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**SENATE BILL 5414**

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**State of Washington**                      **53rd Legislature**                      **1993 Regular Session**

**By** Senators Prentice, Rinehart, Williams and Moore

Read first time 01/27/93. Referred to Committee on Law & Justice.

1            AN ACT Relating to the death penalty; amending RCW 10.95.030,  
2 10.95.040, 10.95.080, and 10.95.140; adding new sections to chapter  
3 10.95 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 10.95 RCW  
6 to read as follows:

7            The legislature intends to abolish the possibility of a sentence of  
8 death for some crimes committed subsequent to the effective date of  
9 this section. The legislature does not intend to affect, in any  
10 manner, the possibility of a sentence of death being imposed for any  
11 crime that was planned, begun, or committed before the effective date  
12 of this section and does not do so by the passage of chapter . . . ,  
13 Laws of 1993 (this act). The legislature does not intend to change any  
14 sentence of any person who was sentenced for any offense committed  
15 before the effective date of this section and does not do so by the  
16 passage of chapter . . . , Laws of 1993 (this act).

17            NEW SECTION.    **Sec. 2.** A new section is added to chapter 10.95 RCW  
18 to read as follows:

1 (1) A person convicted of aggravated first degree murder as defined  
2 by RCW 10.95.020 or any other offense shall not receive a sentence of  
3 death upon conviction of the offense if the offense was committed  
4 subsequent to the effective date of this section. However, if before  
5 the effective date of this section an agreement was made or act was  
6 taken in furtherance of the commission of an offense for which a  
7 sentence of death could have been imposed under this chapter before the  
8 effective date of this section, and the offense is committed as a  
9 result of such agreement or act, the offender may be sentenced to death  
10 under this chapter regardless of the date of conviction.

11 (2) A person convicted of aggravated first degree murder before the  
12 effective date of this section who has been sentenced to death shall  
13 not receive a reduced or changed sentence as a result of chapter  
14 . . . , Laws of 1993 (this act).

15 (3) Except as provided in subsection (1) of this section, a person  
16 convicted of aggravated first degree murder after the effective date of  
17 this section shall be sentenced to life imprisonment without  
18 possibility of release or parole pursuant to RCW 10.95.030.

19 (4) For all persons sentenced under subsection (3) of this section,  
20 the information required to be reported under RCW 10.95.120 shall  
21 continue to be reported, as appropriate, to the supreme court of  
22 Washington.

23 **Sec. 3.** RCW 10.95.030 and 1981 c 138 s 3 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (2) of this section, any  
26 person convicted of the crime of aggravated first degree murder shall  
27 be sentenced to life imprisonment without possibility of release or  
28 parole. A person sentenced to life imprisonment under this section  
29 shall not have that sentence suspended, deferred, or commuted by any  
30 judicial officer and the (~~board of prison terms and paroles or its~~  
31 ~~successor~~) indeterminate sentence review board may not parole such  
32 prisoner nor reduce the period of confinement in any manner whatsoever  
33 including but not limited to any sort of good-time calculation. The  
34 department of social and health services or its successor or any  
35 executive official may not permit such prisoner to participate in any  
36 sort of release or furlough program.

37 (2) If, pursuant to a special sentencing proceeding held under RCW  
38 10.95.050, the trier of fact finds that there are not sufficient

1 mitigating circumstances to merit leniency, the sentence shall be  
2 death. A sentence of death may not be imposed unless the crime for  
3 which the sentencing is imposed was planned, begun, or committed before  
4 the effective date of this section.

5       **Sec. 4.** RCW 10.95.040 and 1981 c 138 s 4 are each amended to read  
6 as follows:

7       (1) If a person is charged with aggravated first degree murder as  
8 defined by RCW 10.95.020, the prosecuting attorney shall file written  
9 notice of a special sentencing proceeding to determine whether or not  
10 the death penalty should be imposed when there is reason to believe  
11 that there are not sufficient mitigating circumstances to merit  
12 leniency. The death penalty may not be imposed unless the crime for  
13 which the sentencing is imposed was planned, begun, or committed before  
14 the effective date of this section.

15       (2) The notice of special sentencing proceeding shall be filed and  
16 served on the defendant or the defendant's attorney within thirty days  
17 after the defendant's arraignment upon the charge of aggravated first  
18 degree murder unless the court, for good cause shown, extends or  
19 reopens the period for filing and service of the notice. Except with  
20 the consent of the prosecuting attorney, during the period in which the  
21 prosecuting attorney may file the notice of special sentencing  
22 proceeding, the defendant may not tender a plea of guilty to the charge  
23 of aggravated first degree murder nor may the court accept a plea of  
24 guilty to the charge of aggravated first degree murder or any lesser  
25 included offense.

26       (3) If a notice of special sentencing proceeding is not filed and  
27 served as provided in this section, the prosecuting attorney may not  
28 request the death penalty.

29       **Sec. 5.** RCW 10.95.080 and 1981 c 138 s 8 are each amended to read  
30 as follows:

31       (1) If a jury answers affirmatively the question posed by RCW  
32 10.95.060(4), or when a jury is waived as allowed by RCW 10.95.050(2)  
33 and the trial court answers affirmatively the question posed by RCW  
34 10.95.060(4), the defendant shall be sentenced to death. The trial  
35 court may not suspend or defer the execution or imposition of the  
36 sentence.

1 (2) If the jury does not return an affirmative answer to the  
2 question posed in RCW 10.95.060(4), the defendant shall be sentenced to  
3 life imprisonment as provided in RCW 10.95.030(1).

4 (3) The sentence of death provided for in subsection (1) of this  
5 section may not be imposed unless the crime for which the sentencing is  
6 imposed was planned, begun, or committed before the effective date of  
7 this section.

8 **Sec. 6.** RCW 10.95.140 and 1981 c 138 s 14 are each amended to read  
9 as follows:

10 Upon completion of a sentence review:

11 (1) The supreme court of Washington shall invalidate the sentence  
12 of death and remand the case to the trial court for resentencing in  
13 accordance with RCW 10.95.090 if:

14 (a) The court makes a negative determination as to the question  
15 posed by RCW 10.95.130(2)(a); or

16 (b) The court makes an affirmative determination as to either of  
17 the questions posed by RCW 10.95.130(2)(b) or (c); or

18 (c) The court makes an affirmative determination that the crime for  
19 which the sentence was imposed was not planned, begun, or committed  
20 before the effective date of this section.

21 (2) The court shall affirm the sentence of death and remand the  
22 case to the trial court for execution in accordance with RCW 10.95.160  
23 if:

24 (a) The court makes an affirmative determination as to the question  
25 posed by RCW 10.95.130(2)(a); and

26 (b) The court makes a negative determination as to the question  
27 posed by RCW 10.95.130(2)(b) and (c); and

28 (c) The court makes a negative determination and finds that the  
29 crime for which the sentence was imposed was planned, begun, or  
30 committed before the effective date of this section.

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