

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 57, Page 2, Section 565.027, Line 5, by
2 inserting immediately after all of said section and line the following:

3
4 "565.032. 1. In all cases of murder in the first degree for which the death penalty is
5 authorized, the judge in a jury-waived trial shall consider, or shall include in his or her instructions
6 to the jury for it to consider:

7 (1) Whether a statutory aggravating circumstance or circumstances enumerated in
8 subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

9 (2) If a statutory aggravating circumstance or circumstances is proven beyond a reasonable
10 doubt, whether the evidence as a whole justifies a sentence of death or a sentence of life
11 imprisonment without eligibility for probation, parole, or release except by act of the governor.

12
13 In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall
14 consider all evidence which it finds to be in aggravation or mitigation of punishment, including
15 evidence received during the first stage of the trial and evidence supporting any of the statutory
16 aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is
17 a jury, it shall not be instructed upon any specific evidence which may be in aggravation or
18 mitigation of punishment, but shall be instructed that each juror shall consider any evidence which
19 he or she considers to be aggravating or mitigating.

20 2. Statutory aggravating circumstances for a murder in the first degree offense shall be
21 limited to the following:

22 (1) The offense was committed by a person with a prior record of conviction for murder in
23 the first degree, or the offense was committed by a person who has one or more serious assaultive
24 criminal convictions;

25 (2) The murder in the first degree offense was committed while the offender was engaged in
26 the commission or attempted commission of another unlawful homicide;

27 (3) The offender by his or her act of murder in the first degree knowingly created a great
28 risk of death to more than one person by means of a weapon or device which would normally be
29 hazardous to the lives of more than one person;

30 (4) The offender committed the offense of murder in the first degree for himself or herself
31 or another, for the purpose of receiving money or any other thing of monetary value from the victim
32 of the murder or another;

33 (5) The murder in the first degree was committed against a judicial officer, former judicial
34 officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit
35 attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant circuit
36 attorney or former assistant circuit attorney, peace officer or former peace officer, elected official or

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1 former elected official during or because of the exercise of his official duty;

2 (6) The offender caused or directed another to commit murder in the first degree or
3 committed murder in the first degree as an agent or employee of another person;

4 (7) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman
5 in that it involved torture, or depravity of mind;

6 (8) The murder in the first degree was committed against any peace officer, or fireman
7 while engaged in the performance of his or her official duty;

8 (9) The murder in the first degree was committed by a person in, or who has escaped from,
9 the lawful custody of a peace officer or place of lawful confinement;

10 (10) The murder in the first degree was committed for the purpose of avoiding, interfering
11 with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself or herself
12 or another;

13 (11) The murder in the first degree was committed while the defendant was engaged in the
14 perpetration or was aiding or encouraging another person to perpetrate or attempt to perpetrate a
15 felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony offense in
16 chapter 195 or 579;

17 (12) The murdered individual was a witness or potential witness in any past or pending
18 investigation or past or pending prosecution, and was killed as a result of his or her status as a
19 witness or potential witness;

20 (13) The murdered individual was an employee of an institution or facility of the
21 department of corrections of this state or local correction agency and was killed in the course of
22 performing his or her official duties, or the murdered individual was an inmate of such institution or
23 facility;

24 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,
25 ship, bus or other public conveyance;

26 (15) The murder was committed for the purpose of concealing or attempting to conceal any
27 felony offense defined in chapter 195 or 579;

28 (16) The murder was committed for the purpose of causing or attempting to cause a person
29 to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter 195 or
30 579;

31 (17) The murder was committed during the commission of an offense which is part of a
32 pattern of criminal street gang activity as defined in section 578.421.

33 3. Statutory mitigating circumstances shall include the following:

34 (1) The defendant has no significant history of prior criminal activity;

35 (2) The murder in the first degree was committed while the defendant was under the
36 influence of extreme mental or emotional disturbance;

37 (3) The victim was a participant in the defendant's conduct or consented to the act;

38 (4) The defendant was an accomplice in the murder in the first degree committed by another
39 person and his or her participation was relatively minor;

40 (5) The defendant acted under extreme duress or under the substantial domination of
41 another person;

42 (6) The capacity of the defendant to appreciate the criminality of his or her conduct or to
43 conform his or her conduct to the requirements of law was substantially impaired;

44 (7) The age of the defendant at the time of the offense.

45 4. (1) If the evidence as a whole justifies a sentence of death under the provisions of this
46 section, the judge, in a jury-waived trial, or the jury shall consider whether the person's continued
47 life would constitute a threat to another or society. If such person's continued life would constitute a
48 threat to another or society, the court may sentence the person to death. If, however, the judge or the

1 jury determines that the person's life would not constitute a threat to another or society, the person
2 shall not be sentenced to death.

3 (2) When determining if a person is a threat to another or society, the judge or the jury may
4 consider any evidence, including evidence received during the first stage of the trial."; and
5

6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.