

HOUSE BILL 1111

E2

(8lr2396)

ENROLLED BILL

—Judiciary/Judicial Proceedings—

Introduced by **Delegate Dumais**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Death Penalty – Maryland Commission on Capital Punishment**

3 FOR the purpose of establishing a Maryland Commission on Capital Punishment;
4 providing for the membership of the Commission; providing for the chair of the
5 Commission; authorizing the Commission to hold public hearings; providing for
6 the staffing of the Commission; requiring certain entities to cooperate with the
7 Commission; providing for the funding of the Commission; providing that a
8 member of the Commission may not receive compensation but is entitled to
9 certain reimbursement; establishing the duties of the Commission; requiring
10 the Commission to make a certain report by a certain date; defining a certain
11 term; providing for the construction of this Act; providing for the termination of
12 this Act; and generally relating to the death penalty.

13 BY adding to
14 Article – Correctional Services

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 Section 3-910
 2 Annotated Code of Maryland
 3 (1999 Volume and 2007 Supplement)

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

6 **Article – Correctional Services**

7 **3-910.**

8 (A) IN THIS SECTION, “COMMISSION” MEANS THE MARYLAND
 9 COMMISSION ON CAPITAL PUNISHMENT.

10 (B) THERE IS A MARYLAND COMMISSION ON CAPITAL PUNISHMENT.

11 (C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

12 (1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED
 13 BY THE PRESIDENT OF THE SENATE AND REFLECTING THE BROAD DIVERSITY
 14 OF VIEWS ON CAPITAL PUNISHMENT;

15 (2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED
 16 BY THE SPEAKER OF THE HOUSE AND REFLECTING THE BROAD DIVERSITY OF
 17 VIEWS ON CAPITAL PUNISHMENT;

18 (3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL’S
 19 DESIGNEE;

20 (4) ONE FORMER MEMBER OF THE JUDICIARY, APPOINTED BY THE
 21 CHIEF JUDGE OF THE COURT OF APPEALS; ~~ONE MEMBER OF THE JUDICIARY,~~
 22 ~~APPOINTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS;~~

23 ~~(5)~~ (5) THE SECRETARY OF PUBLIC SAFETY AND
 24 CORRECTIONAL SERVICES, OR THE SECRETARY’S DESIGNEE;

25 ~~(6)~~ ~~(5)~~ (6) THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC
 26 DEFENDER’S DESIGNEE;

27 ~~(7)~~ ~~(6)~~ (7) A STATE’S ATTORNEY ~~OR ASSISTANT STATE’S~~
 28 ATTORNEY, RECOMMENDED DESIGNATED BY THE PRESIDENT OF THE
 29 MARYLAND STATE’S ATTORNEYS’ ASSOCIATION ~~AND WHO HAS PROSECUTED A~~
 30 DEATH PENALTY CASE; AND

1 ~~(8)~~ ~~(7)~~ (8) THE FOLLOWING MEMBERS, APPOINTED BY THE
2 GOVERNOR AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL
3 PUNISHMENT, AND THE RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY
4 OF THE STATE:

5 (I) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF
6 POLICE ASSOCIATION;

7 (II) A REPRESENTATIVE OF THE MARYLAND STATE LODGE
8 FRATERNAL ORDER OF POLICE;

9 ~~(H)~~ (III) ~~A REPRESENTATIVE OF THE AMERICAN~~
10 ~~FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES WHO IS ALSO~~
11 ~~EMPLOYED AS A CORRECTIONAL OFFICER IN A STATE PRISON;~~

12 ~~(H)~~ (IV) A FORMER STATE PRISONER WHO ~~WAS ON DEATH~~
13 ~~ROW AND~~ HAS BEEN EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL
14 WAS INCARCERATED ~~OF THE CRIME FOR WHICH THE INDIVIDUAL WAS~~
15 ~~INCARCERATED;~~

16 ~~(IV)~~ (V) ~~ONE REPRESENTATIVE~~ THREE REPRESENTATIVES
17 OF THE RELIGIOUS COMMUNITY; AND

18 ~~(V)~~ (VI) ~~THREE~~ SIX REPRESENTATIVES OF THE GENERAL
19 PUBLIC, TO INCLUDE AT LEAST ~~ONE~~ THREE FAMILY ~~MEMBER~~ MEMBERS OF A
20 MURDER VICTIM ~~AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON~~
21 CAPITAL PUNISHMENT.

22 (D) THE GOVERNOR, THE PRESIDENT OF THE SENATE OF MARYLAND,
23 AND THE SPEAKER OF THE HOUSE OF DELEGATES JOINTLY SHALL APPOINT
24 THE CHAIR OF THE COMMISSION.

25 (E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

26 (F) (1) THE MARYLAND ~~JUSTICE~~ STATISTICAL ANALYSIS CENTER ~~OF~~
27 ~~THE DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND IN~~
28 THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL
29 PROVIDE STAFF FOR THE COMMISSION.

30 (2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES,
31 DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE
32 FULLY WITH THE COMMISSION.

1 (G) FUNDS NECESSARY FOR THE FUNCTIONING OF THE COMMISSION
2 SHALL BE AS PROVIDED IN THE STATE BUDGET.

3 (H) A MEMBER OF THE COMMISSION:

4 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
5 COMMISSION; BUT

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

9 (I) (1) THE COMMISSION SHALL STUDY:

10 ~~(I) ALL ASPECTS OF CAPITAL PUNISHMENT AS CURRENTLY~~
11 ~~AND HISTORICALLY ADMINISTERED IN THE STATE;~~

12 ~~(II) WHETHER THE DEATH PENALTY RATIONALLY SERVES A~~
13 ~~LEGITIMATE PENOLOGICAL INTENT, INCLUDING DETERRENCE WITHIN THE~~
14 ~~PRISON SYSTEM AS IT RELATES TO THE SAFETY OF CORRECTIONAL OFFICERS;~~

15 ~~(III) WHAT DIFFERENCE EXISTS BETWEEN THE COST OF~~
16 ~~IMPOSITION OF THE DEATH PENALTY FROM INDICTMENT TO EXECUTION AND~~
17 ~~THE COST OF LIFE IMPRISONMENT WITHOUT PAROLE, FACTORING IN THE COST~~
18 ~~OF ALL CAPITAL OFFENSE TRIALS THAT HAVE RESULTED IN LIFE SENTENCES AS~~
19 ~~WELL AS THE DEATH SENTENCES REVERSED ON APPEAL;~~

20 ~~(IV) WHETHER THE DEATH PENALTY IS CONSISTENT WITH~~
21 ~~EVOLVING STANDARDS OF DECENCY;~~

22 ~~(V) WHETHER THE SELECTION OF CASES IN THE STATE FOR~~
23 ~~CAPITAL PUNISHMENT IS ARBITRARY, UNFAIR, OR DISCRIMINATORY;~~

24 ~~(VI) WHETHER THERE IS ARBITRARY, UNFAIR, OR~~
25 ~~DISCRIMINATORY VARIABILITY AT ANY STAGE IN THE PROCESS FOR A CAPITAL~~
26 ~~CASE;~~

27 ~~(VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR~~
28 ~~CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO~~
29 ~~LIFE IN PRISON; AND~~

30 ~~(VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY~~
31 ~~EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS~~

1 ~~OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE~~
 2 ~~INTERESTS OF THE FAMILIES OF VICTIMS.~~

3 (2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS ~~TO~~
 4 ~~GUARANTEE THAT~~ CONCERNING THE APPLICATION AND ADMINISTRATION OF
 5 CAPITAL PUNISHMENT IN THE STATE ~~AND THE PUBLIC POLICY OF THE STATE~~
 6 ~~REGARDING CAPITAL PUNISHMENT~~ SO THAT THEY ARE FREE FROM BIAS AND
 7 ~~ERROR AND DESIGNED TO GUARANTEE~~ ACHIEVE FAIRNESS AND ACCURACY.

8 (II) THE RECOMMENDATIONS SHALL ADDRESS:

- 9 1. RACIAL DISPARITIES;
- 10 2. JURISDICTIONAL DISPARITIES;
- 11 3. SOCIO-ECONOMIC DISPARITIES;
- 12 4. THE RISK OF INNOCENT PEOPLE BEING
 13 EXECUTED;
- 14 5. ~~EVOLVING STANDARDS OF PROPRIETY~~
 15 ~~REGARDING STATE EXECUTIONS; AND~~ A COMPARISON OF THE EFFECTS OF
 16 PROLONGED COURT CASES INVOLVING CAPITAL PUNISHMENT AND THOSE
 17 INVOLVING LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;
- 18 6. A COMPARISON OF THE COSTS ASSOCIATED WITH
 19 DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE
 20 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE; AND
- 21 7. THE IMPACT OF DNA EVIDENCE IN ASSURING
 22 FAIRNESS AND ACCURACY IN CAPITAL CASES.

23 (J) THE COMMISSION SHALL MAKE A FINAL REPORT, AND IF
 24 APPLICABLE, A MINORITY REPORT, ON ITS FINDINGS AND RECOMMENDATIONS,
 25 IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
 26 GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15, 2008.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
 28 construed to affect in any way the law concerning the death penalty, including the
 29 procedures and time frames for notifications, determinations, and judicial review of
 30 death penalty decisions.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 32 July 1, 2008. It shall remain effective for a period of 6 months and, at the end of

1 December 31, 2008, with no further action required by the General Assembly, this Act
2 shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.