

CF 7lr2747

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**By: Senators Trotter and Young**

Introduced and read first time: February 12, 1997

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 14, 1997

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 1997

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## CHAPTER \_\_\_\_

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; and generally relating to the death penalty in the  
 12 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

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

5 WHEREAS, The 1996 Task Force found that "the high percentage of African  
6 American prisoners under the sentence of death and the low percentage of prisoners  
7 under sentence of death whose victims were African Americans remains a cause for  
8 concern"; and

9 WHEREAS, The Task Force recommended that "a future study be directed by the  
10 Court of Appeals with collaboration of the Governor, Legislature, State Bar and the  
11 public with a specific focus on obtaining quantitative, qualitative and anecdotal data  
12 about potential causes of racial disparity in the imposition of capital punishment in  
13 Maryland"; now, therefore,

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

16 **Article 27 - Crimes and Punishments**

17 857.

18 (A) THERE IS A MARYLAND COMMISSION ON THE FAIR IMPOSITION OF THE  
19 DEATH PENALTY.

20 (B) THE PURPOSE OF THE COMMISSION IS TO DETERMINE THE CAUSES OF  
21 THE CURRENT RACIAL DISPARITY THAT EXISTS IN THE IMPOSITION OF THE DEATH  
22 PENALTY IN THE STATE.

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

24 (I) ONE MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY  
25 THE SPEAKER OF THE HOUSE;

26 (II) ONE MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT  
27 OF THE SENATE;

28 (III) THE ATTORNEY GENERAL OF THE STATE OR THE ATTORNEY  
29 GENERAL'S DESIGNEE;

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

32 (V) THE STATE PUBLIC DEFENDER OR THE PUBLIC DEFENDER'S  
33 DESIGNEE;

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

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

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

4 (2) A MEMBER OF THE COMMISSION:

5 (I) MAY NOT RECEIVE COMPENSATION; BUT

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

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

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

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

15 (2) THE COMMISSION SHALL MEET AT LEAST SIX TIMES AT THE CALL  
16 OF:

17 (I) THE CHAIRMAN; OR

18 (II) ANY THREE MEMBERS OF THE COMMISSION.

19 (3) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE  
20 COMMISSION IS A QUORUM.

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

22 (G) TO CARRY OUT ITS DUTIES, THE COMMISSION MAY ESTABLISH  
23 SUBCOMMITTEES OR ADVISORY BODIES COMPOSED OF MEMBERS OF THE  
24 COMMISSION.

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

27 (2) THE COMMISSION MAY REQUIRE THE FOLLOWING ENTITIES TO  
28 PROVIDE DATA:

29 (I) STATE UNITS;

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

31 (III) THE GOVERNING BODIES OF MUNICIPAL CORPORATIONS IN  
32 THE STATE;

33 (IV) STATE'S ATTORNEYS;

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

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

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1 (3) THE FOLLOWING UNITS SHALL COOPERATE FULLY WITH THE  
2 COMMISSION:

3 (I) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND  
4 PREVENTION;

5 (II) THE DEPARTMENT OF LEGISLATIVE REFERENCE;

6 (III) THE DEPARTMENT OF FISCAL SERVICES;

7 (IV) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
8 SERVICES;

9 (V) THE DEPARTMENT OF BUDGET AND MANAGEMENT;

10 (VI) THE DEPARTMENT OF JUVENILE JUSTICE;

11 (VII) THE DEPARTMENT OF STATE POLICE;

12 (VIII) THE ADMINISTRATIVE OFFICE OF THE COURTS;

13 (IX) THE STATE BOARD OF VICTIM SERVICES;

14 (X) EACH STATE'S ATTORNEY;

15 (XI) THE GOVERNING BODY OF EACH COUNTY AND BALTIMORE  
16 CITY; AND

17 (XII) THE GOVERNING BODY OF EACH MUNICIPAL CORPORATION IN  
18 THE STATE.

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

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

24 (2) THE COMMISSION SHALL:

25 (I) ESTABLISH A STATEWIDE UNIFORM SYSTEM OF DATA  
26 COLLECTION TO ALLOW PERIODIC REVIEWS OF STATISTICAL DATA PERTAINING TO  
27 THE CAPITAL PUNISHMENT PROCESS;

28 (II) UNDERTAKE A MULTIPLE REGRESSION ANALYSIS TO  
29 DETERMINE IF RACE IS IMPERMISSIBLY CONSIDERED IN THE IMPOSITION OF THE  
30 DEATH PENALTY;

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

34 (IV) CONDUCT AT LEAST TWO PUBLIC HEARINGS, ONE MAIL  
35 SURVEY, AND ONE TELEPHONE SURVEY TO SOLICIT THE PERCEPTIONS OF THE

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1 MEMBERS OF THE CRIMINAL JUSTICE SYSTEM ABOUT RACE AND THE IMPOSITION  
2 OF THE DEATH PENALTY;

3 (V) CONDUCT AT LEAST TWO PUBLIC HEARINGS, ONE MAIL  
4 SURVEY, AND ONE TELEPHONE SURVEY TO SOLICIT ANECDOTAL INFORMATION  
5 FROM THOSE WHO HAVE PARTICIPATED IN THE CAPITAL PUNISHMENT PROCESS;  
6 AND

7 (VI) COMPILE STATISTICAL DATA ABOUT THE RACIAL AND ETHNIC  
8 BACKGROUND OF THOSE INDIVIDUALS WHO PARTICIPATE IN THE CAPITAL  
9 PUNISHMENT PROCESS, INCLUDING JUDGES, ATTORNEYS, JURY POOL MEMBERS,  
10 JURORS, CLERKS, BAILIFFS, COURT REPORTERS, AND LAW ENFORCEMENT  
11 PERSONNEL.

12 (3) THE COMMISSION SHALL EXAMINE ANY AREA OF THE CRIMINAL  
13 JUSTICE SYSTEM THAT THE COMMISSION FINDS TO BE RELEVANT INCLUDING THE  
14 FOLLOWING AREAS OF THE CRIMINAL JUSTICE SYSTEM AS THEY RELATE TO THE  
15 IMPOSITION OF THE DEATH PENALTY:

16 (I) TREATMENT OF MINORITIES IN THE JUVENILE JUSTICE  
17 SYSTEM;

18 (II) ARREST PRACTICES OF LAW ENFORCEMENT PERSONNEL  
19 REGARDING MINORITIES;

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

22 (IV) OVERCHARGING OF MINORITY DEFENDANTS BY  
23 PROSECUTORS COMPARED TO NONMINORITY DEFENDANTS;

24 (V) SENTENCING OF MINORITY DEFENDANTS BY ~~PROSECUTORS~~  
25 JUDGES COMPARED TO NONMINORITY DEFENDANTS;

26 (VI) JURY SELECTION; AND

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

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

30 (I) SUBMIT AN INTERIM REPORT OF ITS ACTIVITIES AND  
31 RECOMMENDATIONS TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31,  
32 1997; AND

33 (II) SUBMIT A FINAL REPORT OF ITS ACTIVITIES AND  
34 RECOMMENDATIONS, INCLUDING A DETAILED RATIONALE FOR EACH  
35 RECOMMENDATION, TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 31,  
36 1998.

37 (J) THIS SECTION SHALL TERMINATE AND BE OF NO EFFECT AFTER JULY 1,  
38 1998.

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