House Amendment 3156

Amendment Text

PAG LIN 1 1 Amend the amendment, H-3109, to House File 2 as 1 2 follows: 1 3 #1. Page 6, by striking lines 36 and 37 and 4 inserting the following: 1 5 1 "5. a. At the conclusion of presentation of 6 evidence in the penalty proceeding, if the matter is 1 7 tried to a jury, the court shall instruct the jury on 1 1 8 all of the following: 19 (1) The factors enumerated under section 902.12, 1 10 and any aggravating circumstances that it must 1 11 consider and the state's burden of proof as to the 1 12 factors. 1 13 (2) The concept of mitigation and the mitigating 1 14 circumstances offered by the defense or which may be 1 15 deduced from the evidence presented, the fact that the 1 16 defense is not required to prove any mitigating 1 17 circumstance offered, and how such evidence may be 1 18 considered in arriving at a decision on the 1 19 appropriate penalty in the case. 1 20 (3) That if the jury concludes that the state has 1 21 failed to demonstrate at least one statutory factor 1 22 exists beyond a reasonable doubt, the jury must 1 23 conclude its deliberations and return a verdict which 1 24 shows the negative finding, and the defendant will be 1 25 sentenced to imprisonment until death. 1 2.6 (4) That if one or more of the statutory factors 1 27 are found to exist, the jury must record this finding 1 28 in writing as part of its verdict, weigh those factors 1 29 and any other aggravating circumstances against any 1 30 mitigating circumstances offered by the defendant, and 1 31 record its finding as to whether the aggravating 1 32 circumstances outweigh the mitigating circumstances. (5) That a sentence of death shall not be imposed 1 33 1 34 unless the prosecution has demonstrated beyond a 1 35 reasonable doubt that the aggravating circumstances 1 36 substantially outweigh the mitigating circumstances. 1 37 (6) That the jury may, even if the statutory 1 38 factors have been proven and the aggravating 1 39 circumstances outweigh the mitigating circumstances, 1 40 conclude that a sentence of death is not appropriate 1 41 and determine that the defendant shall be imprisoned 1 42 until the defendant's death. 1 43 b. Upon the submission of the instructions to the 1 44 jury, the court shall also submit the following issues 1 45 to". 1 46 #2. Page 6, line 40, by striking the letter "a." 1 47 and inserting the following: "(1)". 1 48 #3. Page 6, line 43, by striking the letter "b." 1 49 and inserting the following: "(2)". 1 50 #4. Page 6, line 47, by striking the letter "c." 2 1 and inserting the following: "(3)". 2 2 #5. Page 12, by striking line 35 and inserting the 2 3 following: "evidence in the penalty proceeding, if 2 4 the matter is tried to a jury, the court shall 2 5 instruct the jury on all of the following: 2 6 a. The factors enumerated under section 902.12, 2 7 and any aggravating circumstances that it must

2 8 consider and the state's burden of proof as to the 2 9 factors. 2 10 b. The concept of mitigation and the mitigating 2 11 circumstances offered by the defense or which may be 2 12 deduced from the evidence presented, the fact that the 2 13 defense is not required to prove any mitigating 2 14 circumstance offered, and how such evidence may be 2 15 considered in arriving at a decision on the 2 16 appropriate penalty in the case. 2 17 c. That if the jury concludes that the state has 2 18 failed to demonstrate at least one statutory factor 2 19 exists beyond a reasonable doubt, the jury must 2 20 conclude its deliberations and return a verdict which 2 21 shows the negative finding, and the defendant will be 2 22 sentenced to imprisonment until death. 2 23 d. That if one or more of the statutory factors 2 24 are found to exist, the jury must record this finding 2 25 in writing as part of its verdict, weigh those factors 2 26 and any other aggravating circumstances against any 2 27 mitigating circumstances offered by the defendant, and 2 28 record its finding as to whether the aggravating 2 29 circumstances outweigh the mitigating circumstances. 2 30 e. That a sentence of death may not be imposed 2 31 unless the prosecution has demonstrated beyond a 2 32 reasonable doubt that the appravating circumstances 2 33 substantially outweigh the mitigating circumstances. 2 34 f. That the jury may, even if the statutory 2 35 factors have been proven and the aggravating 2 36 circumstances outweigh the mitigating circumstances, 2 37 conclude that a sentence of death is not appropriate 2 38 and determine that the defendant shall be imprisoned 2 39 until the defendant's death. 3A. Upon the submission of the instructions to the 2 40 2 41 jury, the court shall also submit the following". #6. By redesignating and correcting internal 2 42 2 43 references as necessary. 2 44 2 45 2 46 2 47 MORELAND of Wapello 2 48 2 49 2 50 1 <u>FALLON</u> of Polk 3 2 3 3 3 3 4 3 5 BERNAU of Story 3 6 <u>HF 2</u>.548 76 3 7 lh/jw