

ASSEMBLY BILL

No. 54

Introduced by Assembly Member Battin

December 7, 1998

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

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as introduced, Battin. Death penalty: minors.

Existing law, added by initiative statute, prohibits the imposition of the death penalty upon any person who is under the age of 18 at the time of the commission of the crime. Existing law further provides that the penalty for a defendant who is found guilty of murder in the first degree is death or imprisonment in the state prison for life without the possibility of parole if one or more special circumstances has been found to be true. However, in any case in which the defendant was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, the penalty 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.

This bill instead would prohibit the imposition of the death penalty upon any person who is under the age of 16 at the time of the commission of the crime, and would delete the above provisions specifying the punishment for a defendant convicted of murder in the first degree who was 16 years of age or older and under the age of 18 years at the time of the

commission of the crime and who would otherwise be eligible for the death penalty.

The bill would provide that it shall become effective only when submitted to, and approved by, the voters.

Vote: majority. 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
2 amended to read:

3 190.5. ~~(a)~~Notwithstanding any other provision of
4 law, the death penalty shall not be imposed upon any
5 person who is under the age of ~~18~~ 16 at the time of the
6 commission of the crime. The burden of proof as to the
7 age of such person shall be upon the defendant.

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

17 ~~(c) The trier of fact shall determine the existence of~~
18 ~~any special circumstance pursuant to the procedure set~~
19 ~~forth in Section 190.4.~~

20 SEC. 2. Section 1 of this act affects an initiative statute
21 and shall become effective only when submitted to, and
22 approved by, the voters of California pursuant to
23 subdivision (c) of Section 10 of Article II of the California
24 Constitution.

