

Sentencing—Hard 50, Hard 25, Life Without the Possibility of Parole, Attempted Capital Murder, Felony Murder; HB 2490

HB 2490 amends various statutes related to criminal sentencing.

The bill establishes that a life sentence with a mandatory minimum term of imprisonment of 50 years (the Hard 50 sentence) is to be the default sentence when a defendant is convicted of premeditated first degree murder committed on or after July 1, 2014. The sentencing judge may impose a life sentence with a mandatory minimum term of imprisonment of 25 years (the Hard 25 sentence) if the judge reviews mitigating circumstances and finds substantial and compelling reasons to impose the lesser sentence. If the judge imposes the Hard 25 sentence, the judge must state on the record the substantial and compelling reasons for imposing the sentence.

The bill imposes the Hard 25 sentence for a conviction of attempted capital murder or for a conviction of first degree murder when classified as the killing of a human being committed in the commission of, attempt to commit, or flight from any inherently dangerous felony (felony murder).

For any of these sentencing provisions, if the defendant's criminal history classification would subject the defendant to presumptive imprisonment in a range exceeding 300 months (for a Hard 25 sentence) or 600 months (for a Hard 50 sentence), then the defendant shall instead be required to serve a mandatory minimum term equal to the sentence established under the sentencing guidelines.

The bill also amends various statutes to provide consistency and clarify that inmates sentenced to life without the possibility of parole are not eligible for sentence commutation, functional incapacitation release, parole, or out-of-state travel as a material witness. The Governor's commutation power is limited in death penalty cases to imprisonment for life without the possibility of parole. A person under sentence of death is not be eligible for functional incapacitation release. Finally, the bill requires the presence of the defendant at every stage of trial in a prosecution for a crime punishable by life without the possibility of parole.