

CF 7r2723

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**By: Delegates Marriott, C. Davis, C. Mitchell, Watson, Kirk, Howard, Benson, Exum, Boston, Crumlin, R. Baker, Branch, Opara, Parker, E. Burns, B. Hughes, Patterson, Shriver, and Nathan-Pulliam**

Introduced and read first time: February 10, 1997

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Commission on the Fair Imposition of the Death Penalty**

3 FOR the purpose of creating a Maryland Commission on the Fair Imposition of the  
4 Death Penalty; specifying the membership, appointment process, and Chairman of  
5 the Commission; providing for compensation and reimbursement for members of  
6 the Commission; specifying the powers and duties of the Commission; providing for  
7 staff and oversight of the Commission; specifying the role of the Chief Judge of the  
8 Court of Appeals; providing for public meetings of the Commission; specifying the  
9 duties of State and local units; establishing the purpose of the Commission;  
10 requiring the Commission to issue certain reports by certain dates; providing for the  
11 termination of the Commission; establishing a temporary moratorium on  
12 executions; and generally relating to the death penalty in the State.

13 BY adding to

14 Article 27 - Crimes and Punishments  
15 Section 857  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume)

18 Preamble

19 WHEREAS, The 1993 Governor's Commission on the Death Penalty found "there  
20 is no evidence of intentional discrimination in the implementation of the death penalty in  
21 Maryland, but racial disparities in its implementation remain a matter of legitimate  
22 concern"; and

23 WHEREAS, In 1996, the Governor commissioned the Task Force on the Fair  
24 Imposition of Capital Punishment in Maryland stating that "further inquiry that focuses  
25 on the apparent disproportionate representation in capital cases according to the race of  
26 the defendant and the race of the victim is in the interest of justice"; and

27 WHEREAS, The 1996 Task Force found that "the high percentage of African  
28 American prisoners under the sentence of death and the low percentage of prisoners  
29 under sentence of death whose victims were African Americans remains a cause for  
30 concern"; and

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1 WHEREAS, The Task Force recommended that "a future study be directed by the  
2 Court of Appeals with collaboration of the Governor, Legislature, State Bar and the  
3 public with a specific focus on obtaining quantitative, qualitative and anecdotal data  
4 about potential causes of racial disparity in the imposition of capital punishment in  
5 Maryland"; and

6 WHEREAS, the American Bar Association has called the death penalty "a  
7 haphazard maze of unfair practices with no internal consistency" and has called for a  
8 moratorium on executions; now, therefore,

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article 27 - Crimes and Punishments**

12 857.

13 (A) THERE IS A MARYLAND COMMISSION ON THE FAIR IMPOSITION OF THE  
14 DEATH PENALTY.

15 (B) THE PURPOSE OF THE COMMISSION IS TO DETERMINE THE CAUSES OF  
16 THE CURRENT RACIAL DISPARITY THAT EXISTS IN THE IMPOSITION OF THE DEATH  
17 PENALTY IN THE STATE.

18 (C) (1) THE COMMISSION CONSISTS OF THE FOLLOWING EIGHT MEMBERS:

19 (I) ONE MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY  
20 THE SPEAKER OF THE HOUSE;

21 (II) ONE MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT  
22 OF THE SENATE;

23 (III) THE ATTORNEY GENERAL OF THE STATE OR THE ATTORNEY  
24 GENERAL'S DESIGNEE;

25 (IV) ONE JUDGE FROM A CIRCUIT COURT OF THE STATE  
26 APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;

27 (V) THE STATE PUBLIC DEFENDER OR THE PUBLIC DEFENDER'S  
28 DESIGNEE;

29 (VI) ONE STATE'S ATTORNEY APPOINTED BY THE GOVERNOR  
30 FROM A LIST PROVIDED BY THE MARYLAND STATE'S ATTORNEY ASSOCIATION;

31 (VII) ONE MEMBER APPOINTED BY THE CHIEF JUDGE OF THE  
32 COURT OF APPEALS, WHO SHALL SERVE AS CHAIRMAN; AND

33 (VIII) ONE ATTORNEY WHO PRACTICES IN THE AREA OF CRIMINAL  
34 DEFENSE APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS FROM A  
35 LIST PROVIDED BY THE MARYLAND CRIMINAL DEFENSE LAWYERS ASSOCIATION.

36 (2) A MEMBER OF THE COMMISSION:

37 (I) MAY NOT RECEIVE COMPENSATION; BUT

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1 (II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
2 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

3 (D) THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL DIRECT THE  
4 OPERATION OF THE COMMISSION IN COLLABORATION WITH THE GOVERNOR, THE  
5 GENERAL ASSEMBLY, MEMBERS OF THE STATE BAR, AND THE PUBLIC.

6 (E) THE CHIEF JUDGE OF THE COURT OF APPEALS SHALL SELECT A PROJECT  
7 DIRECTOR AND THE STAFF OF THE COMMISSION.

8 (F) (1) THE COMMISSION SHALL HOLD ITS FIRST MEETING ON OR BEFORE  
9 JULY 31, 1997.

10 (2) THE COMMISSION SHALL MEET AT LEAST SIX TIMES AT THE CALL  
11 OF:

12 (I) THE CHAIRMAN; OR

13 (II) ANY THREE MEMBERS OF THE COMMISSION.

14 (3) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE  
15 COMMISSION IS A QUORUM.

16 (4) MEETINGS OF THE COMMISSION SHALL BE OPEN TO THE PUBLIC.

17 (G) TO CARRY OUT ITS DUTIES, THE COMMISSION MAY ESTABLISH  
18 SUBCOMMITTEES OR ADVISORY BODIES COMPOSED OF MEMBERS OF THE  
19 COMMISSION.

20 (H) (1) THE COMMISSION MAY ADOPT RULES TO GOVERN ITS  
21 ADMINISTRATION AND PROCEDURES.

22 (2) THE COMMISSION MAY REQUIRE THE FOLLOWING ENTITIES TO  
23 PROVIDE DATA:

24 (I) STATE UNITS;

25 (II) THE GOVERNING BODIES OF COUNTIES AND BALTIMORE CITY;

26 (III) THE GOVERNING BODIES OF MUNICIPAL CORPORATIONS IN  
27 THE STATE;

28 (IV) STATE'S ATTORNEYS;

29 (V) THE OFFICE OF THE PUBLIC DEFENDER; AND

30 (VI) CLERKS OF ANY COURTS IN THE STATE.

31 (3) THE FOLLOWING UNITS SHALL COOPERATE FULLY WITH THE  
32 COMMISSION:

33 (I) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND  
34 PREVENTION;

35 (II) THE DEPARTMENT OF LEGISLATIVE REFERENCE;

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- 1 (III) THE DEPARTMENT OF FISCAL SERVICES;
- 2 (IV) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
3 SERVICES;
- 4 (V) THE DEPARTMENT OF BUDGET AND MANAGEMENT;
- 5 (VI) THE DEPARTMENT OF JUVENILE JUSTICE;
- 6 (VII) THE DEPARTMENT OF STATE POLICE;
- 7 (VIII) THE ADMINISTRATIVE OFFICE OF THE COURTS;
- 8 (IX) THE STATE BOARD OF VICTIM SERVICES;
- 9 (X) EACH STATE'S ATTORNEY;
- 10 (XI) THE GOVERNING BODY OF EACH COUNTY AND BALTIMORE  
11 CITY; AND
- 12 (XII) THE GOVERNING BODY OF EACH MUNICIPAL CORPORATION IN  
13 THE STATE.

14 (4) IN CARRYING OUT ITS DUTIES, THE COMMISSION MAY SEEK,  
15 ACCEPT, AND USE GRANTS, MONEY, OR ASSISTANCE FROM ANY PRIVATE OR PUBLIC  
16 SOURCE.

17 (I) (1) ON REQUEST, THE COMMISSION SHALL PROVIDE INFORMATION TO  
18 A STATE UNIT OR A MEMBER OF THE GENERAL ASSEMBLY.

19 (2) THE COMMISSION SHALL:

20 (I) ESTABLISH A STATEWIDE UNIFORM SYSTEM OF DATA  
21 COLLECTION TO ALLOW PERIODIC REVIEWS OF STATISTICAL DATA PERTAINING TO  
22 THE CAPITAL PUNISHMENT PROCESS;

23 (II) UNDERTAKE A MULTIPLE REGRESSION ANALYSIS TO  
24 DETERMINE IF RACE IS IMPERMISSIBLY CONSIDERED IN THE IMPOSITION OF THE  
25 DEATH PENALTY;

26 (III) CONDUCT AT LEAST TWO PUBLIC HEARINGS, ONE MAIL  
27 SURVEY, AND ONE TELEPHONE SURVEY TO SOLICIT THE PERCEPTIONS OF THE  
28 PUBLIC ABOUT RACE AND THE IMPOSITION OF THE DEATH PENALTY;

29 (IV) CONDUCT AT LEAST TWO PUBLIC HEARINGS, ONE MAIL  
30 SURVEY, AND ONE TELEPHONE SURVEY TO SOLICIT THE PERCEPTIONS OF THE  
31 MEMBERS OF THE CRIMINAL JUSTICE SYSTEM ABOUT RACE AND THE IMPOSITION  
32 OF THE DEATH PENALTY;

33 (V) CONDUCT AT LEAST TWO PUBLIC HEARINGS, ONE MAIL  
34 SURVEY, AND ONE TELEPHONE SURVEY TO SOLICIT ANECDOTAL INFORMATION  
35 FROM THOSE WHO HAVE PARTICIPATED IN THE CAPITAL PUNISHMENT PROCESS;  
36 AND

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1 (VI) COMPILER STATISTICAL DATA ABOUT THE RACIAL AND ETHNIC  
2 BACKGROUND OF THOSE INDIVIDUALS WHO PARTICIPATE IN THE CAPITAL  
3 PUNISHMENT PROCESS, INCLUDING JUDGES, ATTORNEYS, JURY POOL MEMBERS,  
4 JURORS, CLERKS, BAILIFFS, COURT REPORTERS, AND LAW ENFORCEMENT  
5 PERSONNEL.

6 (3) THE COMMISSION SHALL EXAMINE ANY AREA OF THE CRIMINAL  
7 JUSTICE SYSTEM THAT THE COMMISSION FINDS TO BE RELEVANT INCLUDING THE  
8 FOLLOWING AREAS OF THE CRIMINAL JUSTICE SYSTEM AS THEY RELATE TO THE  
9 IMPOSITION OF THE DEATH PENALTY:

10 (I) TREATMENT OF MINORITIES IN THE JUVENILE JUSTICE  
11 SYSTEM;

12 (II) ARREST PRACTICES OF LAW ENFORCEMENT PERSONNEL  
13 REGARDING MINORITIES;

14 (III) DETENTION OF MINORITY DEFENDANTS AT THE PRE-TRIAL  
15 AND PRE-SENTENCING STATES;

16 (IV) OVERCHARGING OF MINORITY DEFENDANTS BY  
17 PROSECUTORS COMPARED TO NONMINORITY DEFENDANTS;

18 (V) SENTENCING OF MINORITY DEFENDANTS BY PROSECUTORS  
19 COMPARED TO NONMINORITY DEFENDANTS;

20 (VI) JURY SELECTION; AND

21 (VII) TREATMENT OF MINORITY VICTIMS AND THEIR FAMILIES.

22 (4) IN ACCORDANCE WITH § 2-1312 OF THE STATE GOVERNMENT  
23 ARTICLE, THE COMMISSION SHALL:

24 (I) SUBMIT AN INTERIM REPORT OF ITS ACTIVITIES AND  
25 RECOMMENDATIONS TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31,  
26 1997; AND

27 (II) SUBMIT A FINAL REPORT OF ITS ACTIVITIES AND  
28 RECOMMENDATIONS, INCLUDING A DETAILED RATIONALE FOR EACH  
29 RECOMMENDATION, TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31,  
30 1998.

31 (J) THERE SHALL BE A MORATORIUM ON EXECUTIONS IN MARYLAND UNTIL  
32 JUNE 30, 1999.

33 (K) THIS SECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1,  
34 1999.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 July 1, 1997.