

# HOUSE BILL 1111

E2  
SB 744/04 – JPR

8lr2396  
CF SB 614

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By: **Delegate Dumais**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2008

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## 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

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.**

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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.



1 (A) IN THIS SECTION, "COMMISSION" MEANS THE MARYLAND  
2 COMMISSION ON CAPITAL PUNISHMENT.

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

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

5 (1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED  
6 BY THE PRESIDENT OF THE SENATE AND REFLECTING THE BROAD DIVERSITY  
7 OF VIEWS ON CAPITAL PUNISHMENT;

8 (2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED  
9 BY THE SPEAKER OF THE HOUSE AND REFLECTING THE BROAD DIVERSITY OF  
10 VIEWS ON CAPITAL PUNISHMENT;

11 (3) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S  
12 DESIGNEE;

13 ~~(4) ONE MEMBER OF THE JUDICIARY, APPOINTED BY THE CHIEF~~  
14 ~~JUDGE OF THE COURT OF APPEALS;~~

15 ~~(5)~~ (5) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL  
16 SERVICES, OR THE SECRETARY'S DESIGNEE;

17 ~~(6)~~ (5) THE STATE PUBLIC DEFENDER, OR THE STATE PUBLIC  
18 DEFENDER'S DESIGNEE;

19 ~~(7)~~ (6) A STATE'S ATTORNEY OR ASSISTANT STATE'S  
20 ATTORNEY, RECOMMENDED DESIGNATED BY THE PRESIDENT OF THE  
21 MARYLAND STATE'S ATTORNEYS' ASSOCIATION AND WHO HAS PROSECUTED A  
22 DEATH PENALTY CASE; AND

23 ~~(8)~~ (7) THE FOLLOWING MEMBERS, APPOINTED BY THE  
24 GOVERNOR AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL  
25 PUNISHMENT:

26 (I) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF  
27 POLICE ASSOCIATION;

28 (II) A REPRESENTATIVE OF THE MARYLAND STATE LODGE  
29 FRATERNAL ORDER OF POLICE;

1 ~~(II) (III)~~ ~~A REPRESENTATIVE OF THE AMERICAN~~  
 2 ~~FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES WHO IS ALSO~~  
 3 ~~EMPLOYED AS A CORRECTIONAL OFFICER IN A STATE PRISON;~~

4 ~~(III) (IV)~~ ~~A FORMER STATE PRISONER WHO WAS ON DEATH~~  
 5 ~~ROW AND HAS BEEN EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL~~  
 6 ~~WAS INCARCERATED;~~

7 ~~(IV) (V)~~ ONE REPRESENTATIVE OF THE RELIGIOUS  
 8 COMMUNITY; AND

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

13 (D) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE COMMISSION.

14 (E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

15 (F) (1) ~~THE MARYLAND JUSTICE ANALYSIS CENTER OF THE~~  
 16 ~~DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND IN THE~~  
 17 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE  
 18 STAFF FOR THE COMMISSION.

19 (2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES,  
 20 DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE  
 21 FULLY WITH THE COMMISSION.

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

24 (H) A MEMBER OF THE COMMISSION:

25 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE  
 26 COMMISSION; BUT

27 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
 28 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE  
 29 BUDGET.

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

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

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

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

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

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

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

16                   ~~(VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR~~  
 17 ~~CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO~~  
 18 ~~LIFE IN PRISON; AND~~

19                   ~~(VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY~~  
 20 ~~EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS~~  
 21 ~~OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE~~  
 22 ~~INTERESTS OF THE FAMILIES OF VICTIMS.~~

23                   (2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS ~~TO~~  
 24 ~~GUARANTEE THAT~~ CONCERNING THE APPLICATION AND ADMINISTRATION OF  
 25 CAPITAL PUNISHMENT IN THE STATE ~~AND THE PUBLIC POLICY OF THE STATE~~  
 26 ~~REGARDING CAPITAL PUNISHMENT~~ SO THAT THEY ARE FREE FROM BIAS AND  
 27 ERROR AND ~~DESIGNED TO GUARANTEE~~ ACHIEVE FAIRNESS AND ACCURACY.

28                   (II) THE RECOMMENDATIONS SHALL ADDRESS:

- 29                   1. RACIAL DISPARITIES;
- 30                   2. JURISDICTIONAL DISPARITIES;
- 31                   3. SOCIO-ECONOMIC DISPARITIES;

1                                   4.    THE RISK OF INNOCENT PEOPLE BEING  
2 EXECUTED;

3                                   5.    ~~EVOLVING STANDARDS OF PROPRIETY~~  
4 ~~REGARDING STATE EXECUTIONS; AND A COMPARISON OF THE EFFECTS OF~~  
5 ~~PROLONGED COURT CASES INVOLVING CAPITAL PUNISHMENT AND THOSE~~  
6 ~~INVOLVING LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;~~

7                                   6.    A COMPARISON OF THE COSTS ASSOCIATED WITH  
8 DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE  
9 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE; AND

10                                  7.    THE IMPACT OF DNA EVIDENCE IN ASSURING  
11 FAIRNESS AND ACCURACY IN CAPITAL CASES.

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.