

Assembly Bill No. 6—Assemblywoman Giunchigliani

CHAPTER.....

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:

Existing law prohibits the imposition of a death sentence upon a person for a crime that was committed by the person when the person was under the age of 16 years. (NRS 176.025) However, on March 1, 2005, the United States Supreme Court held that the imposition of a death sentence upon a person for crime committed by the person when he was under the age of 18 years violates the Eighth and Fourteenth Amendments to the U.S. Constitution. *Roper v. Simmons*, 543 U.S. ____ (2005) That decision renders the existing law in Nevada unconstitutional.

This bill increases the threshold age for imposing a death sentence to 18 years so that a person may not be sentenced to death for a crime that was committed when the person was under the age of 18 years. Increasing the threshold to 18 years makes the law in Nevada constitutional according to the ruling of the United States Supreme Court.

This bill applies retroactively to any person who is in prison under a sentence of death on the effective date of the bill for a crime that the person committed when he was under the age of 18 years. The death sentence of a person to whom this bill applies retroactively is commuted to a sentence of life without the possibility of parole.

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

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

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

(a) Has not been carried out on the effective date of this act; and
(b) Has been imposed upon a person for a crime that was 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.