

# SENATE BILL 614

E2

(8lr2333)

## ENROLLED BILL

—Judicial Proceedings/Judiciary—

Introduced by ~~Senator Raskin~~ Senators Raskin, Frosh, Gladden, Mooney, and Muse

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.

\_\_\_\_\_  
President.

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

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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.

*Italics* indicate opposite chamber / conference committee amendments.



1 Article – Correctional Services  
2 Section 3–910  
3 Annotated Code of Maryland  
4 (1999 Volume and 2007 Supplement)

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

7 **Article – Correctional Services**

8 **3–910.**

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

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

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

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

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

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

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

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

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

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

1           (8) THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR  
2 AND REFLECTING THE BROAD DIVERSITY OF VIEWS ON CAPITAL PUNISHMENT,  
3 AND THE RACIAL, ETHNIC, GENDER, AND GEOGRAPHIC DIVERSITY OF THE  
4 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)~~ (IV) A FORMER STATE PRISONER WHO HAS BEEN  
13 EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED;

14                   ~~(IV) (V) ONE REPRESENTATIVE~~ THREE REPRESENTATIVES  
15 OF THE RELIGIOUS COMMUNITY; AND

16                   ~~(V) (VI) THREE~~ SIX REPRESENTATIVES OF THE GENERAL  
17 PUBLIC, TO INCLUDE AT LEAST ~~ONE~~ THREE FAMILY ~~MEMBER~~ MEMBERS OF A  
18 MURDER VICTIM.

19           (D) THE GOVERNOR, THE PRESIDENT OF THE SENATE OF MARYLAND,  
20 AND THE SPEAKER OF THE HOUSE OF DELEGATES JOINTLY SHALL APPOINT  
21 THE CHAIR OF THE COMMISSION.

22           (E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

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

27           (2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES,  
28 DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE  
29 FULLY WITH THE COMMISSION.

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

32           (H) A MEMBER OF THE COMMISSION:

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

3 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
4 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE  
5 BUDGET.

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

7 ~~(I) ALL ASPECTS OF CAPITAL PUNISHMENT AS CURRENTLY~~  
8 ~~AND HISTORICALLY ADMINISTERED IN THE STATE; .~~

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

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

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

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

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

24 ~~(VII) WHETHER THERE IS A DIFFERENCE IN THE CRIMES OR~~  
25 ~~CIRCUMSTANCES OF THOSE SENTENCED TO DEATH AND THOSE SENTENCED TO~~  
26 ~~LIFE IN PRISON; AND~~

27 ~~(VIII) WHETHER ALTERNATIVES TO THE DEATH PENALTY~~  
28 ~~EXIST THAT WOULD SUFFICIENTLY ENSURE PUBLIC SAFETY AND ADDRESS~~  
29 ~~OTHER LEGITIMATE SOCIAL AND PENOLOGICAL INTERESTS, INCLUDING THE~~  
30 ~~INTERESTS OF THE FAMILIES OF VICTIMS.~~

31 (2) (I) THE COMMISSION SHALL MAKE RECOMMENDATIONS ~~TO~~  
32 ~~GUARANTEE THAT~~ CONCERNING THE APPLICATION AND ADMINISTRATION OF

1 CAPITAL PUNISHMENT IN THE STATE ~~AND THE PUBLIC POLICY OF THE STATE~~  
 2 ~~REGARDING CAPITAL PUNISHMENT~~ SO THAT THEY ARE FREE FROM BIAS AND  
 3 ERROR AND ~~DESIGNED TO GUARANTEE~~ ACHIEVE FAIRNESS AND ACCURACY.

4 (II) THE RECOMMENDATIONS SHALL ADDRESS:

5 1. RACIAL DISPARITIES;  
 6 2. JURISDICTIONAL DISPARITIES;  
 7 3. SOCIO-ECONOMIC DISPARITIES;  
 8 4. THE RISK OF INNOCENT PEOPLE BEING  
 9 EXECUTED;

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

14 6. A COMPARISON OF THE COSTS ASSOCIATED WITH  
 15 DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE  
 16 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE ; AND

17 7. THE IMPACT OF DNA EVIDENCE IN ASSURING  
 18 FAIRNESS AND ACCURACY IN CAPITAL CASES.

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

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

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