misdemeanor cases
3 four (4) jurors. The number of peremptory challenges allowed
4 to the prosecution shall be multiplied by the number of
5 defendants on trial in each case. Each defendant shall be
6 allowed separate peremptory challenges.

7

8 **7-11-202. Presence of defendant.**

9

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

1

2 **7-11-206. Separation of jury.**

3

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

8

9 **7-12-303. New trial; motion for post-conviction testing**
10 **of DNA; motion contents; sufficiency of allegations, consent**
11 **to DNA sample; definitions.**

12

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

20

21 (i) Why DNA evidence is material to:

22

1 (A) The identity of the perpetrator of, or
2 accomplice to, the crime; or

3
4 (B) A sentence enhancement. ~~or~~

5
6 **7-12-305. Review by the court; hearing on motion,**
7 **findings; order.**

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

14
15 (i) The actual innocence of the movant of the
16 offense for which the movant was convicted. ~~or~~

17
18 **7-13-107. Split sentence of incarceration in county**
19 **jail followed by probation; civil liability of county**
20 **officers and employees.**

21
22 (a) Following a defendant's conviction of, or his plea
23 of guilty to any felony, other than a felony punishable by

1 ~~death-or~~life imprisonment, the court may impose any sentence
2 of imprisonment authorized by law and except as provided in
3 subsection (g) of this section, may in addition provide:

4
5 **7-13-302. Placing person convicted on probation;**
6 **suspension of imposition or execution of sentence; imposition**
7 **of fine.**

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

12
13 **7-13-424. Medical parole; conditions.**

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

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 placement
6 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 agency
17 account at the institution and shall be disbursed for the
18 purposes provided in this subsection and in the order
19 specified:

20

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

1 (10%) shall be credited to the prisoner's personal savings
2 account within the correctional facility's trust and agency
3 account, until the prisoner's account has a balance of one
4 thousand dollars (\$1,000.00). Once the prisoner's personal
5 savings account balance reaches one thousand dollars
6 (\$1,000.00), the income otherwise distributed to the
7 prisoner's savings account under this paragraph shall be
8 distributed to the prisoner as provided by paragraphs (ii)
9 through (vi) of this subsection. Funds in the prisoner's
10 personal savings account shall be paid to the prisoner upon
11 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. 7-22-102,
20 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. ~~;~~3 ~~or~~

4

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

9

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

12

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

15

16 7-19-107. Central repository; information to be
17 submitted; audits; interstate exchanges.

18

19 (g) The director of the department of corrections, the
20 superintendents of the Wyoming boys' school and Wyoming
21 girls' school and the sheriff of each county shall furnish
22 the division with all information concerning the receipt,
23 escape, ~~execution,~~ death, release, pardon, parole,

1 commutation of sentence, granting of executive clemency or
2 discharge of any individual who has been sentenced to the
3 agency's custody for any offense covered by this act.

4
5 **14-6-246. Sanction levels.**

6
7 (a) Subject to subsection (c) of this section, when a
8 child is adjudicated as a delinquent the juvenile court may,
9 in a disposition hearing, assign the child one (1) of the
10 following sanction levels according to the child's conduct:

11
12 (iv) For a violent felony as defined by W.S.
13 6-1-104(a)(xii), other than a felony punishable by life, or
14 life without parole, or death, the sanction level is four;

15
16 (v) For a felony punishable under the Wyoming
17 Criminal Code by life, or life without parole, or death, the
18 sanction level is five.

19
20 **Section 2.** W.S. 6-2-102, 6-2-103, 6-5-203(c)(iii),
21 6-10-202(a)(i), 7-11-105(a)(iii), 7-11-206(b),
22 7-12-303(c)(i)(C), 7-12-305(d)(ii), 7-13-807, 7-13-901

1 through 7-13-916 and 7-18-102(a)(iii)(D) and (v)(D) are
2 repealed.

3

4 **Section 3.** This act applies to crimes and offenses
5 committed before, on or after the effective date of this act.

6

7 **Section 4.** Any existing death sentence imposed before
8 the effective date of this act shall be remanded to the
9 sentencing court to enter a new sentence of life imprisonment
10 without parole.

11

12 **Section 5.** This act is effective immediately upon
13 completion of all acts necessary for a bill to become law as
14 provided by Article 4, Section 8 of the Wyoming Constitution.

15

16 (END)