

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1221

			Of the printed Bill
Page	<u>1</u>	Section	<u>1</u>
		Lines	<u>17 1/2</u>
			Of the Engrossed Bill

By inserting new Sections 1 through 10 to read as follows:

(see attached)

and by renumbering the subsequent sections of the bill; and

Page 3, Section 3, Line 9:

By removing the November 1 effective date and inserting in lieu thereof,
the following effective dates to read as follows:"SECTION 13. Sections 1 through 10 of this act shall become effective
July 1, 2018.SECTION 14. Sections 11 and 12 of this act shall become effective
November 1, 2018.SECTION 15. It being immediately necessary for the preservation of
the public peace, health or safety, an emergency is hereby declared to
exist, by reason whereof this act shall take effect and be in full force
from and after its passage and approval."**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Harold Wright

Adopted: _____

Reading Clerk

1 "SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 Sections 2 through 10 of this act shall be known and may be
4 cited as the "Alyssa Wiles Juvenile Life Without Parole Sentencing
5 Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-5-302 of Title 10A, unless
8 there is created a duplication in numbering, reads as follows:

9 Sections 3 through 8 of this act shall be known and may be cited
10 as the "Juvenile Life Without Parole Sentencing Act".

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2-5-303 of Title 10A, unless
13 there is created a duplication in numbering, reads as follows:

14 The Legislature recognizes that the unique characteristics of
15 youth call for treating juveniles differently from adults for
16 purposes of sentencing. A sentence of life without parole for a
17 juvenile should be reserved for those rare children whose crimes
18 reflect irreparable corruption and permanent incorrigibility. To
19 ensure sentencing is both individualized and proportionate, the
20 following procedure is established by which the state may seek a
21 life without parole sentence for a charge of murder in the first
22 degree for an offender who was less than eighteen (18) years of age
23 at the time of the commission of the offense.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-5-304 of Title 10A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. When an offender who was less than eighteen (18) years of
5 age at the time of the commission of the offense is charged with
6 murder in the first degree, prior to the conclusion of the
7 preliminary hearing, the magistrate shall give the state the
8 opportunity to request a psychological evaluation.

9 B. Upon a request by the state for a psychological evaluation,
10 the court shall order that a psychological evaluation be conducted.
11 If the state does not timely request the psychological evaluation
12 prior to the conclusion of the preliminary hearing, it is deemed
13 waived and the state is prohibited from seeking a sentence of life
14 without parole.

15 C. The psychological evaluation shall be conducted by a
16 qualified licensed psychologist or psychiatrist and shall include
17 the following assessments:

- 18 1. Adjudicative competency of the offender;
- 19 2. Maturity or sophistication of the offender;
- 20 3. Dangerousness of the offender;
- 21 4. Amenability of the offender to treatment; and
- 22 5. Capacity of the offender to consider the consequences of his
23 or her acts.

1 D. The record and history of the offender, including previous
2 contacts with law enforcement agencies and juvenile or criminal
3 courts and prior periods of probation and commitments to juvenile
4 institutions, shall be made available to the psychological evaluator
5 and to the parties of the case.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-5-305 of Title 10A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. 1. If, after a review of the psychological evaluation and
10 full consideration of the facts and circumstances, the state
11 believes the imposition of a sentence of life without parole is
12 warranted, the state may file a "Notice of Intent to Seek a Sentence
13 of Life Without Parole".

14 2. The notice shall state the basis upon which the state is
15 requesting the court impose a sentence of life without parole and
16 must be filed no later than thirty (30) days after receipt of the
17 completed psychological evaluation.

18 3. If the state does not file the "Notice of Intent to Seek a
19 Sentence of Life Without Parole" within the time frame prescribed by
20 law, the ability to pursue a sentence of life without parole is
21 waived and the offender, upon conviction, shall be subject to a
22 sentence for a term of life.

23 B. If the state files a "Notice of Intent to Seek a Sentence of
24 Life Without Parole" requesting that the offender be sentenced to

1 imprisonment for life without parole eligibility, the offender shall
2 file a response to the notice not more than fifteen (15) days after
3 receiving the notice of intent, unless extended for good cause.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2-5-306 of Title 10A, unless
6 there is created a duplication in numbering, reads as follows:

7 A. The offender shall be entitled to a trial by jury on the
8 issue of guilt unless so waived by both parties. Upon a finding of
9 guilt, the jury shall be discharged and sentencing under the
10 provisions of this act shall be conducted by the court which shall
11 properly consider the youth and attendant circumstances of the
12 offender before imposing a sentence.

13 B. Following a verdict of guilty, the court shall promptly
14 schedule a hearing and consider evidence related to the "Notice of
15 Intent to Seek a Sentence of Life Without Parole" filed by the state
16 as part of the sentencing process. At the hearing, the court shall
17 consider and weigh the following factors:

18 1. The chronological age of the offender and its hallmark
19 features to include, but not be limited to, immaturity, impetuosity,
20 and failure to appreciate risks and consequences;

21 2. Incompetencies associated with youth; for example, inability
22 to deal with police officers or prosecutors or incapacity to assist
23 counsel;

1 3. Whether the circumstances suggest the possibility of
2 rehabilitation;

3 4. Adolescent brain development and its effect on behavior and
4 the capacity of the offender to consider the consequences of his or
5 her wrongful acts;

6 5. Evidence of youth, social background or substance abuse;

7 6. Whether the crime reflects the transient immaturity of the
8 offender or an irreparable corruption and permanent incorrigibility;

9 7. The record and history of the offender, including previous
10 contacts with law enforcement agencies and juvenile or criminal
11 courts, prior periods of probation and commitments to juvenile
12 institutions; and

13 8. Any other criteria the court deems relevant to its decision,
14 including the record of the offender while incarcerated.

15 C. The court shall consider evidence presented at trial
16 together with any evidence presented at the sentencing hearing. At
17 the conclusion of the hearing and after consideration of all the
18 evidence, if the weight of the evidence establishes that the crimes
19 committed by the offender reflect irreparable corruption and
20 permanent incorrigibility, the court may impose a sentence of life
21 without the possibility of parole. Even if the court finds that the
22 weight of the evidence establishes that the crimes committed by the
23 offender reflect irreparable corruption and permanent
24 incorrigibility, the court may impose a sentence of imprisonment for

1 life with the possibility of parole or imprisonment for life without
2 the possibility of parole.

3 D. Each victim or representative of the victim shall be
4 afforded the right to appear before the court and make a victim
5 impact statement at any sentencing or resentencing of the offender.

6 E. To ensure the attendant circumstances of youth have been
7 given due consideration and that sentencing is both individualized
8 and proportionate, the provisions of this section shall apply
9 retroactively to cases in which an offender, who was less than
10 eighteen (18) years of age at the time of the commission of the
11 offense, has been convicted of murder in the first degree but whose
12 case has been remanded to the district court for sentencing.

13 SECTION 7. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2-5-307 of Title 10A, unless
15 there is created a duplication in numbering, reads as follows:

16 A. An offender convicted of murder in the first degree, who was
17 less than eighteen (18) years of age at the time of the commission
18 of the offense who has been sentenced to life without parole in
19 accordance with the provisions of the Juvenile Life Without Parole
20 Sentencing Act, may file a motion requesting a postsentencing
21 judicial review hearing after serving not less than eighty-five
22 percent (85%) of a life sentence. The motion shall state grounds to
23 demonstrate maturity and reformation warranting reconsideration by
24 the court of his or her sentence.

1 B. At the hearing, the court shall consider the following
2 factors:

3 1. The subsequent growth and increased maturity of the offender
4 during incarceration;

5 2. The participation of the offender in available
6 rehabilitative and educational programs while in prison, and efforts
7 for self-improvement;

8 3. The remorse or subsequent insight of the offender related to
9 the circumstances surrounding the crime for which the offender was
10 convicted;

11 4. A statement by a victim or family member of the victim who
12 was impacted by the actions of the offender; and

13 5. Any other evidence the court deems as relevant.

14 C. The postsentencing judicial review shall be conducted
15 informally and the rules of evidence shall not apply. The burden of
16 proof at the hearing shall be on the offender to show by clear and
17 convincing evidence that the offender has gained maturity and
18 reformation while incarcerated, that the offender is not a danger to
19 the safety of any other individual and that the interests of justice
20 warrant a sentence modification.

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-5-308 of Title 10A, unless
23 there is created a duplication in numbering, reads as follows:
24

1 A. 1. For any offender convicted of murder in the first
2 degree, who was less than eighteen (18) years of age at the time of
3 the commission of the offense, was sentenced prior to the effective
4 date of this act to life without parole and has served at least
5 eighty-five percent (85%) of a life sentence, the state shall:

6 a. conduct a hearing, in accordance with Section 6 of
7 this act, before the sentencing court in the county in
8 which the conviction was entered, or

9 b. provide the offender with an opportunity for parole
10 consideration.

11 2. In determining whether a sentence modification is
12 appropriate, the court shall also give consideration to the age-
13 related factors listed in Section 6 of this act. The burden of
14 proof at the hearing shall be on the offender to show by clear and
15 convincing evidence that the offender has gained maturity and
16 reformation while incarcerated, that the offender is not a danger to
17 the safety of any other individual and that the interests of justice
18 warrant a sentence modification.

19 3. The Department of Corrections shall identify all offenders
20 who have been convicted of a homicide who were less than eighteen
21 (18) years of age at the time of the commission of the offense and
22 sentenced to life without parole prior to the effective date of this
23 act. The Department shall certify and send a comprehensive list to
24 the Administrative Office of the Courts within sixty (60) days from

1 the effective date of this act. The list shall include the
2 specified date for which each offender will have served at least
3 eight-five percent (85%) of a life sentence.

4 4. If the state elects to provide a postsentencing judicial
5 review hearing pursuant to this section, a hearing shall be
6 scheduled and held no more than sixty (60) days following the date
7 the offender has completed eighty-five percent (85%) of his or her
8 sentence of incarceration, unless good cause is shown.

9 5. Within twenty (20) days after receipt of notice of a
10 sentencing reconsideration hearing, the offender shall file a motion
11 stating the grounds upon which a reduction in sentence is warranted.

12 6. If the state elects not to pursue a postsentencing judicial
13 review hearing, the state shall provide notice to the court, the
14 offender, and the Pardon and Parole Board of its decision and the
15 offender shall be provided an opportunity for parole consideration
16 as set forth in Section 9 of this act.

17 B. 1. For any offender convicted of a nonhomicide offense, who
18 was less than eighteen (18) years of age at the time of the
19 commission of the offense, was sentenced prior to the effective date
20 of this act to any sentence that denies the offender a realistic
21 opportunity to obtain release in his or her lifetime, and has served
22 a term of at least twenty-five (25) years, the state shall:

- 23 a. conduct a postsentencing judicial review hearing
24 before the sentencing court in the county in which the

conviction was entered, pursuant to the factors listed in Sections 6 and 7 of this act, or

b. provide the offender with an opportunity for parole consideration.

2. In determining whether a sentence modification is appropriate, the court shall also give consideration to the age-related factors listed in Section 6 of this act. The burden of proof at the hearing shall be on the offender to show by clear and convincing evidence that the offender has gained maturity and reformation while incarcerated, that the offender is not a danger to the safety of any other individual, and that the interests of justice warrant a sentence modification.

3. The Department of Corrections shall identify all offenders who have been convicted of a nonhomicide offense prior to the effective date of this act who were less than eighteen (18) years of age at the time of the commission of the offense and sentenced to any sentence that denies the offender a realistic opportunity to obtain release in his or her lifetime. The Department of Corrections shall certify and send a comprehensive list to the Administrative Office of the Courts within sixty (60) days from the effective date of this act. The list shall include the specified date for which each offender will have served at least twenty-five (25) years of the sentence.

1 4. If the state elects to provide a postsentencing judicial
2 review hearing pursuant to this section, a hearing shall be
3 scheduled and held no more than sixty (60) days following the date
4 the offender has completed at least twenty-five (25) years of the
5 sentence of incarceration, unless good cause is shown to extend the
6 time frame for the hearing.

7 5. Within twenty (20) days after receipt of notice of a
8 postsentencing judicial review, the offender shall file a motion
9 stating the grounds upon which a reduction in sentence is warranted.

10 6. If the state elects not to pursue a postsentencing judicial
11 review hearing, the state shall provide notice to the court, the
12 offender, and the Pardon and Parole Board of the decision and the
13 offender shall be provided an opportunity for parole consideration
14 as set forth in Section 9 of this act.

15 SECTION 9. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 332.7b of Title 57, unless there
17 is created a duplication in numbering, reads as follows:

18 A. 1. Any offender convicted of first degree murder, who was
19 less than eighteen (18) years of age at the time of the commission
20 of the offense and sentenced to life without parole prior to the
21 effective date of the Juvenile Life Without Parole Sentencing Act,
22 who has served eight-five percent (85%) of the sentence is eligible
23 for parole consideration within sixty (60) days after receipt of
24

1 notice that the state does not intend to pursue a postsentencing
2 judicial review hearing.

3 2. Any offender convicted of a nonhomicide offense who was less
4 than eighteen (18) years of age at the time of the commission of the
5 offense, who has been sentenced to any sentence that denies the
6 offender a realistic opportunity to obtain release in his or her
7 lifetime prior to the effective date of the Juvenile Life Without
8 Parole Sentencing Act and who has served a term of incarceration of
9 at least twenty-five (25) years, is eligible for parole
10 consideration within sixty (60) days after receipt of notice that
11 the state does not intend to pursue a postsentencing judicial review
12 hearing.

13 B. The Pardon and Parole Board shall ensure that a hearing to
14 consider parole eligibility of an offender under this section takes
15 into account the attendant circumstances of youth at the time of the
16 commission of the offense and provides the offender with a
17 meaningful opportunity to be released on parole based on
18 demonstrated maturity and reformation.

19 C. During a parole hearing involving an offender under the
20 provisions of this section, the Board shall take into consideration,
21 in addition to other factors required by law to be considered by the
22 Board, the following:

23 1. The chronological age of the offender at the time of the
24 commission of the offense;

1 2. Evidence of youth, social background, or substance abuse at
2 the time of the commission of the offense;

3 3. The subsequent growth and increased maturity of the person
4 during incarceration;

5 4. Participation of the offender in available rehabilitative
6 and educational programs while in prison and efforts for self-
7 improvement;

8 5. The remorse or subsequent insight of the offender related to
9 the circumstances surrounding the crime for which the offender was
10 convicted;

11 6. A statement by a victim or family member of the victim who
12 was impacted by the actions of the offender;

13 7. A statement from the office of the district attorney who
14 prosecuted the case; and

15 8. Any other factors the Board deems relevant.

16 SECTION 10. AMENDATORY 22 O.S. 2011, Section 926.1, is
17 amended to read as follows:

18 Section 926.1 A. In all cases of a verdict of conviction for
19 any offense against any of the laws of the State of Oklahoma, the
20 jury may, and shall upon the request of the defendant, assess and
21 declare the punishment in their verdict within the limitations fixed
22 by law, and the court shall render a judgment according to such
23 verdict, except as hereinafter provided.

1 B. The provisions of this section shall not apply to an
2 offender who is subject to sentencing pursuant to the Juvenile Life
3 Without Parole Sentencing Act."

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