



General Assembly

Amendment

January Session, 2001

LCO No. 7597

Offered by:

REP. LAWLOR, 99th Dist.
REP. FARR, 19th Dist.
REP. PUDLIN, 24th Dist.
REP. HYSLOP, 39th Dist.
REP. MERRILL, 54th Dist.
REP. NEWTON, 124th Dist.
REP. BEALS, 88th Dist.
REP. BOUKUS, 22nd Dist.
REP. CARDIN, 53rd Dist.
REP. CARTER, 7th Dist.
REP. DAVIS, 50th Dist.
REP. DEMARINIS, 40th Dist.
REP. DILLON, 92nd Dist.
REP. DONOVAN, 84th Dist.
REP. DYSON, 94th Dist.
REP. FLAHERTY, 8th Dist.
REP. GERAGOSIAN, 25th Dist.
REP. GERRATANA, 23rd Dist.

REP. HAMM, 34th Dist.
REP. KIRKLEY-BEY, 5th Dist.
REP. MANTILLA, 4th Dist.
REP. MARTINEZ, 128th Dist.
REP. MUSHINSKY, 85th Dist.
REP. REINOSO, 130th Dist.
REP. SHARKEY, 103rd Dist.
REP. SPALLONE, 36th Dist.
REP. STRATTON, 17th Dist.
REP. TERCYAK, 26th Dist.
REP. THOMPSON, 13th Dist.
REP. TRUGLIA, 145th Dist.
REP. VILLANO, 91st Dist.
REP. WILLIS, 64th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. RORABACK, 30th Dist.
SEN. FINCH, 22nd Dist.
SEN. WILLIAMS, 29th Dist.

To: Subst. Senate Bill No. 1161

File No. 581

Cal. No. 555

"AN ACT CONCERNING THE DEATH PENALTY."

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- 1 Strike out everything after the enacting clause and substitute the
 - 2 following in lieu thereof:

3 "Section 1. (NEW) (a) Notwithstanding any provision of law, the
4 sentence of any person convicted prior to the effective date of this act
5 of a capital felony, as defined in section 53a-54b of the general statutes,
6 and sentenced to death shall be commuted on the effective date of this
7 act to a sentence of life imprisonment without the possibility of release.

8 (b) Notwithstanding any provision of law, any person convicted on
9 or after the effective date of this act of a capital felony, as defined in
10 section 53a-54b of the general statutes, or of murder with special
11 circumstances, as defined in section 53a-54b of the general statutes, as
12 amended by this act, for an offense committed prior to, on or after the
13 effective date of this act, shall be sentenced to life imprisonment
14 without the possibility of release.

15 Sec. 2. Section 53a-54b of the general statutes is repealed and the
16 following is substituted in lieu thereof:

17 A person is guilty of [a capital felony] murder with special
18 circumstances who is convicted of any of the following: (1) Murder of a
19 member of the Division of State Police within the Department of Public
20 Safety or of any local police department, a chief inspector or inspector
21 in the Division of Criminal Justice, a state marshal who is exercising
22 authority granted under any provision of the general statutes, a
23 judicial marshal in performance of the duties of a judicial marshal, a
24 constable who performs criminal law enforcement duties, a special
25 policeman appointed under section 29-18, a conservation officer or
26 special conservation officer appointed by the Commissioner of
27 Environmental Protection under the provisions of section 26-5, an
28 employee of the Department of Correction or a person providing
29 services on behalf of said department when such employee or person
30 is acting within the scope of [his] such employee's or person's
31 employment or duties in a correctional institution or facility and the
32 actor is confined in such institution or facility, or any fireman, while
33 such victim was acting within the scope of [his] such victim's duties;
34 (2) murder committed by a defendant who is hired to commit the same
35 for pecuniary gain or murder committed by one who is hired by the

36 defendant to commit the same for pecuniary gain; (3) murder
37 committed by one who has previously been convicted of intentional
38 murder or of murder committed in the course of commission of a
39 felony; (4) murder committed by one who was, at the time of
40 commission of the murder, under sentence of life imprisonment; (5)
41 murder by a kidnapper of a kidnapped person during the course of the
42 kidnapping or before such person is able to return or be returned to
43 safety; [(6) the illegal sale, for economic gain, of cocaine, heroin or
44 methadone to a person who dies as a direct result of the use by him of
45 such cocaine, heroin or methadone; (7)] (6) murder committed in the
46 course of the commission of sexual assault in the first degree; [(8)] (7)
47 murder of two or more persons at the same time or in the course of a
48 single transaction; or [(9)] (8) murder of a person under sixteen years of
49 age.

50 Sec. 3. Section 53a-35a of the general statutes is repealed and the
51 following is substituted in lieu thereof:

52 For any felony committed on or after July 1, 1981, the sentence of
53 imprisonment shall be a definite sentence and the term shall be fixed
54 by the court as follows: (1) For [a capital felony] the class A felony of
55 murder with special circumstances, a term of life imprisonment
56 without the possibility of release; [unless a sentence of death is
57 imposed in accordance with section 53a-46a;] (2) for the class A felony
58 of murder, a term not less than twenty-five years nor more than life; (3)
59 for a class A felony other than murder, a term not less than ten years
60 nor more than twenty-five years; (4) for the class B felony of
61 manslaughter in the first degree with a firearm under section 53a-55a,
62 a term not less than five years nor more than forty years; (5) for a class
63 B felony other than manslaughter in the first degree with a firearm
64 under section 53a-55a, a term not less than one year nor more than
65 twenty years, except that for a conviction under section 53a-59(a)(1),
66 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the term shall
67 be not less than five years nor more than twenty years; (6) for a class C
68 felony, a term not less than one year nor more than ten years, except
69 that for a conviction under section 53a-56a, the term shall be not less

70 than three years nor more than ten years; (7) for a class D felony, a
71 term not less than one year nor more than five years, except that for a
72 conviction under section 53a-60b or 53a-217, the term shall be not less
73 than two years nor more than five years, for a conviction under section
74 53a-60c, the term shall be not less than three years nor more than five
75 years, and for a conviction under section 53a-216, the term shall be five
76 years; (8) for an unclassified felony, a term in accordance with the
77 sentence specified in the section of the general statutes that defines the
78 crime.

79 Sec. 4. Subsection (a) of section 53a-45 of the general statutes is
80 repealed and the following is substituted in lieu thereof:

81 (a) Murder is punishable as a class A felony in accordance with
82 subdivision (2) of section 53a-35a unless it is [a capital felony] murder
83 with special circumstances under section 53a-54b, as amended by this
84 act, or murder under section 53a-54d.

85 Sec. 5. Subsection (c) of section 53a-54a of the general statutes is
86 repealed and the following is substituted in lieu thereof:

87 (c) Murder is punishable as a class A felony in accordance with
88 subdivision (2) of section 53a-35a unless it is [a capital felony] murder
89 with special circumstances under section 53a-54b, as amended by this
90 act, or murder under section 53a-54d.

91 Sec. 6. Subsection (b) of section 51-199 of the general statutes is
92 repealed and the following is substituted in lieu thereof:

93 (b) The following matters shall be taken directly to the Supreme
94 Court: (1) Any matter brought pursuant to the original jurisdiction of
95 the Supreme Court under section 2 of article sixteen of the
96 amendments to the Constitution; (2) an appeal in any matter where the
97 Superior Court declares invalid a state statute or a provision of the
98 state Constitution; (3) an appeal in any criminal action involving a
99 conviction for a [capital felony,] class A felony, or other felony,
100 including any persistent offender status, for which the maximum

101 sentence which may be imposed exceeds twenty years; [(4) review of a
102 sentence of death pursuant to section 53a-46b; (5)] (4) any election or
103 primary dispute brought to the Supreme Court pursuant to section 9-
104 323 or section 9-325; [(6)] (5) an appeal of any reprimand or censure of
105 a probate judge, pursuant to section 45a-65; [(7)] (6) any matter
106 regarding judicial removal or suspension pursuant to section 51-51j;
107 [(8)] (7) an appeal of any decision of the Judicial Review Council
108 pursuant to section 51-51r; [(9)] (8) any matter brought to the Supreme
109 Court pursuant to section 52-265a; [(10)] (9) writs of error, pursuant to
110 section 52-272; and [(11)] (10) any other matter as provided by law.

111 Sec. 7. Subsection (b) of section 53a-28 of the general statutes is
112 repealed and the following is substituted in lieu thereof:

113 (b) [Except as provided in section 53a-46a, when] When a person is
114 convicted of an offense, the court shall impose one of the following
115 sentences: (1) A term of imprisonment; or (2) a sentence authorized by
116 section 18-65a or 18-73; or (3) a fine; or (4) a term of imprisonment and
117 a fine; or (5) a term of imprisonment, with the execution of such
118 sentence of imprisonment suspended, entirely or after a period set by
119 the court, and a period of probation or a period of conditional
120 discharge; or (6) a term of imprisonment, with the execution of such
121 sentence of imprisonment suspended, entirely or after a period set by
122 the court, and a fine and a period of probation or a period of
123 conditional discharge; or (7) a fine and a sentence authorized by
124 section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or
125 (9) a term of imprisonment and a period of special parole as provided
126 in section 54-125e.

127 Sec. 8. Section 53a-35b of the general statutes is repealed and the
128 following is substituted in lieu thereof:

129 A sentence of imprisonment for life shall mean a definite sentence of
130 sixty years, unless the sentence is life imprisonment without the
131 possibility of release, [imposed pursuant to subsection (g) of section
132 53a-46a,] in which case the sentence shall be imprisonment for the

133 remainder of the defendant's natural life.

134 Sec. 9. Section 53a-46d of the general statutes is repealed and the
135 following is substituted in lieu thereof:

136 A victim impact statement prepared by a victim advocate to be
137 placed in court files in accordance with subdivision (2) of section 54-
138 220 may be read in court prior to imposition of sentence upon a
139 defendant found guilty of a crime punishable by [death] life
140 imprisonment without the possibility of release.

141 Sec. 10. Subsection (b) of section 54-2a of the general statutes is
142 repealed and the following is substituted in lieu thereof:

143 (b) The court or judge issuing a bench warrant for the arrest of the
144 person or persons complained against shall, in cases punishable by
145 [death] life imprisonment without the possibility of release or life
146 imprisonment, set the conditions of release or indicate that the person
147 or persons named in the warrant shall not be entitled to bail and may,
148 in all other cases, set the conditions of release. The conditions of
149 release, if included in the warrant, shall fix the first of the following
150 conditions which the court or judge finds necessary to assure such
151 person's appearance in court: (1) Written promise to appear; (2)
152 execution of a bond without surety in no greater amount than
153 necessary; or (3) execution of a bond with surety in no greater amount
154 than necessary.

155 Sec. 11. Subsection (b) of section 54-45 of the general statutes is
156 repealed and the following is substituted in lieu thereof:

157 (b) No person shall be put to plea or held to trial for any crime the
158 punishment of which may be [death] life imprisonment without the
159 possibility of release or imprisonment for life, charged by the state
160 before May 26, 1983, unless an indictment has been found against
161 [him] such person for such crime by a grand jury legally impaneled
162 and sworn, and no bill shall be presented by any grand jury unless at
163 least twelve of the jurors agree to it.

164 Sec. 12. Section 54-46 of the general statutes is repealed and the
165 following is substituted in lieu thereof:

166 For all crimes charged by the state on or after May 26, 1983, the
167 prosecution may be by complaint or information. [For all crimes
168 punishable by death or imprisonment for life charged by the state
169 before May 26, 1983, the prosecution shall be by indictment.]

170 Sec. 13. Subsection (a) of section 54-46a of the general statutes is
171 repealed and the following is substituted in lieu thereof:

172 (a) No person charged by the state, who has not been indicted by a
173 grand jury prior to May 26, 1983, shall be put to plea or held to trial for
174 any crime punishable by [death] life imprisonment without the
175 possibility of release or life imprisonment unless the court at a
176 preliminary hearing determines there is probable cause to believe that
177 the offense charged has been committed and that the accused person
178 has committed it. The accused person may knowingly and voluntarily
179 waive such preliminary hearing to determine probable cause.

180 Sec. 14. Section 54-48 of the general statutes is repealed and the
181 following is substituted in lieu thereof:

182 When any crime punishable by [death] life imprisonment without
183 the possibility of release or imprisonment for more than one year has
184 been committed, the Governor, upon application of the state's attorney
185 for the judicial district in which it has been committed, may offer,
186 publicly, a reward not exceeding fifty thousand dollars, to the person
187 who gives information leading to the arrest and conviction of the
188 guilty person, or, if such guilty person has fled after conviction of a
189 felony in a court of this state, to the person who gives information
190 leading to the arrest and detention of the convicted felon, whether
191 found within the state or elsewhere, which reward shall be paid to the
192 informer by the state, by order of the court before which such
193 conviction is had.

194 Sec. 15. Section 54-53 of the general statutes is repealed and the

195 following is substituted in lieu thereof:

196 Each person detained in a community correctional center pursuant
197 to the issuance of a bench warrant of arrest or for arraignment,
198 sentencing or trial for [an offense not punishable by death] any offense
199 shall be entitled to bail and shall be released from such institution
200 upon entering into a recognizance, with sufficient surety, or upon
201 posting cash bail as provided in section 54-66, for the detained person's
202 appearance before the court having cognizance of the offense, to be
203 taken by any person designated by the Commissioner of Correction at
204 the institution where the person is detained. The person so designated
205 shall deliver the recognizance or cash bail to the clerk of the
206 appropriate court before the opening of the court on the first court day
207 thereafter. When cash bail in excess of ten thousand dollars is received
208 for a detained person accused of a felony, where the underlying facts
209 and circumstances of the felony involve the use, attempted use or
210 threatened use of physical force against another person, the person so
211 designated shall prepare a report that contains (1) the name, address
212 and taxpayer identification number of the detained person, (2) the
213 name, address and taxpayer identification number of each person
214 offering the cash bail, other than a person licensed as a professional
215 bondsman under chapter 533 or a surety bail bond agent under
216 chapter 700f, (3) the amount of cash received, and (4) the date the cash
217 was received. Not later than fifteen days after receipt of such cash bail,
218 the person so designated shall file the report with the Department of
219 Revenue Services and mail a copy of the report to the state's attorney
220 for the judicial district in which the alleged offense was committed and
221 to each person offering the cash bail.

222 Sec. 16. Subsection (a) of section 54-53a of the general statutes is
223 repealed and the following is substituted in lieu thereof:

224 (a) No person who has not made bail may be detained in a
225 community correctional center pursuant to the issuance of a bench
226 warrant of arrest or for arraignment, sentencing or trial for [an offense
227 not punishable by death] any offense, for longer than forty-five days,

228 unless at the expiration of the forty-five days [he] such person is
229 presented to the court having cognizance of the offense. On each such
230 presentment, the court may reduce, modify or discharge the bail, or
231 may for cause shown remand the person to the custody of the
232 Commissioner of Correction. On the expiration of each successive
233 forty-five-day period, the person may again by motion be presented to
234 the court for such purpose.

235 Sec. 17. Section 54-82 of the general statutes is repealed and the
236 following is substituted in lieu thereof:

237 (a) In any criminal case, prosecution or proceeding, the party
238 accused may, if [he] the accused so elects when called upon to plead,
239 be tried by the court instead of by the jury; and, in such case, the court
240 shall have jurisdiction to hear and try such case and render judgment
241 and sentence thereon.

242 (b) If the accused is charged with a crime punishable by [death] life
243 imprisonment without the possibility of release or imprisonment for
244 life and elects to be tried by the court, the court shall be composed of
245 three judges to be designated by the Chief Court Administrator, or
246 [his] the Chief Court Administrator's designee, who shall name one
247 such judge to preside over the trial. Such judges, or a majority of them,
248 shall have power to decide all questions of law and fact arising upon
249 the trial and render judgment accordingly.

250 (c) If the party accused does not elect to be tried by the court, [he]
251 the accused shall be tried by a jury of six except that no person,
252 charged with an offense which is punishable by [death] life
253 imprisonment without the possibility of release or life imprisonment,
254 shall be tried by a jury of less than twelve without [his] such person's
255 consent.

256 Sec. 18. Section 54-82g of the general statutes is repealed and the
257 following is substituted in lieu thereof:

258 The accused may challenge peremptorily, in any criminal trial

259 before the Superior Court for any offense punishable by [death] life
260 imprisonment without the possibility of release, twenty-five jurors; for
261 any offense punishable by imprisonment for life, fifteen jurors; for any
262 offense the punishment for which may be imprisonment for more than
263 one year and for less than life, six jurors; and for any other offense,
264 three jurors. In any criminal trial in which the accused is charged with
265 more than one count on the information or where there is more than
266 one information, the number of challenges is determined by the count
267 carrying the highest maximum punishment. The state, on the trial of
268 any criminal prosecution, may challenge peremptorily the same
269 number of jurors as the accused.

270 Sec. 19. Subsection (a) of section 54-82h of the general statutes is
271 repealed and the following is substituted in lieu thereof:

272 (a) In any criminal prosecution to be tried to the jury in the Superior
273 Court if it appears to the court that the trial is likely to be protracted,
274 the court may, in its discretion, direct that, after a jury has been
275 selected, two or more additional jurors shall be added to the jury
276 panel, to be known as "alternate jurors". Such alternate jurors shall
277 have the same qualifications and be selected and subject to
278 examination and challenge in the same manner and to the same extent
279 as the jurors constituting the regular panel, provided, in any case when
280 the court directs the selection of alternate jurors, the number of
281 peremptory challenges allowed shall be as follows: In any criminal
282 prosecution the state and the accused may each peremptorily
283 challenge thirty jurors if the offense for which the accused is arraigned
284 is punishable by [death] life imprisonment without the possibility of
285 release, eighteen jurors if the offense is punishable by life
286 imprisonment, eight jurors if the offense is punishable by
287 imprisonment for more than one year and for less than life, and four
288 jurors in any other case.

289 Sec. 20. Section 54-82j of the general statutes is repealed and the
290 following is substituted in lieu thereof:

291 Upon the written complaint of any state's attorney addressed to the
292 clerk of the superior court for the judicial district wherein such state's
293 attorney resides, alleging (1) that a person named therein is or will be a
294 material witness in a criminal proceeding then pending before or
295 returnable to the superior court for such judicial district, and in which
296 proceeding any person is or may be charged with an offense
297 punishable by [death or] imprisonment for more than one year, and (2)
298 that the state's attorney believes that such witness is likely to disappear
299 from the state, secrete himself or herself or otherwise avoid the service
300 of subpoena upon [him] such person, or refuse or fail to appear and
301 attend in and before such superior court as a witness, when desired,
302 the clerk or any assistant clerk of the court shall issue a warrant
303 addressed to any proper officer or indifferent person, for the arrest of
304 the person named as a witness, and directing that such person be
305 forthwith brought before any judge of the superior court for such
306 judicial district, for examination. The person serving the warrant shall
307 bring the person so arrested before the judge for examination as soon
308 as is reasonably possible and hold [him] such arrested person subject
309 to the further orders of the judge. The person serving the warrant shall
310 also notify the state's attorney of such arrest and of the time and place
311 of such examination.

312 Sec. 21. Section 54-83 of the general statutes is repealed and the
313 following is substituted in lieu thereof:

314 No person may be convicted of any crime punishable by [death] life
315 imprisonment without the possibility of release without the testimony
316 of at least two witnesses, or that which is equivalent thereto.

317 Sec. 22. Section 54-148 of the general statutes is repealed and the
318 following is substituted in lieu thereof:

319 The support of prisoners in community correctional centers [,] or
320 sentenced to a correctional institution [, or sentenced to death,] shall be
321 paid by the state.

322 Sec. 23. Subsection (a) of section 18-26 of the general statutes is

323 repealed and the following is substituted in lieu thereof:

324 (a) Jurisdiction over the granting of, and the authority to grant,
325 commutations of punishment or releases, conditioned or absolute, in
326 the case of any person convicted of any offense against the state [and
327 commutations from the penalty of death] shall be vested in the Board
328 of Pardons.

329 Sec. 24. Section 18-27a of the general statutes is repealed and the
330 following is substituted in lieu thereof:

331 (a) For the purposes of this section, "victim" means the victim, the
332 legal representative of the victim or a member of a deceased victim's
333 immediate family.

334 (b) At a session held by the Board of Pardons to consider whether to
335 grant a commutation of punishment or release, conditioned or
336 absolute, [a commutation from the penalty of death] or a pardon,
337 conditioned or absolute, to any person convicted of a class A, B or C
338 felony or a violation of section 53a-60a, 53a-60c, 53a-72b, 53a-103a or
339 53a-216, the board shall permit any victim of the crime for which the
340 person was convicted to appear before the board for the purpose of
341 making a statement for the record concerning whether the convicted
342 person should be granted such commutation, release or pardon. In lieu
343 of such appearance, the victim may submit a written statement to the
344 board and the board shall make such statement a part of the record at
345 the session.

346 (c) If the Board of Pardons is prepared to grant a commutation of
347 punishment or release, conditioned or absolute, [a commutation from
348 the penalty of death] or a pardon, conditioned or absolute, to a person
349 convicted of an offense involving the use, attempted use or threatened
350 use of physical force against another person, it shall make reasonable
351 efforts to locate and notify any victim of the crime for which such
352 person was convicted prior to granting such commutation, release or
353 pardon and shall permit such victim to appear before the board and
354 make a statement or submit a statement as provided in subsection (b)

355 of this section.

356 (d) Upon the granting to any person of a commutation of
357 punishment or release, conditioned or absolute, [a commutation from
358 the penalty of death] or a pardon, conditioned or absolute, the Board
359 of Pardons shall forthwith notify the Office of Victim Services of its
360 action.

361 Sec. 25. Sections 18-10a, 53a-46a, 53a-46b, 53a-46c, 54-99, 54-100, 54-
362 100a, 54-101 and 54-102 and subsection (c) of section 54-95 of the
363 general statutes are repealed.

364 Sec. 26. This act shall take effect from its passage."