

2014-09-01

**OBJECTS AND REASONS**

This Bill would amend the *Offences Against the Person Act*, Cap. 141 to abolish the mandatory imposition of the penalty of death for the offence of murder.

*Arrangement of Sections*

1. Short title
2. Amendment of section 2 of Cap. 141
3. Insertion of section 2A into Cap. 141

## **BARBADOS**

A Bill entitled

An Act to amend the *Offences Against the Person Act*, Cap. 141 to abolish the mandatory imposition of the penalty of death for the offence of murder.

ENACTED by the Parliament of Barbados as follows:

**Short title**

1. This Act may be cited as the *Offences Against the Person (Amendment) Act, 2014*.

**Amendment of section 2 of Cap. 141**

2. *The Offences Against the Person Act, in this Act referred to as the principal Act, is amended by deleting section 2 and substituting the following:*

**“Penalties for the offence of murder**

- 2.(1) A person who is convicted of murder shall be sentenced to
- (a) death; or
  - (b) imprisonment for life.
- (2) A Court may sentence a person convicted of murder to death where
- (a) the murder was committed with a high level of brutality, cruelty, depravity, or callousness;
  - (b) the murder involved calculated or lengthy planning;
  - (c) the deceased was a Judge, a Magistrate, the Director of Public Prosecutions or a legal officer in the Department of Public Prosecutions and the office of the deceased was a factor in the commission of the offence;
  - (d) the deceased was a member of the Royal Barbados Police Force, a member of the Barbados Defence Force, a member of the Special Constabulary or a prison officer and the office of the deceased was a factor in the commission of the offence;
  - (e) the deceased was a member of a group of persons who have a common characteristic such as race, nationality, ethnicity

or religion and this was a factor in the commission of the offence;

- (f) the deceased was a witness or a juror in a pending or concluded trial and this was a factor in the commission of the offence;
- (g) the deceased was particularly vulnerable because of his age, health or disability or because of any other factor;
- (h) the person convicted was convicted of 2 or more offences of murder, whether or not arising from the same circumstances;  
or
- (i) in the opinion of the Court, there are any other exceptional circumstances which must be taken into account and which justify the imposition of a sentence of death.

(3) Where the Court, having considered the circumstances of the case, elects to sentence a person convicted of murder to imprisonment for life the Court may order

- (a) the term of imprisonment for life shall be served without the possibility of the grant of a release order where the Court is satisfied that the person poses a serious danger to the public;  
or
- (b) the term of imprisonment with the possibility for the grant of a release order.

(4) Where the Court sentences a person to death, and the sentence of death is not executed within a period of 5 years from the date of the sentence, the sentence shall be commuted, by order of the Court, to a sentence of imprisonment for life without the possibility of the grant of a release order.

(5) In this section and in section 2A "release order" has the meaning assigned to it by section 2 of the *Prisons Act*, Cap. 168 .”.

**Insertion of section 2A into Cap. 141**

**3.** *The principal Act is amended by inserting immediately after section 2, the following section:*

**“Review of existing sentences**

**2A.(1)** A person who, prior to the commencement of the *Offences Against the Person (Amendment) Act, 2012*, was convicted of murder and sentenced to death and

(a) whose sentence was not commuted under section 78 of the *Constitution, 1966/1455* shall have

(i) his sentence set aside by the Chief Justice; and

(ii) a new sentence imposed, in accordance with section 2, by the Chief Justice; and

(b) whose sentence was commuted under section 78 of the *Constitution, 1966/1455* shall have

(i) his sentence and the instrument by which the sentence was commuted, set aside; and

(ii) a new sentence imposed, in accordance with section 2, by the Chief Justice.

(2) Notwithstanding section 2(1), a person whose sentence is reviewed under subsection (1) shall not be subject to a sentence of death.

(3) A judge shall, in imposing a new sentence under subsection (1), consider

(a) the circumstances or facts of the offence and degree of the involvement of the offender in the offence;

- (b) the age of the offender;
- (c) the personal circumstances of the offender such as his social or economic circumstances;
- (d) whether the offender pleaded guilty and the point at which the guilty plea was made;
- (e) any attempt by the offender to make reparation for the offence;
- (f) any written representation made by a spouse or a relative of the deceased who has suffered physically, emotionally, psychologically or financially as a result of the commission of the offence;
- (g) any representations made on the behalf of the offender by his attorney-at-law;
- (h) any representations made by the prosecution; and
- (i) any other circumstances which, in the opinion of the judge, must be taken into account.”.

Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2014.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
\_\_\_\_\_, 2014.

**President**