

ASSEMBLY BILL NO. 6—ASSEMBLYWOMAN GIUNCHIGLIANI

PREFILED JANUARY 26, 2005

Referred to Committee on Judiciary

SUMMARY—Prohibits imposition of sentence of death upon person for crime committed while person was under age of 18 years. (BDR 14-124)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted-material]** is material to be omitted.

AN ACT relating to capital punishment; prohibiting the imposition of a sentence of death upon a person for a crime committed while the person was under the age of 18 years; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prohibits the imposition of a death sentence upon a person for a
- 2 crime that was committed by the person when the person was under the age of 16
- 3 years. (NRS 176.025) However, on March 1, 2005, the United States Supreme
- 4 Court held that the imposition of a death sentence upon a person for crime
- 5 committed by the person when he was under the age of 18 years violates the Eighth
- 6 and Fourteenth Amendments to the U.S. Constitution. *Roper v. Simmons*, 543
- 7 U.S. ____ (2005) That decision renders the existing law in Nevada unconstitutional.
- 8 This bill increases the threshold age for imposing a death sentence to 18 years
- 9 so that a person may not be sentenced to death for a crime that was committed
- 10 when the person was under the age of 18 years. Increasing the threshold to 18 years
- 11 makes the law in Nevada constitutional according to the ruling of the United States
- 12 Supreme Court.
- 13 This bill applies retroactively to any person who is in prison under a sentence
- 14 of death on the effective date of the bill for a crime that the person committed when
- 15 he was under the age of 18 years. The death sentence of a person to whom this bill
- 16 applies retroactively is commuted to a sentence of life without the possibility of
- 17 parole.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 176.025 is hereby amended to read as follows:
2 176.025 A *sentence of* death ~~{sentence-shall}~~ *must* not be
3 imposed or inflicted upon any person convicted of a crime now
4 punishable by death who at the time of the commission of ~~{such}~~ *the*
5 crime was under the age of ~~{16}~~ *18* years. As to such person, the
6 maximum punishment that may be imposed ~~{shall-be}~~ *is* life
7 imprisonment.
8

9 **Sec. 2.** 1. This act becomes effective upon passage and
10 approval and applies retroactively to a sentence of death that:

11 (a) Has not been carried out on the effective date of this act; and
12 (b) Has been imposed upon a person for a crime that was
13 committed by the person when the person was under the age of 18
years.

2. A sentence of death to which this act applies retroactively
shall be deemed to be commuted to a sentence of life without the
possibility of parole on the effective date of this act. The Director of
the Department of Corrections shall take all actions necessary to
carry out the provisions of this section.

