

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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10 that it has considered the same and recommends that the bill be amended by
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) Except as provided in subsection (g) of this section:

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

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

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

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

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

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

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

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

17 (c) The punishment for murder in the second degree shall be imprisonment
18 for life and for a minimum term of 20 years unless a jury finds that there are
19 aggravating or mitigating factors which justify a different minimum term. If
20 the jury finds that the aggravating factors outweigh any mitigating factors, the
21 court may set a minimum term longer than 20 years, up to and including life

1 imprisonment without parole. If the jury finds that the mitigating factors
2 outweigh any aggravating factors, the court may set a minimum term at less
3 than 20 years but not less than 10 years.

4 * * *

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

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

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

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

13 § 7032. CONSECUTIVE SENTENCES

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

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

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

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

18 (2) When terms run consecutively, the minimum terms are added to
19 arrive at an aggregate minimum to be served equal to the sum of all minimum
20 terms and the maximum terms are added to arrive at an aggregate maximum
21 equal to the sum of all maximum terms. A person shall serve no more time on

1 consecutive minimum sentences than the sum of the minimum terms,
2 regardless of whether the sentences are imposed on the same or different dates.
3 If a person has served a minimum term and subsequently incurs another
4 criminal charge, the time the person spends in custody awaiting disposition of
5 the new charge shall count toward the minimum term of the new sentence, if
6 one is imposed. This subdivision shall not require the Department of
7 Corrections to release a person from incarceration to community supervision at
8 the person's minimum term.

9 (d) When multiple sentences are imposed pursuant to subsection (a) on an
10 individual who was 25 years of age or younger at the time of the commission
11 of the offenses, the aggregate minimum to be served shall not exceed 35 years.

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

13 § 7045. LIFE WITHOUT PAROLE SENTENCE ~~PROHIBITED FOR~~
14 ~~PERSONS UNDER 18 YEARS OF AGE~~

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

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

19 (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”

5

6

7

8 (Committee vote: _____)

9

10

Senator _____

11

FOR THE COMMITTEE