

Introduced by Senators Yee, Cedillo, Romero, Scott, and Steinberg

February 13, 2008

An act to amend Section 190.5 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1199, as introduced, Yee. Crime.

Existing law, amended by initiative statute, provides that the penalty for a defendant found guilty of murder in the first degree, if special circumstances have been found to be true, as specified, who was 16 years of age or older and under 18 years of age at the time of the commission of the crime, shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life. Existing law provides that these provisions may be amended by a $\frac{2}{3}$ vote of each house of the Legislature.

This bill would instead provide that the penalty for a defendant found guilty of murder in the first degree, if special circumstances have been found to be true, as specified, who was under 18 years of age at the time of the commission of the crime, shall be confinement in the state prison for 25 years to life.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 190.5 of the Penal Code is amended to
2 read:
3 190.5. (a) Notwithstanding any other provision of law, the
4 death penalty shall not be imposed upon any person who is under
5 the age of 18 at the time of the commission of the crime. The

1 burden of proof as to the age of such person shall be upon the
2 defendant.

3 (b) The penalty for a defendant found guilty of murder in the
4 first degree, in any case in which one or more special circumstances
5 enumerated in Section 190.2 or 190.25 has been found to be true
6 under Section 190.4, who was ~~16 years of age or older and under~~
7 ~~the age of 18 years~~ *under 18 years of age* at the time of the
8 commission of the crime, shall be confinement in the state prison
9 for ~~life without the possibility of parole or, at the discretion of the~~
10 ~~court,~~ 25 years to life.

11 (c) The trier of fact shall determine the existence of any special
12 circumstance pursuant to the procedure set forth in Section 190.4.