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By: **Delegates Marriott, Billings, Fulton, Benson, Montague, Oaks, Cryor, V. Jones, C. Davis, Brown, Kirk, Dobson, Healey, Nathan-Pulliam, Carlson, Menes, Pendergrass, Mandel, Goldwater, Grosfeld, Bronrott, Branch, Bobo, Hurson, Swain, and Shriver**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Study of the Administration of the Death Penalty**

3 FOR the purpose of requiring the Department of Criminology at the University of  
4 Maryland, College Park to conduct a study of the administration of the death  
5 penalty in the State for the purpose of determining the extent of racial  
6 discrimination in the death penalty process; requiring that the study include an  
7 extensive empirical examination of charging and sentencing outcomes, including  
8 the gathering of certain case history information and the use of statistical  
9 analyses that will allow researchers to address certain specified issues relating  
10 to racial discrimination; prohibiting the State from spending more than a  
11 certain amount to fund the study; requiring that the study be completed on or  
12 before a certain date; requiring that the results of the study be reported to the  
13 General Assembly by a certain date; and generally relating to the  
14 administration of the death penalty.

15 Preamble

16 WHEREAS, Maryland has the highest percentage of racial minorities on death  
17 row in the United States; and

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

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

26 WHEREAS, The Task Force on the Fair Imposition of Capital Punishment in  
27 Maryland concluded that it had insufficient resources to discover the causes of racial  
28 disparity in Maryland's death penalty system and recommended that a study be

1 conducted "with a specific focus on obtaining quantitative, qualitative, and anecdotal  
2 data about the potential causes of racial disparity in the imposition of capital  
3 punishment in Maryland"; and

4 WHEREAS, The judges of the Court of Appeals agreed that a study of racial  
5 disparity in the administration of the death penalty in Maryland "may be both  
6 appropriate and worthwhile" but concluded that such a study should not be  
7 undertaken by the Court of Appeals; and

8 WHEREAS, The Maryland Commission on Criminal Sentencing Policy, whose  
9 mission included "an examination of sentencing disparity (i.e., the influence of legal  
10 and extralegal factors in the sentence outcome)" in Maryland, noted in its Final  
11 Report (December 30, 1998) that "Maryland's existing guidelines were developed to  
12 eliminate inappropriate sentence disparities" but that "extralegal factors (in  
13 particular race/ethnicity) were found to influence the incarceration decision"; and

14 WHEREAS, The Maryland Commission on Criminal Sentencing Policy also  
15 stated in its Final Report that the results of its research on sentencing disparity in  
16 Maryland suggest that "while legal factors such as a defendant's criminal history and  
17 the seriousness of the offense have a most powerful influence on sentence outcome,  
18 extralegal factors appear to play a lesser role in determining sentencing outcome" and  
19 that "the sentence outcome is not simply a function of legal factors and that the  
20 adoption of sentencing guidelines has not entirely eliminated the consideration of  
21 extralegal factors"; and

22 WHEREAS, The Maryland Commission on Criminal Sentencing Policy  
23 concluded in its Final Report that "[a] major goal of the existing voluntary/advisory  
24 sentencing guidelines is to reduce unwarranted sentencing disparity" but that the  
25 Commission's research "raised questions about the effectiveness of the existing  
26 guidelines in reducing unwarranted sentencing disparity"; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That:

29 (a) The Department of Criminology at the University of Maryland, College  
30 Park shall conduct a study of the administration of the death penalty in the State for  
31 the purpose of determining the extent of race-based discrimination in the death  
32 penalty process.

33 (b) The study shall include an extensive empirical examination of charging  
34 and sentencing outcomes, including the gathering of detailed case history information  
35 and the use of statistical analyses that will allow researchers to address the following  
36 issues:

37 (1) whether the race of the defendant or victim affects a prosecutor's  
38 decision to charge a defendant with a crime that is punishable by death or to file a  
39 notice of intent to seek a sentence of death;

40 (2) whether the race of the defendant or victim affects the decision of a  
41 judge or jury to impose a sentence of death;

1           (3)       whether the jurisdiction within which a crime occurs affects a  
2 prosecutor's decision to charge a defendant with a crime that is punishable by death  
3 or to file a notice of intent to seek a sentence of death;

4           (4)       whether the jurisdiction within which a crime occurs affects the  
5 decision of a judge or jury to impose a sentence of death; and

6           (5)       whether homicides with comparable characteristics are treated in  
7 comparable ways by prosecutors at the charging stage and by judges and juries at the  
8 sentencing stage.

9       (c)       The State may not spend more than \$200,000 to fund the study.

10       (d)       The study shall be completed on or before December 1, 2001.

11       (e)       The Department of Criminology at the University of Maryland, College  
12 Park shall report the results of the study to the General Assembly, as provided under  
13 § 2-1246 of the State Government Article, on or before January 1, 2002.

14       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1999.