

HOUSE BILL 1111

E2
SB 744/04 – JPR

8lr2396
CF SB 614

By: **Delegate Dumais**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

A BILL ENTITLED

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
15 Section 3–910
16 Annotated Code of Maryland
17 (1999 Volume and 2007 Supplement)

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) IN THIS SECTION, “COMMISSION” MEANS THE MARYLAND
23 COMMISSION ON CAPITAL PUNISHMENT.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(C) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

2 **(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED**
3 **BY THE PRESIDENT OF THE SENATE;**

4 **(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED**
5 **BY THE SPEAKER OF THE HOUSE;**

6 **(3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S**
7 **DESIGNEE;**

8 **(4) ONE MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF**
9 **JUDGE OF THE COURT OF APPEALS;**

10 **(5) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL**
11 **SERVICES, OR THE SECRETARY'S DESIGNEE;**

12 **(6) THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC**
13 **DEFENDER'S DESIGNEE;**

14 **(7) A STATE'S ATTORNEY, RECOMMENDED BY THE PRESIDENT OF**
15 **THE MARYLAND STATE'S ATTORNEYS' ASSOCIATION; AND**

16 **(8) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:**

17 **(I) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF**
18 **POLICE ASSOCIATION;**

19 **(II) A REPRESENTATIVE OF THE AMERICAN FEDERATION**
20 **OF STATE, COUNTY AND MUNICIPAL EMPLOYEES WHO IS ALSO EMPLOYED AS A**
21 **CORRECTIONAL OFFICER IN A STATE PRISON;**

22 **(III) A FORMER STATE PRISONER WHO HAS BEEN**
23 **EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED;**

24 **(IV) ONE REPRESENTATIVE OF THE RELIGIOUS COMMUNITY;**
25 **AND**

26 **(V) THREE REPRESENTATIVES OF THE GENERAL PUBLIC,**
27 **TO INCLUDE AT LEAST ONE FAMILY MEMBER OF A MURDER VICTIM.**

28 **(D) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE COMMISSION.**

1 **(E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.**

2 **(F) (1) THE MARYLAND JUSTICE ANALYSIS CENTER OF THE**
3 **DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND SHALL**
4 **PROVIDE STAFF FOR THE COMMISSION.**

5 **(2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES,**
6 **DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE**
7 **FULLY WITH THE COMMISSION.**

8 **(G) FUNDS NECESSARY FOR THE FUNCTIONING OF THE COMMISSION**
9 **SHALL BE AS PROVIDED IN THE STATE BUDGET.**

10 **(H) A MEMBER OF THE COMMISSION:**

11 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
12 **COMMISSION; BUT**

13 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**
14 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
15 **BUDGET.**

16 **(I) (1) THE COMMISSION SHALL STUDY:**

17 **(I) ALL ASPECTS OF CAPITAL PUNISHMENT AS CURRENTLY**
18 **ADMINISTERED IN THE STATE;**

19 **(II) WHETHER THE DEATH PENALTY RATIONALLY SERVES A**
20 **LEGITIMATE PENOLOGICAL INTENT, INCLUDING DETERRENCE WITHIN THE**
21 **PRISON SYSTEM AS IT RELATES TO THE SAFETY OF CORRECTIONAL OFFICERS;**

22 **(III) WHAT DIFFERENCE EXISTS BETWEEN THE COST OF**
23 **IMPOSITION OF THE DEATH PENALTY FROM INDICTMENT TO EXECUTION AND**
24 **THE COST OF LIFE IMPRISONMENT WITHOUT PAROLE, FACTORING IN THE COST**
25 **OF ALL CAPITAL OFFENSE TRIALS THAT HAVE RESULTED IN LIFE SENTENCES AS**
26 **WELL AS THE DEATH SENTENCES REVERSED ON APPEAL;**

27 **(IV) WHETHER THE DEATH PENALTY IS CONSISTENT WITH**
28 **EVOLVING STANDARDS OF DECENCY;**

29 **(V) WHETHER THE SELECTION OF CASES IN THE STATE FOR**
30 **CAPITAL PUNISHMENT IS ARBITRARY, UNFAIR, OR DISCRIMINATORY;**

1 (VI) WHETHER THERE IS ARBITRARY, UNFAIR, OR
2 DISCRIMINATORY VARIABILITY AT ANY STAGE IN THE PROCESS FOR A CAPITAL
3 CASE;

4 (VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR
5 CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO
6 LIFE IN PRISON; AND

7 (VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY
8 EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS
9 OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE
10 INTERESTS OF THE FAMILIES OF VICTIMS.

11 (2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS TO
12 GUARANTEE THAT THE APPLICATION AND ADMINISTRATION OF CAPITAL
13 PUNISHMENT IN THE STATE AND THE PUBLIC POLICY OF THE STATE
14 REGARDING CAPITAL PUNISHMENT ARE FREE FROM BIAS AND ERROR AND
15 DESIGNED TO GUARANTEE FAIRNESS AND ACCURACY.

16 (II) THE RECOMMENDATIONS SHALL ADDRESS:

- 17 1. RACIAL DISPARITIES;
- 18 2. JURISDICTIONAL DISPARITIES;
- 19 3. SOCIO-ECONOMIC DISPARITIES;
- 20 4. THE RISK OF INNOCENT PEOPLE BEING
21 EXECUTED;
- 22 5. EVOLVING STANDARDS OF PROPRIETY
23 REGARDING STATE EXECUTIONS; AND
- 24 6. A COMPARISON OF THE COSTS ASSOCIATED WITH
25 DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE
26 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

27 (J) THE COMMISSION SHALL MAKE A FINAL REPORT ON ITS FINDINGS
28 AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE
29 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON OR BEFORE
30 DECEMBER 15, 2008.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be
32 construed to affect in any way the law concerning the death penalty, including the

1 procedures and time frames for notifications, determinations, and judicial review of
2 death penalty decisions.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2008. It shall remain effective for a period of 6 months and, at the end of
5 December 31, 2008, with no further action required by the General Assembly, this Act
6 shall be abrogated and of no further force and effect.