

Senate File 320 - Introduced

SENATE FILE 320

BY GUTH, WEBSTER, ROWLEY, EVANS,
WESTRICH, LOFGREN, and
COSTELLO

A BILL FOR

1 An Act creating a capital murder offense by establishing the
2 penalty of death for murder in the first degree of a
3 peace officer on duty, and including effective date and
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 13.2, subsection 1, Code 2025, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. 0c. Prosecute and defend all actions and
4 proceedings involving capital murder as defined in section 902.15
5 when, in the attorney general's judgment, the interest of the
6 state requires the attorney general to intervene on behalf of the
7 county attorney, or upon request by the county attorney.

8 Sec. 2. Section 13B.4, Code 2025, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 6A. The state public defender shall perform
11 all of the following duties with respect to the appointment of
12 counsel for indigent persons in cases in which a sentence of
13 death may be or is to be imposed:

14 a. Provide or contract with attorneys for appointment as lead
15 counsel and cocounsel to provide legal services in cases in which
16 a person is charged with capital murder under section 902.15, and
17 the state has given notice of intent to seek the death penalty or
18 in cases in which a sentence of death is to be imposed.

19 b. Conduct or sponsor specialized training programs for
20 attorneys representing persons who may be executed.

21 Sec. 3. NEW SECTION. **602.10111A Qualifications of counsel**
22 **in capital murder cases.**

23 The supreme court shall prescribe rules that establish minimum
24 standards and procedures by which attorneys may become qualified
25 to provide legal services as lead counsel in cases in which a
26 sentence of death may be or is to be imposed.

27 Sec. 4. Section 707.2, subsection 1, paragraph d, Code 2025,
28 is amended to read as follows:

29 d. The person intentionally kills a ~~peace officer,~~
30 correctional officer, public employee, or hostage while the
31 person is imprisoned in a correctional institution under the
32 jurisdiction of the Iowa department of corrections, or in a city
33 or county jail.

34 Sec. 5. Section 707.2, subsection 1, Code 2025, is amended by
35 adding the following new paragraph:

1 NEW PARAGRAPH. g. The person intentionally kills a peace
2 officer, who is on duty, under any circumstances, with knowledge
3 that the person killed is a peace officer.

4 Sec. 6. NEW SECTION. **812A.1 Procedure to determine sanity**
5 **of condemned inmate.**

6 1. At any time prior to execution of an inmate under section
7 902.1A, if the director of the department of corrections or
8 the counsel for a person who is under a sentence of execution
9 has cause to believe that the inmate is suffering from an
10 intellectual disability or mental illness such as to prevent the
11 defendant from knowing the nature and quality of the act the
12 defendant has been convicted of, or from understanding that trial
13 on the offense has taken place and that execution proceedings
14 are about to take place, or to otherwise cause the defendant
15 to lack the capacity to understand the sentence that has been
16 imposed and to participate in any legal proceedings relating to
17 the sentence, the director or counsel may file a request with the
18 court that issued the warrant for execution for a determination
19 of the inmate's sanity. If the court determines that there is
20 not sufficient reason to believe that the inmate is insane, the
21 court shall enter an order denying the request and shall state
22 the grounds for denying the request. If the court believes that
23 there is sufficient reason to believe that the inmate is insane,
24 the court shall suspend the execution and conduct a hearing to
25 determine the sanity of the inmate.

26 2. At the hearing, the court shall determine the issue of
27 the inmate's sanity. Prior to the hearing, the court shall
28 appoint two licensed physicians or licensed psychologists, or
29 one licensed physician and one licensed psychologist, who are
30 qualified by training and practice, for purposes of conducting
31 a psychiatric or psychological examination of the inmate. The
32 physicians or psychologists shall examine the inmate and report
33 any findings in writing to the court within ten days after
34 the order of examination is issued. The inmate shall have the
35 right to present evidence and cross-examine any witnesses at the

1 hearing. Any statement made by the inmate during the course
2 of any examination provided for in this section, whether or not
3 the inmate consents to the examination, shall not be admitted
4 into evidence against the inmate in any criminal proceeding for
5 purposes other than a determination of the inmate's sanity.

6 3. If, at the conclusion of a hearing held pursuant to this
7 section, the court determines that the inmate is sane, the court
8 shall enter an order setting a date for the inmate's execution,
9 which shall be carried into effect in the same manner as provided
10 in the original sentence. A copy of the order shall be sent to
11 the director of the department of corrections and the governor.

12 4. If, at the conclusion of a hearing held pursuant to this
13 section, the court determines that the inmate is insane, the
14 court shall suspend the execution until further order. At any
15 time after issuance of the order, if the court has sufficient
16 reason to believe that the inmate has become sane, the court
17 shall again determine the sanity of the inmate as provided by
18 this section. Proceedings pursuant to this section may continue
19 to be held at such times as the court orders until it is either
20 determined that the inmate is sane or incurably insane.

21 Sec. 7. NEW SECTION. **814.30 Review of capital murder death**
22 **sentence.**

23 1. In a case in which a sentence of death is imposed,
24 the supreme court shall automatically review the judgment and
25 sentence. The court's review of the case shall be de novo. The
26 case shall not be transferred to the court of appeals.

27 2. A review by the supreme court of a judgment and sentence
28 imposing the punishment of death has priority over all other
29 criminal and other actions pending before the supreme court.

30 3. The supreme court shall review the trial and judgment,
31 and shall separately review the sentencing proceeding. Upon
32 determining that errors did not occur at the trial requiring
33 reversal or modification of the judgment, the supreme court
34 shall proceed to determine if the sentence of death is lawfully
35 imposed. In its review of the sentencing proceeding the supreme

1 court shall determine all of the following:

2 a. Whether the sentence of death was imposed capriciously or
3 under the influence of prejudice or other arbitrary factor.

4 b. Whether the special verdicts returned under section 901E.1
5 are supported by the evidence.

6 c. Whether the sentence of death is excessive or
7 disproportionate to the penalty imposed in similar cases,
8 considering both the crime and the defendant.

9 4. If the supreme court determines that the sentence of death
10 was not lawfully imposed, the supreme court shall set aside the
11 sentence and shall remand the case to the trial court for a
12 second sentencing proceeding to determine if the imposition of
13 death is warranted.

14 5. If the supreme court affirms the judgment and sentence of
15 death, the clerk of the supreme court shall certify the judgment
16 of the supreme court under the seal of the supreme court to the
17 clerk of the trial court.

18 Sec. 8. Section 815.10, Code 2025, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 1A. If two attorneys have not already been
21 appointed pursuant to section 13B.4 or 13B.9, the court shall
22 appoint, for each indigent person who is charged with capital
23 murder under section 902.15, and for each case in which a notice
24 of intent to seek the death penalty has been filed, two attorneys
25 who are qualified under section 602.10112 to represent the person
26 in the proceedings and in all state legal proceedings that take
27 place from the time the person is indicted or arraigned until the
28 person is sentenced on the charge. In addition, if at any point
29 in federal postconviction proceedings an indigent person is not
30 afforded court-appointed counsel, the state shall provide counsel
31 to the person to present any claims determined meritorious by the
32 federal court if the person is not otherwise represented by legal
33 counsel. Only private attorneys and public defenders who are
34 qualified to provide representation in cases in which the death
35 penalty may be imposed are eligible for appointment or assignment

1 to a case in which the death penalty may be imposed.

2 Sec. 9. NEW SECTION. **901E.1 Capital murder proceedings —**
3 **request for death penalty — penalty proceedings.**

4 1. As used in this section:

5 a. "*Intellectually disabled*" means the same as defined in
6 section 902.15.

7 b. "*Mentally ill*" or "*mental illness*" means the same as
8 defined in section 902.15.

9 2. If a notice of intent to seek the death penalty has been
10 filed, objections to the imposition of the death penalty based
11 upon allegations that a defendant was intellectually disabled or
12 mentally ill at the time of the commission of the offense shall
13 be raised within the time provided for the filing of pretrial
14 motions under rule of criminal procedure 2.11, Iowa court rules.
15 The court may, for good cause shown, allow late filing of the
16 motion. Hearing on the motion shall be held prior to trial
17 and the burden of proof shall be on the defendant to prove
18 intellectual disability or mental illness by a preponderance
19 of the evidence. If the court finds that the defendant is
20 intellectually disabled, the defendant, if convicted of capital
21 murder under section 902.15, shall not be sentenced to death but
22 shall be sentenced to life imprisonment in the manner provided
23 in section 902.1. A finding by the court that the evidence
24 presented by the defendant at the hearing does not preclude
25 the imposition of the death penalty under this section and
26 section 902.15 shall not preclude the introduction of evidence
27 of intellectual disability or mental illness during the penalty
28 proceeding. If the court finds that evidence of intellectual
29 disability or mental illness does not preclude imposition of
30 the death penalty, evidence of intellectual disability or mental
31 illness may be reviewed by the jury in the penalty proceeding
32 and the jury shall not be informed of the finding in the initial
33 proceeding at any time during the penalty proceeding.

34 3. If at the trial on a charge of capital murder under
35 section 902.15, the state intends to request that the death

1 penalty be imposed under section 902.1A, the prosecutor shall
2 file a notice of intent to seek the death penalty, at the time of
3 and as part of the information or indictment filed in the case.

4 4. If a notice of intent to seek the death penalty has been
5 filed, the trial shall be conducted in bifurcated proceedings
6 before the same trier of fact. During the initial proceeding,
7 the jury, or the court if the defendant waives the right to a
8 jury trial, shall decide only whether the defendant is guilty or
9 not guilty of capital murder under section 902.15.

10 a. If, in the initial proceeding, the court or jury finds
11 the defendant guilty of, or the defendant pleads guilty to, an
12 offense other than capital murder under section 902.15, the court
13 shall sentence the defendant in accordance with the sentencing
14 procedures set forth in rule of criminal procedure 2.23, Iowa
15 court rules, and chapters 901 through 909 that are applicable to
16 the offense.

17 b. If the court or jury finds the defendant guilty of, or the
18 defendant pleads guilty to, capital murder under section 902.15,
19 but the prosecuting attorney waives the death penalty, the court
20 shall sentence the defendant to life imprisonment in accordance
21 with the sentencing procedures set forth in rule of criminal
22 procedure 2.23, Iowa court rules, and chapters 901 through 909
23 that are otherwise applicable to convictions of murder in the
24 first degree.

25 c. If the court or jury finds the defendant guilty of capital
26 murder under section 902.15, or a defendant enters a plea of
27 guilty in the initial proceeding, and the prosecuting attorney
28 does not waive imposition of the death penalty, a penalty
29 proceeding shall be held in the manner provided in subsections
30 5 through 13.

31 5. No sooner than twenty-four hours after a verdict of guilty
32 or a plea of guilty to capital murder under section 902.15 is
33 returned in the initial proceeding, a penalty proceeding shall
34 be held to determine whether the defendant shall be sentenced to
35 death or to life imprisonment. The proceeding shall be conducted

1 in the trial court before the trial jury, or before the court
2 if the defendant has waived the right to a jury trial or has
3 waived the right for the proceeding to be before the trial jury.
4 Both the state and the defendant shall have the right to present
5 opening statements at the commencement of the proceeding. In the
6 proceeding, evidence relevant to the existence of any aggravating
7 or mitigating circumstances may be presented as follows:

8 a. The state or the defendant may present evidence relevant
9 to the conviction of capital murder under section 902.15 and
10 any aggravating circumstances other than juvenile delinquency
11 adjudications for offenses that carry penalties equivalent to
12 the penalties imposed for simple or serious misdemeanors. The
13 state may introduce evidence of the actual harm caused by the
14 commission of the capital murder offense under section 902.15,
15 including but not limited to evidence relating to the life of the
16 victim and the impact of the loss of the victim to the victim's
17 family and society.

18 b. The defendant may present evidence that the defendant
19 was intellectually disabled or mentally ill at the time of the
20 commission of the offense. The burden of proof shall be on the
21 defendant to prove intellectual disability or mental illness by a
22 preponderance of the evidence.

23 c. The state or the defendant may present evidence relevant
24 to any mitigating circumstances that may exist. Mitigating
25 circumstances may include the following circumstances:

26 (1) The defendant was under the influence of an extreme
27 mental or emotional disturbance insufficient to constitute a
28 defense.

29 (2) The age of the defendant at the time of the offense.

30 (3) The defendant's capacity to appreciate the wrongfulness
31 of the defendant's conduct and to conform that conduct to the
32 requirements of law was significantly impaired as a result of a
33 mental disease or defect or intellectual disability, but not to a
34 degree sufficient to constitute a defense.

35 (4) The defendant has no significant history of prior adult

1 criminal activity.

2 (5) The defendant acted under extreme duress or under the
3 substantial domination of another person.

4 (6) The defendant did not directly commit the capital murder
5 offense and the defendant did not intend to kill or anticipate
6 that lethal force would be used.

7 (7) Any other factor that is relevant to the defendant's
8 character or record or to the circumstances of the offense.

9 d. The state and the defendant or the defendant's counsel
10 shall be permitted to present and cross-examine witnesses and
11 present arguments for or against a sentence of death. Evidence
12 regarding aggravating and mitigating circumstances shall not
13 be governed by the rules governing admissibility of evidence,
14 except that introduction of evidence secured in violation of the
15 Constitution of the United States or of the Constitution of the
16 State of Iowa shall not be permitted.

17 6. At the conclusion of presentation of evidence in the
18 penalty proceeding, the state and the defendant or the
19 defendant's counsel shall be permitted to make closing arguments,
20 including any rebuttal arguments, in the same manner as in the
21 initial proceeding and the following issues shall be determined
22 by the jury or by the court if there is no jury:

23 a. Whether the aggravating circumstance or circumstances have
24 been established beyond a reasonable doubt and outweigh any one
25 or more mitigating circumstances.

26 b. Whether the defendant shall be sentenced to death.

27 7. A recommendation for a sentence of death shall not be
28 permitted if the recommendation is based on the race, color,
29 religious beliefs, national origin, or sex of the defendant or
30 of any victim, or based on any other protected class under
31 chapter 216. After submission of the issues, but prior to the
32 return of a finding in the penalty proceeding, if the matter
33 is tried before a jury, the court shall instruct the jury that
34 in considering whether a sentence of death is justified, the
35 jury shall not consider race, color, religious beliefs, national

1 origin, or sex of the defendant or of any victim, or consider any
2 other protected class under chapter 216. The court shall further
3 instruct the jury that the jury shall not return a sentence of
4 death unless the jury concludes that such a sentence would be
5 recommended no matter what the race, color, religious beliefs,
6 national origin, sex, or other protected class of the defendant
7 or of any victim may be.

8 8. After submission of the issues, but prior to the
9 commencement of the jury deliberations in the penalty proceeding,
10 the court shall instruct the jury that if the defendant is not
11 sentenced to death, the court is required by law to impose a
12 sentence of imprisonment until death without parole. The court
13 shall further instruct the jury that the sentence of imprisonment
14 until death without parole is required by law if the jury fails
15 to reach a unanimous verdict recommending a sentence of death.

16 9. Concurrently with the return of the findings on the issues
17 submitted under subsection 6, the jury, or the court if there is
18 no jury, shall return special verdicts as follows:

19 a. Which aggravating circumstances were established beyond a
20 reasonable doubt and were considered in reaching the verdict.

21 b. Which mitigating circumstances were established and were
22 considered in reaching the verdict returned on the issue
23 specified in subsection 6, paragraph "a".

24 10. If the jury, or the court if there is no jury, returns
25 a unanimous affirmative finding on each of the issues submitted
26 under subsection 6, paragraphs "a" and "b", the court shall enter
27 a judgment of conviction and shall sentence the defendant to
28 death as provided in section 902.1A.

29 11. If evidence is presented to the jury, or to the court
30 if there is no jury, demonstrating that the defendant was not a
31 major participant in the commission of the capital murder under
32 section 902.15, and that the defendant's conduct did not manifest
33 a reckless indifference to human life, the jury or the court
34 shall also return a special verdict on the issue. If the jury
35 unanimously determines, or the court determines if there is no

1 jury, that a preponderance of evidence exists that shows that
2 the defendant was not a major participant in the commission of
3 the capital murder under section 902.15, and that the defendant's
4 conduct did not manifest a reckless indifference to human life,
5 the court shall enter a judgment of conviction and shall sentence
6 the defendant to life imprisonment as provided in section 902.1,
7 even if the jury or the court returns unanimous affirmative
8 findings on each of the issues submitted under subsection 6.

9 12. If the jury, or the court if there is no jury, returns a
10 negative finding on any of the issues submitted under subsection
11 6, paragraph "a" or "b", the court shall enter a judgment of
12 conviction and shall sentence the defendant to life imprisonment
13 as provided in section 902.1.

14 13. After a verdict has been rendered it shall be recorded
15 on the jury verdict form and shall be read and recorded in open
16 court. The jurors shall be collectively asked by the court
17 whether the verdict returned is their true and correct verdict.
18 Even though no juror makes any declaration to the contrary, the
19 jury shall, if either party so requests, be polled and each juror
20 shall be separately asked whether the verdict rendered by the
21 jury foreperson is the juror's true and correct verdict. If,
22 upon either the collective or the separate inquiry, any juror
23 denies that the verdict is the juror's verdict, the court shall
24 refuse to accept the verdict. The court may direct inquiry or
25 permit inquiry by counsel to ascertain whether any juror has
26 been subjected to coercion or has become confused during the jury
27 deliberation process. The court may, as appropriate, direct the
28 jury to resume deliberation in the case. If no disagreement on
29 the verdict is expressed by any of the jurors, the court shall
30 discharge the jury.

31 Sec. 10. Section 902.1, subsection 1, Code 2025, is amended
32 to read as follows:

33 1. ~~Upon~~ Except as provided in section 902.1A, upon a plea of
34 guilty, a verdict of guilty, or a special verdict upon which a
35 judgment of conviction of a class "A" felony may be rendered, the

1 court shall enter a judgment of conviction and shall commit the
2 defendant into the custody of the director of the Iowa department
3 of corrections for the rest of the defendant's life. Nothing
4 in the Iowa corrections code pertaining to deferred judgment,
5 deferred sentence, suspended sentence, or reconsideration of
6 sentence applies to a class "A" felony, and a person convicted
7 of a class "A" felony shall not be released on parole unless the
8 governor commutes the sentence to a term of years.

9 Sec. 11. NEW SECTION. **902.1A Capital murder — death**
10 **penalty.**

11 1. For the purposes of this section, "*lethal injection*"
12 means a continuous intravenous injection of a lethal substance
13 sufficient to cause death.

14 2. Notwithstanding section 902.1, upon return of a plea or
15 verdict of guilty to capital murder under section 902.15, and
16 a return of a verdict in favor of a sentence of death in a
17 penalty proceeding conducted as provided in section 901E.1, the
18 court shall enter a judgment of conviction and shall commit
19 the defendant into the custody of the director of the Iowa
20 department of corrections. The sentence shall be carried out
21 by the administration of a lethal injection pursuant to rules
22 adopted by the board of corrections. If a defendant, for whom
23 a warrant of execution is issued, is pregnant, the execution
24 shall not take place until after the defendant is no longer
25 pregnant. If a defendant, for whom a warrant of execution is
26 issued, is suffering from such an intellectual disability or
27 mental illness as to prevent the defendant from knowing the
28 nature and quality of the act the defendant has been convicted
29 of, or from understanding that trial on the offense has taken
30 place and that execution proceedings are about to take place,
31 or to otherwise cause the defendant to lack the capacity to
32 understand the sentence that has been imposed and to participate
33 in any legal proceedings relating to the sentence, the execution
34 shall not take place until after the defendant's capacity is
35 restored. If the director of the department of corrections

1 or the defendant's counsel files with the court that issued
2 the warrant of execution a request alleging that the defendant
3 suffers from such an intellectual disability or mental illness,
4 a hearing on the matter shall be held in the manner provided in
5 section 812A.1.

6 Sec. 12. NEW SECTION. **902.15 Capital murder.**

7 1. As used in this section:

8 a. (1) "*Capital murder*" means any murder that makes a person
9 eligible for the death penalty.

10 (2) A person is eligible for the death penalty when a person
11 is convicted of murder in the first degree in violation of
12 section 707.2, subsection 1, paragraph "g".

13 b. "*Intellectually disabled*" means significant subaverage
14 general intellectual functioning accompanied by significant
15 deficits or impairments in adaptive functioning manifested in
16 the developmental period, but no later than the age of eighteen
17 years, and accompanied by deficits in adaptive behavior.

18 c. "*Mentally ill*" means the condition of a person who is
19 suffering from a chronic and persistent serious mental disease or
20 disorder and who, by reason of that condition, lacks sufficient
21 judgment to make responsible decisions regarding treatment and is
22 reasonably likely to injure the person's self or others who may
23 come into contact with the person if the person is allowed to
24 remain at liberty without treatment.

25 2. A person who commits capital murder, who is not
26 intellectually disabled or mentally ill, and who is age eighteen
27 or older at the time of the murder in the first degree shall be
28 eligible for a sentence of death under section 902.1A.

29 Sec. 13. NEW SECTION. **902.16 Data collection for capital
30 murder — death penalty.**

31 1. The supreme court shall collect data on all capital murder
32 charges for which the death penalty is or is not waived, which
33 charges are filed and processed in the courts in this state.
34 This data may be used by the supreme court to determine whether
35 death sentences imposed are excessive or disproportionate, or

1 under the influence of prejudice under section 814.28. The court
2 shall make this data available to litigants in death penalty
3 cases.

4 2. Data collected by public officials concerning factors
5 relevant to the imposition of the death sentence shall be made
6 publicly available.

7 Sec. 14. NEW SECTION. **903C.1 Executions — refusal to**
8 **perform.**

9 An employee of the state who may lawfully perform, assist,
10 or participate in the execution of a person pursuant to section
11 902.1A, and rules adopted by the department of corrections,
12 shall not be required to perform, assist, or participate in
13 the execution. State employees who refuse to perform, assist,
14 or participate in the execution of a person shall not be
15 discriminated against in any way, including but not limited
16 to employment, promotion, advancement, transfer, licensing,
17 education, training, or the granting of any privileges or
18 appointments because of the refusal to perform, assist, or
19 participate in the execution.

20 Sec. 15. Section 904.105, Code 2025, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 9A. Adopt rules pursuant to chapter 17A
23 pertaining to executions of persons convicted of capital murder
24 under section 902.15. Rules adopted shall include but are not
25 limited to rules permitting the witnessing of executions by
26 members of the public and the victim's family. Invitations to
27 witness an execution shall at least be extended to the following
28 representatives of the news media:

- 29 a. A representative from a wire service serving Iowa.
30 b. A representative from a broadcasting network serving Iowa.
31 c. A representative from a television station located in
32 Iowa.
33 d. A representative from a radio station located in Iowa.
34 e. A representative from a daily newspaper published in Iowa.
35 f. A representative from a weekly newspaper published in

1 Iowa.

2 g. A representative from the news media from the community
3 from which the condemned person resided, if that community is
4 located in Iowa.

5 Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3,
6 shall not apply to this Act.

7 Sec. 17. SEVERABILITY. If any provision of this Act or the
8 application thereof to any person is invalid, the invalidity
9 shall not affect the provisions or application of this Act that
10 can be given effect without the invalid provisions or application
11 and to this end, the provisions of this Act are severable.

12 Sec. 18. EFFECTIVE DATE. This Act takes effect January 1,
13 2026.

14 Sec. 19. APPLICABILITY. This Act applies to offenses
15 committed on or after the effective date of this Act.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill amends the Iowa criminal code to provide for
20 punishment by death for capital murder committed by a person age
21 18 or older if the trial jury, or the judge if there is no jury,
22 makes specific findings and if the jury believes the defendant
23 should be put to death in a separate penalty proceeding held
24 after the close of the initial trial proceeding. Under the bill,
25 a death sentence could be imposed if the murder would constitute
26 murder in the first degree.

27 The bill provides that in order to receive a sentence of
28 death, the defendant must be at least 18 years of age at the time
29 the murder in the first degree of a peace officer on duty was
30 committed, must not be mentally ill or intellectually disabled,
31 and must have been a major participant in the commission of the
32 crime or must have shown a manifest indifference to human life.

33 The bill amends Code section 707.2, murder in the first
34 degree, to include when a person intentionally kills a peace
35 officer, with knowledge that the person killed is a peace

1 officer.

2 The bill specifies that the attorney general may prosecute all
3 actions and proceedings involving capital murder, when in the
4 attorney general's judgment the interest of the state requires
5 the attorney general to intervene on behalf of the county
6 attorney, or upon request by the county attorney.

7 If a person is indigent and is charged with capital murder,
8 payment of costs for two attorneys is authorized. The supreme
9 court is required to establish standards for the competency of
10 counsel in death penalty cases. The state public defender is
11 charged with establishing teams of qualified lead and cocounsel
12 for death penalty cases, as well as conducting or sponsoring
13 specialized training programs for attorneys representing persons
14 who may be executed.

15 If a capital murder case proceeds to trial and a notice of
16 intent to seek the death penalty has been filed, in addition
17 to any other defenses that may be presented to the charge,
18 the defendant may raise the issue of intellectual disability or
19 mental illness during the time of filing pretrial motions.

20 Once the evidence is submitted to the jury, the court
21 will instruct the jury, at the defendant's request, that in
22 considering whether a sentence of death is justified, the
23 race, color, religious beliefs, national origin, sex, or other
24 protected classes under Code chapter 216 of the defendant or of
25 any victim is not to be considered. The supreme court shall
26 collect evidence relating to whether the death sentences imposed
27 are excessive, disproportionate, or imposed under the influence
28 of prejudice at trial, which will be available to litigants.

29 The sentence of death is imposed only when the trier of fact
30 (the jury or the court if the defendant has waived the right to a
31 jury trial) unanimously answers two questions affirmatively: (1)
32 whether aggravating circumstances established beyond a reasonable
33 doubt outweigh any mitigating circumstances that may exist;
34 and (2) whether the defendant should be sentenced to death.
35 Mitigating factors the trier of fact may consider include the

1 following: the defendant was under the influence of an extreme
2 mental or emotional disturbance; the age of the defendant; the
3 defendant's ability to appreciate the wrongfulness of the conduct
4 due to mental disease but not to a degree to constitute a
5 defense; the defendant has no significant prior criminal history;
6 the defendant was under extreme duress; the defendant did not
7 directly commit the murder; and the defendant's character or
8 record or the circumstances of the offense. The sentencing
9 proceeding is conducted separately from the finding of guilt or
10 innocence by the same trier of fact.

11 For the sentencing proceeding, the trier of fact (the jury or
12 the court if the defendant has waived the right to have the jury
13 hear the proceedings) is to weigh any aggravating circumstances
14 established beyond a reasonable doubt by the state against any
15 of the enumerated mitigating circumstances that may be presented
16 by the defendant. Evidence of certain juvenile delinquency
17 adjudications is not admissible in any proceeding to determine
18 the sentence.

19 The supreme court shall automatically review a death penalty
20 sentence. The supreme court shall review the trial and judgment
21 separately from the sentencing proceeding. If the supreme court
22 finds error in the sentencing proceeding, the supreme court may
23 remand the case back to district court for a new sentencing
24 hearing. The bill requires the supreme court to examine whether
25 the sentence is excessive or disproportionate to penalties in
26 similar cases. If affirmed by the supreme court, the penalty
27 would be accomplished by lethal injection. The bill requires
28 the board of corrections to adopt rules pertaining to executions,
29 including rules pertaining to the witnessing of executions.

30 A person who is sentenced to death, but who is pregnant when
31 the warrant of execution is issued, is not to be executed until
32 the person is no longer pregnant. The bill also provides a
33 procedure to stay execution of a condemned inmate who becomes
34 insane after conviction but before execution.

35 An employee of the state shall not be required to perform or

1 assist in any execution and shall not be discriminated against
2 for refusing to participate.

3 The bill may include a state mandate as defined in Code
4 section 25B.3. The bill makes inapplicable Code section 25B.2,
5 subsection 3, which would relieve a political subdivision from
6 complying with a state mandate if funding for the cost of the
7 state mandate is not provided or specified. Therefore, political
8 subdivisions are required to comply with any state mandate
9 included in the bill.

10 The bill contains severability provisions, takes effect
11 January 1, 2026, and applies only to offenses committed on or
12 after that date.

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