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What is felony murder special circumstances?

California Penal Code 109.2 special circumstances demands a mandatory capital punishment – the death penalty or a death-in-custody sentence of life in prison without the possibility of parole – be imposed upon a person when a death occurs, either intentional or accidental, during the commission of another offense. To be convicted of special circumstances and receive one of these two death penalties, a person needs only to be proven a participant in the underlying offense. There are 22 felonies which fall under California Penal Code 190.2 special circumstances; robbery and burglary are the most frequent offenses charged.

What is the consequence of a special circumstances conviction?

The mandatory sentence for special circumstances is either the death penalty or the death-in-custody sentence of life without the possibility of parole.

How many people are serving these sentences?

740 people are serving the death penalty on death row in California

5,206 people are serving the death-in-custody sentence of life without parole. Of these 5,206:

5,005 are male 201 are female

3,711 are first time offenders

3,221 were 25 or under at the time of the offense (with the greatest number being 19 years of age)

1,824 are Black, 1,733 are Hispanic, 1,131 are White, 518 are Other

What is the problem with special circumstances?

Since a prosecutor has only to prove participation in the underlying felony and does not necessarily have to prove malice or the intent to commit murder, primarily young men and women who are first time offenders, as well as people of color, are being sentenced to die in prison with no possibility of redemption. The devastation and hopelessness of this sentence creates broken families and children without parents and withholds any motivation to pursue self-improvement.

Three fifths of those serving life without parole were 25 or under at the time of the offense. Neurological research has concluded that the human brain is not fully formed until the age of 25 and that young people do not have adult levels of judgment, impulse control, or the ability to foresee the consequences of their actions. Almost **four fifths** of those serving life without parole were first time offenders. The overwhelming majority of women serving life without parole are survivors of abuse, including intimate partner battering, childhood abuse, sexual violence and sex trafficking.

What do we want?

We want to create legislation that severely curtails the use of special circumstances, eliminates its use against aiders and abettors and those who do not actually kill, and requires juries to be properly informed as to the nature and effect of special circumstances prior to commencement of trial. We want the eventual elimination of special circumstances from California's constitution.