

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 261  
3 entitled “An act relating to eliminating life without parole” respectfully reports  
4 that it has considered the same and recommends that the bill be amended by  
5 striking out all after the enacting clause and inserting in lieu thereof the  
6 following:

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11 striking out all after the enacting clause and inserting in lieu thereof the  
12 following:

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

14 § 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

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

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

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

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

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

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

4           (3) Notwithstanding any other provision of law, this subsection shall  
5 apply only if the murder was committed on or after ~~the effective date of this act~~  
6 May 1, 2006.

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

15           (c) The punishment for murder in the second degree shall be imprisonment  
16 for life and for a minimum term of 20 years unless a jury finds that there are  
17 aggravating or mitigating factors which justify a different minimum term. If  
18 the jury finds that the aggravating factors outweigh any mitigating factors, the  
19 court may set a minimum term longer than 20 years, up to and including life  
20 imprisonment without parole. If the jury finds that the mitigating factors

1 outweigh any aggravating factors, the court may set a minimum term at less  
2 than 20 years but not less than 10 years.

3 \* \* \*

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

6 (1) the defendant was not sentenced before the effective date of this act;

7 or

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

11 Sec. 2. 13 V.S.A. § 7032 is amended to read:

12 § 7032. CONSECUTIVE SENTENCES

13 (a) If a person who has been sentenced to a term or terms of imprisonment  
14 is convicted of another offense punishable by imprisonment before he or she  
15 has been discharged from the former sentence or sentences, the court may  
16 sentence him or her to an additional term of imprisonment and shall specify  
17 whether this additional term shall be served concurrent with or consecutive to  
18 the prior sentence or sentences, subject to the limitation set forth in subsection  
19 (d) of this section.

20 (b) In any case where a person is convicted of two or more offenses  
21 punishable by imprisonment and is sentenced for more than one of these

1 offenses, he or she may be sentenced to as many terms as there are offenses of  
2 which he or she is convicted. ~~When~~ Subject to the limitation set forth in  
3 subsection (d) of this section, when such multiple sentences are imposed they  
4 shall run concurrent with or consecutive to each other as the court determines  
5 at the time of sentencing and each shall run from its respective date of  
6 commitment after sentence. When such multiple sentences are in addition to a  
7 prior sentence or sentences from which the person has not yet been discharged,  
8 they shall run concurrently with or consecutive to any prior sentence or  
9 sentences as the court shall determine at the time of sentencing.

10 (c) In all cases where multiple or additional sentences have been or are  
11 imposed, the term or terms of imprisonment under those sentences shall be  
12 determined in accordance with the following definitions:

13 (1) When terms run concurrently, the shorter minimum terms merge in  
14 and are satisfied by serving the longest minimum and the shorter maximum  
15 terms merge in and are satisfied by discharge of the longest maximum term.

16 (2) When terms run consecutively, the minimum terms are added to  
17 arrive at an aggregate minimum to be served equal to the sum of all minimum  
18 terms and the maximum terms are added to arrive at an aggregate maximum  
19 equal to the sum of all maximum terms. A person shall serve no more time on  
20 consecutive minimum sentences than the sum of the minimum terms,  
21 regardless of whether the sentences are imposed on the same or different dates.

1 If a person has served a minimum term and subsequently incurs another  
2 criminal charge, the time the person spends in custody awaiting disposition of  
3 the new charge shall count toward the minimum term of the new sentence, if  
4 one is imposed. This subdivision shall not require the Department of  
5 Corrections to release a person from incarceration to community supervision at  
6 the person's minimum term.

7 (d) When multiple sentences are imposed pursuant to subsection (a) on an  
8 individual who was 25 years of age or younger at the time of the commission  
9 of the offenses, the sentences shall run concurrently.

10 Sec. 3. 13 V.S.A. § 7045 is amended to read:

11 § 7045. LIFE WITHOUT PAROLE SENTENCE ~~PROHIBITED FOR~~  
12 ~~PERSONS UNDER 18 YEARS OF AGE~~

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

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

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

1       Sec. 4. EFFECTIVE DATE

2           This act shall take effect on July 1, 2020.

3           and that after passage the title of the bill be amended to read: “An act  
4 relating to limiting the sentence of life without parole to aggravated murder”

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6

7

8           (Committee vote: \_\_\_\_\_)

9

10

11

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE