~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 21, 2012

**H. 4919**

Introduced by Reps. McCoy, Harrell and Tallon

S. Printed 3/21/12--H.

Read the first time February 29, 2012.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4919) to amend Section 16‑3‑20, as amended, Code of Laws of South Carolina, 1976, relating to punishment and sentencing for murder, so as to provide, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. A. Section 16‑3‑20(A) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“(A)(1) A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life.

(2) If the State seeks a life sentence pursuant to subsection (F) and a defendant is convicted pursuant to that subsection, the defendant must be sentenced to life imprisonment as defined in this subsection.

(3) If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment.

For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.”

B. Section 16‑3‑20 of the 1976 Code, as last amended by Act 289 of 2010, is further amended by adding a new subsection at the end to read:

“(F) Notwithstanding another provision of law, the State may seek a mandatory sentence of life imprisonment pursuant to the provisions of this subsection. The State shall give written notice to the defendant ten days prior to trial of its intention to seek sentencing pursuant to this subsection. If the State seeks a mandatory sentence of life imprisonment pursuant to this subsection, the defendant must be sentenced to life imprisonment if he is convicted and the conviction meets the following criteria, the defendant is convicted of:

(1) murder and also is found guilty of one or more of the following accompanying crimes:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) burglary in any degree; or

(d) robbery while armed with a deadly weapon;

(2) two or more murders by one act or pursuant to one scheme or course of conduct; or

(3) murder and the victim is a child eleven years of age or under.

The provisions of this subsection do not apply if the defendant is less than seventeen years of age.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 16‑3‑20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PUNISHMENT AND SENTENCING FOR MURDER, SO AS TO PROVIDE FOR MANDATORY LIFE IMPRISONMENT WHEN THE STATE SEEKS A LIFE SENTENCE FOR A MURDER COMMITTED WITH CERTAIN OTHER DESIGNATED OFFENSES OR UNDER CERTAIN FURTHER DELINEATED CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 16‑3‑20(A) of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“(A)(1) A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life.

(2) If the State seeks a life sentence pursuant to subsection (F) and a defendant is convicted pursuant to that subsection, the defendant must be sentenced to life imprisonment as defined in this subsection.

(3) If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment.

For purposes of this section, ‘life’ or ‘life imprisonment’ means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commutee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.”

B. Section 16‑3‑20 of the 1976 Code, as last amended by Act 289 of 2010, is further amended by adding a new subsection at the end to read:

“(F) Notwithstanding another provision of law, the State may seek a mandatory sentence of life imprisonment pursuant to the provisions of this subsection. The State shall give written notice to the defendant ten days prior to trial of its intention to seek sentencing pursuant to this subsection. If the State seeks a mandatory sentence of life imprisonment pursuant to this subsection, the defendant must be sentenced to life imprisonment if he is convicted and the conviction meets the following criteria, the defendant is convicted of:

(1) murder and also is found guilty of one or more of the following accompanying crimes:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) burglary in any degree; or

(d) robbery while armed with a deadly weapon;

(2) two or more murders by one act or pursuant to one scheme or course of conduct; or

(3) murder and the victim is a child eleven years of age or under.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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