

S.261

An act relating to limiting the sentence of life without the possibility of parole

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 2303 is amended to read:

§ 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

(a) Except as provided in subsection (g) of this section:

(1) The punishment for murder in the first degree shall be imprisonment for:

~~(A) a minimum term of not less than 35 years and a maximum term of life; or~~

~~(B) life without the possibility of parole.~~

(2) The punishment for murder in the second degree shall be imprisonment for:

~~(A) a minimum term of not less than 20 years and a maximum term of life; or~~

~~(B) life without the possibility of parole.~~

~~(3) Notwithstanding any other provision of law, this subsection shall apply only if the murder was committed on or after the effective date of this act.~~

(b) The punishment for murder in the first degree shall be imprisonment for life and for a minimum term of 35 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 35 years, up to and including life imprisonment without parole. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 35 years but not less than 15 years.

(c) The punishment for murder in the second degree shall be imprisonment for life and for a minimum term of 20 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 20 years, up to and including life imprisonment without parole. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 20 years but not less than 10 years.

\* \* \*

(g) Subsections (b)-(f) of this section shall apply only if the murder was committed before ~~the effective date of this act~~ May 1, 2006, and:

(1) the defendant was not sentenced before ~~the effective date of this act~~ May 1, 2006; or

(2) the defendant's sentence was stricken and remanded for resentencing pursuant to the Vermont Supreme Court's decision in State v. Provost, 2005 VT 134 (2005).

Sec. 2. 13 V.S.A. § 7045 is amended to read:

§ 7045. LIFE WITHOUT PAROLE SENTENCE ~~PROHIBITED FOR~~  
~~PERSONS UNDER 18 YEARS OF AGE~~

A court shall not sentence a person to life imprisonment without the possibility of parole if:

(1) the person was under 18 years of age at the time of the commission of ~~the~~ any offense; or

(2) the person committed any offense other than aggravated murder.

Sec. 3. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

(a) An inmate serving any sentence other than life without the possibility of parole shall be eligible for parole consideration no later than upon serving 35 years.

(b) An inmate who is serving a sentence of imprisonment shall be eligible for parole consideration as follows:

(1) If the inmate's sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate's sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence or upon the inmate serving 35 years, whichever occurs first.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.