

SENATE BILL 614

E2
SB 744/04 – JPR

8lr2333

By: ~~Senator Raskin~~ **Senators Raskin, Frosh, Gladden, Mooney, and Muse**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

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.**

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

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

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

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

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

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

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

1 ~~(III)~~ (IV) A FORMER STATE PRISONER WHO HAS BEEN
2 EXONERATED OF THE CRIME FOR WHICH THE INDIVIDUAL WAS INCARCERATED;

3 ~~(IV)~~ (V) ~~ONE REPRESENTATIVE~~ THREE REPRESENTATIVES OF
4 THE RELIGIOUS COMMUNITY; AND

5 ~~(V)~~ (VI) THREE REPRESENTATIVES OF THE GENERAL PUBLIC,
6 TO INCLUDE AT LEAST ONE FAMILY MEMBER OF A MURDER VICTIM.

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

8 (E) THE COMMISSION SHALL HOLD PUBLIC HEARINGS.

9 (F) (1) THE MARYLAND JUSTICE ANALYSIS CENTER ~~OF THE~~
10 ~~DEPARTMENT OF CRIMINOLOGY AT THE UNIVERSITY OF MARYLAND~~ IN THE
11 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION SHALL PROVIDE
12 STAFF FOR THE COMMISSION.

13 (2) ALL STATE, COUNTY, AND MUNICIPAL AGENCIES,
14 DEPARTMENTS, BOARDS, BUREAUS, AND COMMISSIONS SHALL COOPERATE
15 FULLY WITH THE COMMISSION.

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

18 (H) A MEMBER OF THE COMMISSION:

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

21 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
22 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
23 BUDGET.

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

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

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

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

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

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

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

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

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

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

(II) THE RECOMMENDATIONS SHALL ADDRESS:

1. RACIAL DISPARITIES;

2. JURISDICTIONAL DISPARITIES;

3. SOCIO-ECONOMIC DISPARITIES;

4. THE RISK OF INNOCENT PEOPLE BEING EXECUTED;

~~5. EVOLVING STANDARDS OF PROPRIETY REGARDING STATE EXECUTIONS; AND A COMPARISON OF THE EFFECTS OF~~

1 PROLONGED COURT CASES INVOLVING CAPITAL PUNISHMENT AND THOSE
2 INVOLVING LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE;

3 **6. A COMPARISON OF THE COSTS ASSOCIATED WITH**
4 **DEATH SENTENCES AND THE COSTS ASSOCIATED WITH SENTENCES OF LIFE**
5 **IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE ; AND**

6 **7. THE IMPACT OF DNA EVIDENCE IN ASSURING**
7 **FAIRNESS AND ACCURACY IN CAPITAL CASES.**

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.