

## SCOPE AND OBJECT RULING:

### AMENDMENTS #615, #616, and #681 TO SENATE BILL 6052

(February 14, 2018)

In ruling on the points of order raised by Senator Pedersen on the scope and object of Senate Bill 6052, the President finds and rules as follows:

Senate Bill 6052 seeks to entirely eliminate the death penalty from the Revised Code of Washington. Section 1 of the bill strikes all language that provides for the death penalty as a possible sentence for individuals convicted of aggravated first degree murder, and Section 2 repeals the eighteen subsequent provisions that set forth statutory procedures for sentencing a person convicted of aggravated first degree murder to death.

The scope of the bill—the death penalty—is reasonably broad. However, the object of the bill—its aim, purpose, and end goal—is specific and narrow. It is to revise Washington’s sentencing laws to eliminate the death penalty, establishing the sentence for aggravated first degree murder as life in prison without the possibility of parole.

This intent is made clear to the President by the bill’s construction and plain language. The bill erases all references to the death penalty from Washington’s sentencing laws, and clarifies that sentencing for individuals convicted of aggravated first degree murder must be life in prison without the possibility of parole.

The President takes seriously that in crafting the bill, the drafters made the decision to eradicate all legislative language pertaining to the death penalty, and also that the underlying bill exclusively contains provisions concerned with criminal sentencing, not with the elements of any criminal offense.

Therefore, the President finds that the drafter’s clear intent is to enact a sentencing reform, one that would eliminate the death penalty entirely, and mandate life in prison without the possibility of parole as the sole sentence for aggravated first degree murder.

Guided by this reading of the scope and object of the bill, the President makes the following rulings regarding Amendments #615, #616, and #681.

Amendment #615 seeks to amend RCW 10.95.040 to retain the death penalty as a sentencing option for persons who have been convicted of aggravated first degree murder in cases where the victim is a law enforcement officer as provided in RCW 10.95.020(1).

While the President finds that the amendment does fit within the scope of the underlying bill by nature of its pertaining to the death penalty, he notes that its aim is to maintain the availability of the death penalty under a specific condition.

Retaining the death penalty in *any* form under any circumstance is in direct contradiction with the bill’s object, which is to entirely eliminate the death penalty.

In addition to looking at the object of the underlying bill, the President believes it is instructive to follow senate precedent and look to the object of the amendment, in order to determine whether there exists a conflict between the two.

Aggravated first degree murder is defined in the RCWs as first degree murder that takes place under certain enumerated circumstances. There currently exists no distinction in state law between the first degree murder of a law enforcement officer, and first degree murder under the other enumerated aggravating circumstances. They are all considered aggravated first degree murder.

The amendment seeks to provide that first degree murder under one circumstance would be treated differently than all other aggravated first degree murders for the purpose of sentencing.

In retaining the death penalty for those convicted of murdering a law enforcement officer, the amendment would effectively create a new criminal offense (first degree murder of a law enforcement officer). The underlying bill is a sentencing bill—it is not a bill that concerns itself with the definition of a criminal offense.

This creation of a new criminal offense, which is the object of the amendment before us, thus has no foundation in the underlying bill—which is concerned solely with the sentencing available for the existing criminal offense of aggravated first degree murder—and therefore violates any reasonable reading of its object.

Were it so inclined, the legislature could separately establish a new criminal offense, first degree murder of a law enforcement officer, as well as available sentencing options for that offense, but to do so in the form of amendatory language to SB 6052 would change the object of the bill. The amendment is therefore out of order and Senator Pedersen's point is well-taken.

Amendment #616 retains the death penalty as an option for aggravated first degree murder in cases where the victim is a corrections officer as provided in RCW 10.95.020(1). As with the previous amendment, this fits within the scope of the bill, but for the same reasons listed above it violates the object, which is to revise sentencing laws to wholly abolish the death penalty.

For these reason, the President finds that the amendment would change the object of the bill, and the amendment is therefore out of order and Senator Pedersen's point is well-taken.

Amendment #681 retains the death penalty as an option for aggravated first degree murder when the defendant has requested the death penalty.

The President finds that the object of the underlying bill—revising sentencing laws to eliminate the death penalty—is at most only tangentially related to what defendants in these cases may desire for themselves. As such, introducing an entirely new sentencing mechanism, one based on defendant input, falls far outside the policy objective of the underlying bill.

The amendment, therefore, exceeds the object of the bill, and Senator Pedersen's point is well-taken.