

SENATE BILL 12
EMERGENCY BILL

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2003 Regular Session
3lr0830
CF 3lr0459

By: **Senators Hughes, Britt, Conway, Currie, Exum, Gladden, Grosfeld,
Jones, Kelley, Lawlah, McFadden, and Pinsky**

Introduced and read first time: January 10, 2003

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 2003

CHAPTER_____

1 AN ACT concerning

2 **Death Penalty - Moratorium**

3 FOR the purpose of prohibiting an individual who has been sentenced to death from
4 being executed before a certain date; prohibiting a judge from issuing a warrant
5 of execution before a certain date and providing that any warrants of execution
6 issued for which the individual has not been executed are void; ~~requiring the~~
7 ~~General Assembly to review a certain report; requiring the General Assembly to~~
8 ~~make certain recommendations and, if necessary, propose certain legislation~~
9 ~~based on the review of a certain report; requiring the General Assembly to~~
10 ~~annually review the progress of certain recommendations and legislation;~~
11 ~~expressing the intent of the General Assembly that, on a certain finding,~~
12 ~~legislation shall be passed repealing the provisions of this Act that prohibit an~~
13 ~~individual from being executed and a judge from issuing a warrant of execution~~
14 ~~establishing a Maryland Commission on Capital Punishment; providing for the~~
15 ~~membership of the Commission; establishing the chairman of the Commission;~~
16 ~~authorizing the Commission to hold public hearings; providing for the staffing of~~
17 ~~the Commission; requiring certain entities to cooperate with the Commission;~~
18 ~~providing for the funding of the Commission; providing that a member of the~~
19 ~~Commission may not receive compensation but is entitled to certain~~
20 ~~reimbursement; establishing the duties of the Commission; requiring the~~
21 ~~Commission to make certain reports at certain times; providing for the~~
22 ~~construction of this Act; providing for the effective date and termination date of~~
23 ~~certain provisions of this Act; making this Act an emergency measure; providing~~
24 ~~for the termination of this Act; and generally relating to the death penalty.~~

25 BY adding to

26 Article - Correctional Services

1 Section 3-910
2 Annotated Code of Maryland
3 (1999 Volume and 2002 Supplement)

4 Preamble

5 WHEREAS, A research study of the administration of the death penalty in the
6 State's criminal justice system ~~being~~ conducted by the Department of Criminology of
7 the University of Maryland, College Park, ~~should be~~ is completed ~~by December 31,~~
8 ~~2002~~; and

9 WHEREAS, The purpose of the study is not simply to examine if there is bias in
10 the process or even the appearance of bias, whether based on race, ethnicity, economic
11 status, or any other reason, but also to identify any problems and to recommend
12 solutions; and

13 WHEREAS, Because the report based on the study ~~should be~~ is completed ~~by~~
14 ~~December 31, 2002~~, a moratorium on the death penalty will allow the General
15 Assembly to consider the report, make recommendations based on the report, and
16 evaluate the progress of the implementation of those recommendations; now,
17 therefore,

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

20 **Article - Correctional Services**

21 3-910.

22 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INDIVIDUAL WHO
23 HAS BEEN SENTENCED TO DEATH MAY NOT BE EXECUTED BEFORE JULY 1, 2005.

24 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A JUDGE MAY NOT
25 ISSUE A WARRANT OF EXECUTION BEFORE JULY 1, 2005, AND ANY WARRANTS OF
26 EXECUTION ISSUED FOR WHICH THE INDIVIDUAL HAS NOT BEEN EXECUTED ARE
27 VOID.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 ~~(a) The General Assembly shall review the report of the study on the~~
30 ~~administration of the death penalty that is submitted by the Department of~~
31 ~~Criminology of the University of Maryland, College Park.~~

32 ~~(b) The General Assembly shall make recommendations to the appropriate~~
33 ~~entities based on its review of the study and, if necessary, propose legislation to~~
34 ~~implement those recommendations.~~

35 ~~(c) The General Assembly shall annually review the progress of the~~
36 ~~implementation of the recommendations and legislation made and enacted in~~

~~1 accordance with the provisions of subsection (b) of this section concerning the~~
~~2 administration of the death penalty.~~

~~3 (d) It is the intent of the General Assembly that, on a finding that the~~
~~4 recommendations of and legislation enacted by the General Assembly under this~~
~~5 section have been fully implemented, legislation shall be passed repealing § 3-910 of~~
~~6 the Correctional Services Article.~~

7 (a) There is a Maryland Commission on Capital Punishment.

8 (b) The Commission consists of the following members:

9 (1) the Lieutenant Governor;

10 (2) two members of the Senate of Maryland, appointed by the President
11 of the Senate;

12 (3) two members of the House of Delegates, appointed by the Speaker of
13 the House;

14 (4) the Attorney General, or the Attorney General's designee;

15 (5) the State Public Defender, or the State Public Defender's designee;

16 (6) a State's Attorney recommended by the president of the Maryland
17 State's Attorney's Association;

18 (7) the president of the Maryland State Bar Association, or the
19 president's designee who is not a prosecutor or criminal defense attorney;

20 (8) one member of the Judiciary, appointed by the Chief Judge of the
21 Court of Appeals;

22 (9) the Secretary of Public Safety and Correctional Services, or the
23 Secretary's designee;

24 (10) the president of the Maryland Conference of the NAACP, or the
25 president's designee; and

26 (11) the following members, appointed by the Governor:

27 (i) one representative of the Maryland Crime Victims' Resource
28 Center;

29 (ii) one representative of the religious community; and

30 (iii) two representatives of the general public.

31 (c) The chairman of the Commission shall be the Lieutenant Governor.

32 (d) The Commission may hold public hearings.

1 (e) (1) The Maryland Justice Analysis Center of the Department of
2 Criminology at the University of Maryland shall provide staff for the Commission.

3 (2) All State, county, and municipal agencies, departments, boards,
4 bureaus, commissions, and agencies shall cooperate fully with the Commission.

5 (f) Funds necessary for the functioning of the Commission shall be as
6 provided in the State budget.

7 (g) A member of the Commission:

8 (1) may not receive compensation; but

9 (2) is entitled to reimbursement for expenses under the Standard State
10 Travel Regulations, as provided in the State budget.

11 (h) (1) The Commission shall:

12 (i) study capital punishment in the State; and

13 (ii) review:

14 1. the findings of the 2-year University of Maryland study,
15 "An Empirical Analysis of Maryland's Death Sentencing System with Respect to the
16 Influence of Race and Legal Jurisdiction";

17 2. the June 2001 Protocols of the American Bar Association
18 Section of Individual Rights and Responsibilities;

19 3. "Mandatory Justice: Eighteen Reforms to the Death
20 Penalty", a report of The Constitution Project's bipartisan, blue-ribbon commission of
21 capital punishment supporters and opponents; and

22 4. other nonpartisan, academic, or government inquiries into
23 the administration of capital punishment at state and national levels.

24 (2) (i) The Commission shall make recommendations to guarantee
25 that the application and administration of capital punishment in the State and the
26 public policy of the State regarding capital punishment is free from bias and error
27 and designed to guarantee fairness and accuracy.

28 (ii) The recommendations shall address:

29 1. racial disparities;

30 2. jurisdictional disparities;

31 3. socio-economic disparities;

32 4. the risk of innocent people being executed;

1 5. evolving standards of decency regarding state executions;

2 and

6. a comparison of the costs associated with death sentences

4 and the costs associated with sentences of life imprisonment without the possibility of

5 parole.

6 (i) (1) The Commission shall make a preliminary report on its findings and

7 recommendations, in accordance with § 2-1246 of the State Government Article, to

8 the House Judiciary Committee and the Senate Judicial Proceedings Committee

9 during the 2004 Session of the General Assembly.

10 (2) The Commission shall make a final report on its findings and

11 recommendations, in accordance with § 2-1246 of the State Government Article, to

12 the General Assembly on or before November 30, 2004.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in
14 Section 1 of this Act, this Act may not be construed to affect in any other way the law
15 concerning the death penalty, including the procedures and time frames for
16 notifications, determinations, and judicial review of death penalty decisions.

17 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall

18 take effect July 1, 2003. It shall remain effective for a period of 1 year and 6 months

19 and, at the end of December 31, 2004, with no further action required by the General

20 Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

21 SECTION 4. 5. AND BE IT FURTHER ENACTED, That this Act is an
22 emergency measure, is necessary for the immediate preservation of the public health
23 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
24 members elected to each of the two Houses of the General Assembly, and, except as
25 provided in Section 4 of this Act, shall take effect from the date it is enacted. Except
26 as provided in Section 4 of this Act, this Act shall remain effective through July 1,
27 2005 and, at the end of July 1, 2005, with no further action required by the General
28 Assembly, this Act shall be abrogated and of no further force and effect.