



**House  
Legislative  
Analysis  
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LIFE WITHOUT PAROLE

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House Bill 4689

Sponsor: Rep. Sal Rocca

House Bill 4690

Sponsor: Rep. David M. Gubow

Committee: Judiciary

Complete to 5-18-89

A SUMMARY OF HOUSE BILLS 4689 AND 4690 AS INTRODUCED 4-24-89

House Bill 4689 would amend the Code of Criminal Procedure to provide for sentences of life in prison without parole. The bill would apply when someone was convicted of any of the following: an assaultive crime, when the person had one or more prior convictions for an assaultive crime within the previous ten years, not counting time spent in prison; armed robbery; first-degree criminal sexual conduct; second-degree murder; hostage-taking; or a lesser included offense of any of these latter four crimes. (An "assaultive crime" would be an offense against a person described in specified sections of the penal code.)

Prosecutor request; hearing. The process would be initiated by the prosecuting attorney. Prior to sentencing, the prosecutor could request a hearing to determine whether life in prison without parole should be imposed. However, if the prosecutor wished to press for the sentence, he or she would have to serve notice on the defendant at or before the arraignment; failure to do so would bar the imposition of life without parole. The hearing on life without parole would be a formal hearing under the rules of evidence. Both parties could call witnesses and would present arguments.

Determinations by the court; decision. Following the hearing, the court would determine whether any of certain aggravating and mitigating circumstances existed, whether any mitigating circumstances outweighed any aggravating circumstances, and whether the best interests of the public would be served by sentencing the defendant to life without parole. Based on these considerations, the court would decide whether the defendant should be sentenced to life without parole. The court would state its reasons on the record.

Aggravating circumstances would be: that the crime resulted in multiple deaths; that the crime involved torture, sadism, or aggravated physical injury; that the defendant's conduct constituted extreme recklessness or disregard for the possible serious injury to a victim; that the defendant's conduct created a substantial risk of death, disfigurement, or impairment; that the victim lacked substantial capacity to defend against the crime and the victim's vulnerability was apparent at the time of the crime; and, that the nature of the defendant's conduct shocked the conscience of the court.

Mitigating circumstances would be: that the defendant had no significant history of prior criminal activity; that the victim was a participant in the defendant's conduct or consented to the act; that the defendant was an accomplice to the crime but his or her participation was relatively minor; that the defendant acted under duress or under the substantial domination of

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another person; that the capacity of the defendant to appreciate the criminality of his or her conduct or to conform conduct to the requirements of the law was substantially impaired; and, the age of defendant at the time of the crime.

The best interests of the public would be based on: the defendant's prior record and character, including mental condition and maturity; whether the defendant was likely to be rehabilitated by the services and facilities offered by the Department of Corrections; whether the nature of the offense and the defendant's prior juvenile and criminal record made the defendant a likely danger to the public upon release from prison; and, the best interests of the public welfare and the protection of public security.

Release. Someone sentenced under the bill to life in prison without parole could be released only through a reprieve, commutation, or pardon granted by the governor.

MCL 769.15

House Bill 4690 would amend the corrections code, Public Act 232 of 1953, to exclude persons sentenced under House Bill 4689 from provisions for parole and to include them in a provision that requires a member of the parole board to periodically interview prisoners sentenced for first-degree murder.

MCL 791.234 and 791.244