



General Assembly

January Session, 2001

**Amendment**

LCO No. 6515

Offered by:

SEN. COLEMAN, 2<sup>nd</sup> Dist.

To: Subst. Senate Bill No. 1161

File No. 581

Cal. No. 385

**"AN ACT CONCERNING THE DEATH PENALTY."**

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 of a capital felony prior to the  
5 effective date of this act and sentenced to death shall be commuted on  
6 the effective date of this act to a sentence of life imprisonment without  
7 the possibility of release.

8 (b) Notwithstanding any provision of law, any person convicted of a  
9 capital felony on or after the effective date of this act for an offense  
10 committed prior to, on or after the effective date of this act, shall be  
11 sentenced to life imprisonment without the possibility of release.

12 Sec. 2. Subsection (b) of section 51-199 of the general statutes is  
13 repealed and the following is substituted in lieu thereof:

14 (b) The following matters shall be taken directly to the Supreme

15 Court: (1) Any matter brought pursuant to the original jurisdiction of  
16 the Supreme Court under section 2 of article sixteen of the  
17 amendments to the Constitution; (2) an appeal in any matter where the  
18 Superior Court declares invalid a state statute or a provision of the  
19 state Constitution; (3) an appeal in any criminal action involving a  
20 conviction for a capital felony, class A felony, or other felony,  
21 including any persistent offender status, for which the maximum  
22 sentence which may be imposed exceeds twenty years; [(4) review of a  
23 sentence of death pursuant to section 53a-46b; (5)] (4) any election or  
24 primary dispute brought to the Supreme Court pursuant to section 9-  
25 323 or section 9-325; [(6)] (5) an appeal of any reprimand or censure of  
26 a probate judge, pursuant to section 45a-65; [(7)] (6) any matter  
27 regarding judicial removal or suspension pursuant to section 51-51j;  
28 [(8)] (7) an appeal of any decision of the Judicial Review Council  
29 pursuant to section 51-51r; [(9)] (8) any matter brought to the Supreme  
30 Court pursuant to section 52-265a; [(10)] (9) writs of error, pursuant to  
31 section 52-272; and [(11)] (10) any other matter as provided by law.

32 Sec. 3. Subsection (b) of section 53a-28 of the general statutes is  
33 repealed and the following is substituted in lieu thereof:

34 (b) [Except as provided in section 53a-46a, when] When a person is  
35 convicted of an offense, the court shall impose one of the following  
36 sentences: (1) A term of imprisonment; or (2) a sentence authorized by  
37 section 18-65a or 18-73; or (3) a fine; or (4) a term of imprisonment and  
38 a fine; or (5) a term of imprisonment, with the execution of such  
39 sentence of imprisonment suspended, entirely or after a period set by  
40 the court, and a period of probation or a period of conditional  
41 discharge; or (6) a term of imprisonment, with the execution of such  
42 sentence of imprisonment suspended, entirely or after a period set by  
43 the court, and a fine and a period of probation or a period of  
44 conditional discharge; or (7) a fine and a sentence authorized by  
45 section 18-65a or 18-73; or (8) a sentence of unconditional discharge; or  
46 (9) a term of imprisonment and a period of special parole as provided  
47 in section 54-125e.

48 Sec. 4. Subsection (b) of section 53a-35 of the general statutes is  
49 repealed and the following is substituted in lieu thereof:

50 (b) The maximum term of an indeterminate sentence shall be fixed  
51 by the court and specified in the sentence as follows: (1) For a class A  
52 felony, life imprisonment; (2) for a class B felony, a term not to exceed  
53 twenty years; (3) for a class C felony, a term not to exceed ten years; (4)  
54 for a class D felony, a term not to exceed five years; (5) for an  
55 unclassified felony, a term in accordance with the sentence specified in  
56 the section of the general statutes that defines the crime; and (6) for a  
57 capital felony, life imprisonment [unless a sentence of death is  
58 imposed in accordance with section 53a-46a] without the possibility of  
59 release.

60 Sec. 5. Section 53a-35a of the general statutes is repealed and the  
61 following is substituted in lieu thereof:

62 For any felony committed on or after July 1, 1981, the sentence of  
63 imprisonment shall be a definite sentence and the term shall be fixed  
64 by the court as follows: (1) For a capital felony, a term of life  
65 imprisonment without the possibility of release; [unless a sentence of  
66 death is imposed in accordance with section 53a-46a;] (2) for the class  
67 A felony of murder, a term not less than twenty-five years nor more  
68 than life; (3) for a class A felony other than murder, a term not less  
69 than ten years nor more than twenty-five years; (4) for the class B  
70 felony of manslaughter in the first degree with a firearm under section  
71 53a-55a, a term not less than five years nor more than forty years; (5)  
72 for a class B felony other than manslaughter in the first degree with a  
73 firearm under section 53a-55a, a term not less than one year nor more  
74 than twenty years, except that for a conviction under section 53a-  
75 59(a)(1), 53a-59a, 53a-70a, 53a-94a, 53a-101(a)(1) or 53a-134(a)(2), the  
76 term shall be not less than five years nor more than twenty years; (6)  
77 for a class C felony, a term not less than one year nor more than ten  
78 years, except that for a conviction under section 53a-56a, the term shall  
79 be not less than three years nor more than ten years; (7) for a class D  
80 felony, a term not less than one year nor more than five years, except

81 that for a conviction under section 53a-60b or 53a-217, the term shall be  
82 not less than two years nor more than five years, for a conviction  
83 under section 53a-60c, the term shall be not less than three years nor  
84 more than five years, and for a conviction under section 53a-216, the  
85 term shall be five years; (8) for an unclassified felony, a term in  
86 accordance with the sentence specified in the section of the general  
87 statutes that defines the crime.

88 Sec. 6. Section 53a-35b of the general statutes is repealed and the  
89 following is substituted in lieu thereof:

90 A sentence of imprisonment for life shall mean a definite sentence of  
91 sixty years, unless the sentence is life imprisonment without the  
92 possibility of release, [imposed pursuant to subsection (g) of section  
93 53a-46a,] in which case the sentence shall be imprisonment for the  
94 remainder of the defendant's natural life.

95 Sec. 7. Section 53a-46d of the general statutes is repealed and the  
96 following is substituted in lieu thereof:

97 A victim impact statement prepared by a victim advocate to be  
98 placed in court files in accordance with subdivision (2) of section 54-  
99 220 may be read in court prior to imposition of sentence upon a  
100 defendant found guilty of a crime punishable by [death] life  
101 imprisonment without the possibility of release.

102 Sec. 8. Subsection (b) of section 54-2a of the general statutes is  
103 repealed and the following is substituted in lieu thereof:

104 (b) The court or judge issuing a bench warrant for the arrest of the  
105 person or persons complained against shall, in cases punishable by  
106 [death] life imprisonment without the possibility of release or life  
107 imprisonment, set the conditions of release or indicate that the person  
108 or persons named in the warrant shall not be entitled to bail and may,  
109 in all other cases, set the conditions of release. The conditions of  
110 release, if included in the warrant, shall fix the first of the following  
111 conditions which the court or judge finds necessary to assure such

112 person's appearance in court: (1) Written promise to appear; (2)  
113 execution of a bond without surety in no greater amount than  
114 necessary; or (3) execution of a bond with surety in no greater amount  
115 than necessary.

116 Sec. 9. Subsection (b) of section 54-45 of the general statutes is  
117 repealed and the following is substituted in lieu thereof:

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

125 Sec. 10. Section 54-46 of the general statutes is repealed and the  
126 following is substituted in lieu thereof:

127 For all crimes charged by the state on or after May 26, 1983, the  
128 prosecution may be by complaint or information. [For all crimes  
129 punishable by death or imprisonment for life charged by the state  
130 before May 26, 1983, the prosecution shall be by indictment.]

131 Sec. 11. Subsection (a) of section 54-46a of the general statutes is  
132 repealed and the following is substituted in lieu thereof:

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

141 Sec. 12. Section 54-48 of the general statutes is repealed and the

142 following is substituted in lieu thereof:

143 When any crime punishable by [death] life imprisonment without  
144 the possibility of release or imprisonment for more than one year has  
145 been committed, the Governor, upon application of the state's attorney  
146 for the judicial district in which it has been committed, may offer,  
147 publicly, a reward not exceeding fifty thousand dollars, to the person  
148 who gives information leading to the arrest and conviction of the  
149 guilty person, or, if such guilty person has fled after conviction of a  
150 felony in a court of this state, to the person who gives information  
151 leading to the arrest and detention of the convicted felon, whether  
152 found within the state or elsewhere, which reward shall be paid to the  
153 informer by the state, by order of the court before which such  
154 conviction is had.

155 Sec. 13. Section 54-53 of the general statutes is repealed and the  
156 following is substituted in lieu thereof:

157 Each person detained in a community correctional center pursuant  
158 to the issuance of a bench warrant of arrest or for arraignment,  
159 sentencing or trial for [an offense not punishable by death] any offense  
160 shall be entitled to bail and shall be released from such institution  
161 upon entering into a recognizance, with sufficient surety, or upon  
162 posting cash bail as provided in section 54-66, for the detained person's  
163 appearance before the court having cognizance of the offense, to be  
164 taken by any person designated by the Commissioner of Correction at  
165 the institution where the person is detained. The person so designated  
166 shall deliver the recognizance or cash bail to the clerk of the  
167 appropriate court before the opening of the court on the first court day  
168 thereafter. When cash bail in excess of ten thousand dollars is received  
169 for a detained person accused of a felony, where the underlying facts  
170 and circumstances of the felony involve the use, attempted use or  
171 threatened use of physical force against another person, the person so  
172 designated shall prepare a report that contains (1) the name, address  
173 and taxpayer identification number of the detained person, (2) the  
174 name, address and taxpayer identification number of each person

175 offering the cash bail, other than a person licensed as a professional  
176 bondsman under chapter 533 or a surety bail bond agent under  
177 chapter 700f, (3) the amount of cash received, and (4) the date the cash  
178 was received. Not later than fifteen days after receipt of such cash bail,  
179 the person so designated shall file the report with the Department of  
180 Revenue Services and mail a copy of the report to the state's attorney  
181 for the judicial district in which the alleged offense was committed and  
182 to each person offering the cash bail.

183 Sec. 14. Subsection (a) of section 54-53a of the general statutes is  
184 repealed and the following is substituted in lieu thereof:

185 (a) No person who has not made bail may be detained in a  
186 community correctional center pursuant to the issuance of a bench  
187 warrant of arrest or for arraignment, sentencing or trial for [an offense  
188 not punishable by death] any offense, for longer than forty-five days,  
189 unless at the expiration of the forty-five days [he] such person is  
190 presented to the court having cognizance of the offense. On each such  
191 presentment, the court may reduce, modify or discharge the bail, or  
192 may for cause shown remand the person to the custody of the  
193 Commissioner of Correction. On the expiration of each successive  
194 forty-five-day period, the person may again by motion be presented to  
195 the court for such purpose.

196 Sec. 15. Section 54-82 of the general statutes is repealed and the  
197 following is substituted in lieu thereof:

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

203 (b) If the accused is charged with a crime punishable by [death] life  
204 imprisonment without the possibility of release or imprisonment for  
205 life and elects to be tried by the court, the court shall be composed of  
206 three judges to be designated by the Chief Court Administrator, or

207 [his] the Chief Court Administrator's designee, who shall name one  
208 such judge to preside over the trial. Such judges, or a majority of them,  
209 shall have power to decide all questions of law and fact arising upon  
210 the trial and render judgment accordingly.

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

217 Sec. 16. Section 54-82g of the general statutes is repealed and the  
218 following is substituted in lieu thereof:

219 The accused may challenge peremptorily, in any criminal trial  
220 before the Superior Court for any offense punishable by [death] life  
221 imprisonment without the possibility of release, twenty-five jurors; for  
222 any offense punishable by imprisonment for life, fifteen jurors; for any  
223 offense the punishment for which may be imprisonment for more than  
224 one year and for less than life, six jurors; and for any other offense,  
225 three jurors. In any criminal trial in which the accused is charged with  
226 more than one count on the information or where there is more than  
227 one information, the number of challenges is determined by the count  
228 carrying the highest maximum punishment. The state, on the trial of  
229 any criminal prosecution, may challenge peremptorily the same  
230 number of jurors as the accused.

231 Sec. 17. Subsection (a) of section 54-82h of the general statutes is  
232 repealed and the following is substituted in lieu thereof:

233 (a) In any criminal prosecution to be tried to the jury in the Superior  
234 Court if it appears to the court that the trial is likely to be protracted,  
235 the court may, in its discretion, direct that, after a jury has been  
236 selected, two or more additional jurors shall be added to the jury  
237 panel, to be known as "alternate jurors". Such alternate jurors shall  
238 have the same qualifications and be selected and subject to

239 examination and challenge in the same manner and to the same extent  
240 as the jurors constituting the regular panel, provided, in any case when  
241 the court directs the selection of alternate jurors, the number of  
242 peremptory challenges allowed shall be as follows: In any criminal  
243 prosecution the state and the accused may each peremptorily  
244 challenge thirty jurors if the offense for which the accused is arraigned  
245 is punishable by [death] life imprisonment without the possibility of  
246 release, eighteen jurors if the offense is punishable by life  
247 imprisonment, eight jurors if the offense is punishable by  
248 imprisonment for more than one year and for less than life, and four  
249 jurors in any other case.

250 Sec. 18. Section 54-82j of the general statutes is repealed and the  
251 following is substituted in lieu thereof:

252 Upon the written complaint of any state's attorney addressed to the  
253 clerk of the superior court for the judicial district wherein such state's  
254 attorney resides, alleging (1) that a person named therein is or will be a  
255 material witness in a criminal proceeding then pending before or  
256 returnable to the superior court for such judicial district, and in which  
257 proceeding any person is or may be charged with an offense  
258 punishable by [death or] imprisonment for more than one year, and (2)  
259 that the state's attorney believes that such witness is likely to disappear  
260 from the state, secrete himself or herself or otherwise avoid the service  
261 of subpoena upon [him] such person, or refuse or fail to appear and  
262 attend in and before such superior court as a witness, when desired,  
263 the clerk or any assistant clerk of the court shall issue a warrant  
264 addressed to any proper officer or indifferent person, for the arrest of  
265 the person named as a witness, and directing that such person be  
266 forthwith brought before any judge of the superior court for such  
267 judicial district, for examination. The person serving the warrant shall  
268 bring the person so arrested before the judge for examination as soon  
269 as is reasonably possible and hold [him] such arrested person subject  
270 to the further orders of the judge. The person serving the warrant shall  
271 also notify the state's attorney of such arrest and of the time and place  
272 of such examination.

273 Sec. 19. Section 54-83 of the general statutes is repealed and the  
274 following is substituted in lieu thereof:

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

278 Sec. 20. Section 54-148 of the general statutes is repealed and the  
279 following is substituted in lieu thereof:

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

283 Sec. 21. Subsection (c) of section 54-95 of the general statutes is  
284 repealed and the following is substituted in lieu thereof:

285 (c) In any criminal prosecution in which the defendant has been  
286 convicted of a capital felony and sentenced [to death] prior to the  
287 effective date of this act and has taken an appeal to the Supreme Court  
288 of this state or the Supreme Court of the United States or brought a  
289 writ of error, writ of certiorari or petition for a new trial, the taking of  
290 the appeal, the making of the application for a writ of certiorari or the  
291 return into court of the writ of error or petition for a new trial shall,  
292 unless, upon application by the state's attorney and after hearing, the  
293 Supreme Court otherwise orders, stay the execution of the [death  
294 penalty] sentence until the clerk of the court where the trial was [had]  
295 held has received notification of the termination of any such  
296 proceeding by decision or otherwise, and for thirty days thereafter. No  
297 appellate procedure shall be deemed to have terminated until the end  
298 of the period allowed by law for the filing of a motion for reargument,  
299 or, if such motion is filed, until the proceedings consequent thereon are  
300 finally determined. When execution is stayed under the provisions of  
301 this section, the clerk of the court shall forthwith give notice thereof to  
302 the warden of the institution in which such defendant is in custody. [If  
303 the original judgment of conviction has been affirmed or remains in  
304 full force at the time when the clerk has received the notification of the

305 termination of any proceedings by appeal, writ of certiorari, writ of  
306 error or petition for a new trial, and the day designated for the  
307 infliction of the death penalty has then passed or will pass within  
308 thirty days thereafter, the defendant shall, within said period of thirty  
309 days, upon an order of the court in which the judgment was rendered  
310 at a regular or special criminal session thereof, be presented before  
311 said court by the warden of the institution in which the defendant is in  
312 custody or his deputy, and the court, with the judge assigned to hold  
313 the session presiding, shall thereupon designate a day for the infliction  
314 of the death penalty and the clerk of the court shall issue a warrant of  
315 execution, reciting therein the original judgment, the fact of the stay of  
316 execution and the final order of the court, which warrant shall be  
317 forthwith served upon the warden or his deputy.]

318 Sec. 22. Subsection (a) of section 18-26 of the general statutes is  
319 repealed and the following is substituted in lieu thereof:

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

325 Sec. 23. Section 18-27a of the general statutes is repealed and the  
326 following is substituted in lieu thereof:

327 (a) For the purposes of this section, "victim" means the victim, the  
328 legal representative of the victim or a member of a deceased victim's  
329 immediate family.

330 (b) At a session held by the Board of Pardons to consider whether to  
331 grant a commutation of punishment or release, conditioned or  
332 absolute, [a commutation from the penalty of death] or a pardon,  
333 conditioned or absolute, to any person convicted of a class A, B or C  
334 felony or a violation of section 53a-60a, 53a-60c, 53a-72b, 53a-103a or  
335 53a-216, the board shall permit any victim of the crime for which the  
336 person was convicted to appear before the board for the purpose of

337 making a statement for the record concerning whether the convicted  
338 person should be granted such commutation, release or pardon. In lieu  
339 of such appearance, the victim may submit a written statement to the  
340 board and the board shall make such statement a part of the record at  
341 the session.

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

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

357 Sec. 24. Sections 18-10a, 53a-46a, 53a-46b, 53a-46c, 54-99, 54-100, 54-  
358 100a, 54-101 and 54-102 of the general statutes are repealed.

359 Sec. 25. This act shall take effect from its passage."