

SENATE BILL 165

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1998 Regular Session
8r1195
CF 8r1065

By: **Senator Trotter**

Introduced and read first time: January 23, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Fair Imposition of the Death Penalty Database**

3 FOR the purpose of requiring the Department of Public Safety and Correctional
4 Services to establish a Maryland Fair Imposition of the Death Penalty
5 Database; requiring the database to contain certain information concerning
6 certain homicides in the State; requiring the Department of Public Safety and
7 Correctional Services to require certain entities to provide data; requiring the
8 Department to publish certain regulations by a certain date; requiring the
9 Secretary of the Department to submit a certain report to certain committees of
10 the Senate and the House of Delegates by a certain date; defining a certain
11 term; and generally relating to the death penalty in the State.

12 BY adding to
13 Article 41 - Governor - Executive and Administrative Departments
14 Section 4-104.3
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 1997 Supplement)

17 **Preamble**

18 WHEREAS, Of all the states, Maryland has the highest percentage of minorities
19 on death row; and

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

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

1 WHEREAS, The final report of the 1996 Task Force reflects continuing concern
2 regarding "the high percentage of African American prisoners under the sentence of
3 death and the low percentage of prisoners under sentence of death whose victims
4 were African Americans"; and

5 WHEREAS, The Task Force concluded that it had insufficient resources to
6 discover the causes of the racial disparity in Maryland's death penalty system and
7 recommended that a study be conducted "with a specific focus on obtaining
8 quantitative, qualitative, and anecdotal data about potential causes of racial disparity
9 in the imposition of capital punishment in Maryland"; and

10 WHEREAS, The judges of the Court of Appeals of Maryland, while agreeing that
11 a study of racial disparity in the imposition of Maryland's death penalty "may be both
12 appropriate and worthwhile," concluded that such a study should not "be undertaken
13 by the Court of Appeals"; 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 41 - Governor - Executive and Administrative Departments**

17 4-104.3.

18 (A) IN THIS SECTION, "HOMICIDE" MEANS:

19 (1) MURDER IN THE FIRST DEGREE, UNDER ARTICLE 27, § 407, § 408, § 409,
20 OR § 410 OF THE CODE;

21 (2) MURDER IN THE SECOND DEGREE, UNDER ARTICLE 27, § 411 OF THE
22 CODE; OR

23 (3) MANSLAUGHTER, UNDER ARTICLE 27, § 387, § 388, OR § 388A OF THE
24 CODE.

25 (B) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
26 SHALL ESTABLISH THE FAIR IMPOSITION OF THE DEATH PENALTY DATABASE THAT
27 SHALL CONSIST OF A STATEWIDE UNIFORM SYSTEM OF DATA COLLECTION AND
28 RETENTION TO ALLOW PERIODIC REVIEW OF STATISTICAL DATA PERTAINING TO
29 THE CAPITAL PUNISHMENT PROCESS.

30 (C) THE FAIR IMPOSITION OF THE DEATH PENALTY DATABASE:

31 (1) SHALL CONTAIN FOR EACH HOMICIDE IN THE STATE:

32 (I) THE DEMOGRAPHIC CHARACTERISTICS OF THE VICTIM;

33 (II) THE DEMOGRAPHIC CHARACTERISTICS OF ANY DEFENDANT
34 CHARGED WITH COMMITTING THE HOMICIDE;

1 (III) THE TYPE OF CHARGES BROUGHT AGAINST ANY DEFENDANT
2 CHARGED WITH COMMITTING THE HOMICIDE;

3 (IV) THE RESULT OF ANY PROSECUTION AGAINST ANY DEFENDANT
4 CHARGED WITH COMMITTING THE HOMICIDE; AND

5 (V) THE SENTENCE IMPOSED ON ANY DEFENDANT CHARGED WITH
6 COMMITTING THE HOMICIDE;

7 (2) FOR EACH CASE IN WHICH THE STATE SEEKS THE DEATH PENALTY,
8 SHALL CONTAIN THE DEMOGRAPHIC CHARACTERISTICS OF:

9 (I) THE JUDGE;

10 (II) EACH PROSECUTION AND DEFENSE ATTORNEY;

11 (III) EACH MEMBER OF THE JURY POOL;

12 (IV) EACH JUROR; AND

13 (V) ALL LAW ENFORCEMENT PERSONNEL; AND

14 (3) SHALL CONTAIN ANY OTHER INFORMATION THAT THE DEPARTMENT
15 OF PUBLIC SAFETY AND CORRECTIONAL SERVICES REQUIRES.

16 (D) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
17 SHALL ADOPT REGULATIONS TO REQUIRE THAT DATA TO THE FAIR IMPOSITION OF
18 THE DEATH PENALTY DATABASE BE PROVIDED BY:

19 (1) A STATE UNIT;

20 (2) THE GOVERNING BODY OF A COUNTY OR MUNICIPAL CORPORATION
21 IN THE STATE;

22 (3) A STATE'S ATTORNEY;

23 (4) THE OFFICE OF THE PUBLIC DEFENDER; AND

24 (5) A CLERK OF ANY COURT IN THE STATE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Public
26 Safety and Correctional Services shall publish in the Maryland Register regulations
27 governing the collection of data under this Act on or before January 1, 1999.

28 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Public
29 Safety and Correctional Services shall submit a report to the Senate Judicial
30 Proceedings Committee and the House Judiciary Committee on or before June 30,
31 2000, in accordance with § 2-1246 of the State Government Article. The report shall:

1 (1) Provide the results of a multiple regression analysis performed by the
2 Department of Public Safety and Correctional Services to determine if race is
3 considered in the imposition of the death penalty in the State; and

4 (2) Identify the causes of the racial disparity that exists in the imposition
5 of the death penalty in the State.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1998.