

2010 -- S 2638

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LC01579  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO CRIMINAL OFFENSES -- HOMICIDE

Introduced By: Senators Walaska, and Maselli

Date Introduced: March 04, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 11-23-2 of the General Laws in Chapter 11-23 entitled "Homicide"  
2 is hereby amended to read as follows:  
3           **11-23-2. Penalties for murder. --** Every person guilty of murder in the first degree shall  
4 be imprisoned for life. ~~Every person guilty of murder in the first degree: (1) committed~~  
5 ~~intentionally while engaged in the commission of another capital offense or other felony for~~  
6 ~~which life imprisonment may be imposed; (2) committed in a manner creating a great risk of~~  
7 ~~death to more than one person by means of a weapon or device or substance which would~~  
8 ~~normally be hazardous to the life of more than one person; (3) committed at the direction of~~  
9 ~~another person in return for money or any other thing of monetary value from that person; (4)~~  
10 ~~committed in a manner involving torture or an aggravated battery to the victim; (5) committed~~  
11 ~~against any member of the judiciary, law enforcement officer, corrections employee, assistant~~  
12 ~~attorney general or special assistant attorney general, or firefighter arising from the lawful~~  
13 ~~performance of his or her official duties; (6) committed by a person who at the time of the murder~~  
14 ~~was committed to confinement in the adult correctional institutions or the state reformatory for~~  
15 ~~women upon conviction of a felony; or (7) committed during the course of the perpetration or~~  
16 ~~attempted perpetration of felony manufacture, sale, delivery or other distribution of a controlled~~  
17 ~~substance otherwise prohibited by the provisions of chapter 28 of title 21; shall be imprisoned for~~  
18 ~~life~~ and if ordered by the court pursuant to chapter 19.2 of title 12 that person shall not be eligible  
19 for parole from imprisonment. Every person guilty of murder in the second degree shall be

1 imprisoned for not less than ten (10) years and may be imprisoned for life.

2 SECTION 2. Section 12-19.2-4 of the General Laws in Chapter 12-19.2 entitled  
3 "Sentencing to Life Imprisonment Without Parole" is hereby amended to read as follows:

4 **12-19.2-4. Consideration of aggravating and mitigating circumstances.** -- At the  
5 presentence hearing, ~~following a finding that one or more of the circumstances enumerated in~~  
6 ~~section 11-23-2 or 11-23-2.1 as the basis for imposition of a sentence of life imprisonment~~  
7 ~~without parole was involved in the first degree murder of which the defendant has been~~  
8 ~~convicted~~; the court shall consider evidence regarding the nature and circumstances of the offense  
9 and the personal history, character, record, and propensities of the defendant which are relevant to  
10 the sentencing determination. After hearing evidence and argument regarding the aggravating and  
11 mitigating circumstances relating to the offense and the defendant, the court shall, in its  
12 discretion, sentence the defendant to life imprisonment without parole or to life imprisonment.  
13 The court shall state on the record its reasons for imposing its sentence.

14 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL OFFENSES -- HOMICIDE

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1           This act would repeal enumerated special circumstances that could be relied on by the  
2 court to sentence an individual to life imprisonment without the possibility of parole, and would  
3 make all defendants found guilty of first degree murder eligible for life imprisonment without the  
4 possibility of parole. This act would give the sentencing court discretion in all first degree  
5 murder convictions to sentence the defendant to either a life sentence or a life sentence without  
6 the possibility of parole based on all factors in aggravation or mitigation that would be presented  
7 and argued to the court at the sentencing hearing.

8           This act would take effect upon passage.

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