

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

No. 103 EM 2018

KEVIN MARINELLI,
Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,
Respondent.

**BRIEF OF *AMICUS CURIAE*, THE REPUBLICAN CAUCUS OF THE
PENNSYLVANIA HOUSE OF REPRESENTATIVES, IN SUPPORT OF
THE POSITION OF RESPONDENT COMMONWEALTH OF
PENNSYLVANIA**

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Dated: June 17, 2019

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STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus Curiae, the Republican Caucus of the Pennsylvania House of Representatives (House Republican Caucus), files this brief in support of the position of Respondent, the Commonwealth of Pennsylvania.¹

This Petition for Extraordinary Relief under King’s Bench Jurisdiction involves, at a minimum, the constitutionality of all existing capital sentences in Pennsylvania. The interest of the House Republican Caucus in this case arises from the role of the General Assembly as the conduit through which the People of Pennsylvania both enact and amend their statutory law as well as amend their Constitution. Additionally, since the Petition is founded primarily on the results of a report prepared by a legislative agency, the interest also extends to the proper use of such reports in a judicial proceeding. *Amicus* has a significant interest in ensuring that appropriate consideration of both the People’s right to work through the General Assembly to achieve democratic consensus on issues of constitutional significance, and the bounds of legislative agency work product, is brought to bear in this Court’s analysis.

¹ *Amicus* affirms that no counsel for a party authored this brief in whole or in part, that no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief, and that no person other than *Amicus* and its counsel made such a monetary contribution.

SUMMARY OF ARGUMENT

Petitioner seeks to fundamentally change Pennsylvania's longstanding use of the death penalty as an appropriate sanction for heinous criminal conduct. The primary basis of the Petition is a legislative report prepared by a legislative agency for legislative purposes which was never adopted by the legislature. The report, the work product of only four State Senators without any endorsement by the legislative branch, is of no constitutional consequence.

In contrast, New Jersey's recent experience demonstrates the appropriate use of a legislative agency report when considering whether to enact changes regarding the death penalty.

Such a momentous decision concerning the death penalty in Pennsylvania – a penalty specifically recognized in Pennsylvania's Constitution – should be up to the People of Pennsylvania. It is the People of Pennsylvania, acting through the General Assembly, who should determine if such a change is desired and, if so, how it should be effectuated.

ARGUMENT

I. Petitioner Misemploys the Joint State Government Commission Report

The Joint State Government Commission (JSGC), created in 1937, is a legislative agency. *See* 46 P.S. § 65 et seq.; 65 P.S. § 67.102. It is a number of such agencies established by law. *See* 65 P.S. § 67.102.² While a legislative agency services the General Assembly, a “legislative agency ... is not the same as the General Assembly itself.” *Commonwealth v. Bradley*, 834 A.2d 1127, 1133 (Pa. 2003). Although somewhat self-evident, the purpose of a legislative agency is to further some legislative goal. *Commonwealth v. Sessoms*, 532 A.2d 775, 780 (Pa. 1987). Such goals are typically prescribed in the legislative agency’s enabling statute.

Some legislative agencies are tasked with duties that are external to the General Assembly. A legislative agency *may*, for example, be tasked with preparing information to be considered by the Commonwealth’s judicial branch. 42 Pa.C.S. § 2151.1 et seq., *Sessoms*, 532 A.2d at 776, 781 (The Pennsylvania Commission on Sentencing, a legislative agency, creates guidelines to be considered by the courts). The JSGC’s statutory mandate, however, is inward looking.

² Links to various legislative agencies are available at <https://www.legis.state.pa.us/cfdocs/admin/ld/>.

The JSGC is authorized to “make such investigations and studies and to gather such information as may be deemed useful to the General Assembly” and its standing committees. 46 P.S. § 66(a). Further, it may report “findings and recommendations” to the General Assembly or its standing committees as well as provide technical staff services. *Id.* § 66(c) and (d). In other words, the JSGC’s work product is solely for the use of the legislative branch.

Pennsylvania’s Statutory Construction Act of 1972 outlines the very limited circumstances under which a JSGC report serves as a judicial resource. When construing an ambiguity in a *statute which has been enacted*, a JSGC report may provide some context surrounding the statute’s enactment. 1 Pa.C.S. § 1921(c). More particularly, Section 1939 (Use of comments and reports) specifically provides:

The comments or report of the commission ... which drafted a statute may be consulted in the construction or application of the original provisions of the statute if such comments or report were published or otherwise generally available prior to the consideration of the statute by the General Assembly ...

1 Pa.C.S. § 1939.

It is the enactment of legislation based on the comments or reports of the Joint State Government Commission which breathes life into those documents for the purposes of judicial consideration. Petitioner’s use of the Joint State

Government Commission Report on Capital Punishment in Pennsylvania³ (JSGC Report) as the foundation of the Petition, a report prepared by a legislative agency for legislative purposes and never endorsed by the General Assembly, is an attempt to fit a square peg into a round hole.

II. Appropriate Use of a Legislative Agency Report

Pennsylvania's neighbor state of New Jersey illustrates the more correct use of a legislative agency report.

In 2005, the New Jersey Senate passed Senate Bill 709. The bill then passed the New Jersey Assembly on January 9, 2006. The Governor signed the bill into law on January 12, 2006. This legislation created the New Jersey Death Penalty Study Commission ("Commission"). 2005 NJ Sess. Law Serv. Ch. 321 (Senate 709).

The Commission consisted of thirteen members, including appointees from the Governor, the President of the Senate, the Speaker of the General Assembly, the County Prosecutors Association of New Jersey, the New Jersey Bar Association, and included the Attorney General of the State of New Jersey and the

³ Joint State Government Commission, Capital Punishment in Pennsylvania: The Report of the Task Force and Advisory Committee (2018) (JSGC Report), *available at* [http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2018-06-25%20SR6%20\(Capital%20Punishment%20in%20PA\)%20FINAL%20REPORT%20June%2025%202018.pdf](http://jsg.legis.state.pa.us/resources/documents/ftp/publications/2018-06-25%20SR6%20(Capital%20Punishment%20in%20PA)%20FINAL%20REPORT%20June%2025%202018.pdf).

New Jersey Public Defender. The Commission held six public meetings in Trenton, taking testimony from no less than 57 witnesses.

The Commission was tasked with reporting “its findings and recommendations to the Governor and the Legislature... no later than November 15, 2006.” *Id.* In its final report, issued on January 2, 2007, the Commission ultimately recommended that the death penalty be abolished in New Jersey. New Jersey Death Penalty Study Commission, New Jersey Death Penalty Study Commission Report (2007), *available at* https://www.njleg.state.nj.us/committees/dpsc_final.pdf.

Based on the Commission’s recommendations, New Jersey State Senator Raymond Lesniak introduced Senate Bill 171 to abolish the death penalty on a prospective basis and provide a mechanism by which an inmate sentenced to death prior to the date of enactment may be resentenced to a term of life imprisonment during which the defendant would not be eligible for parole. This legislation ultimately passed both chambers of the New Jersey legislature and was signed into law by the New Jersey Governor on December 17, 2007.⁴

Strikingly, Petitioner here relies on a report authorized solely by the Senate of Pennsylvania, expressing the opinions of just four Senators, as the cornerstone of his argument. The New Jersey example shows the appropriate use of a report of

⁴ 2007 NJ Sess. Law Serv. Ch. 204 (Senate 171 and 2471).

similar subject matter (though the New Jersey report was created pursuant to a law approved in both chambers of the New Jersey legislature and signed by the Governor), i.e. to assist the legislature in its deliberations of this weighty issue.

III. The JSGC Report Only Reflects the Conclusions of Four Senators

A. The JSGC Report

Senate Resolution 6 of 2011 (Senate Resolution 6), introduced by Senator Greenleaf, directed the Joint State Government Commission to set up a task force to study capital punishment in Pennsylvania. It was adopted by the Senate as S.R. 6, P.N. 1833 on December 14, 2011. Pennsylvania Legislative Journal – Senate, 1371 (Dec. 14, 2011). The task force which authored the report, however, was composed of only four Senators (Senators Boscola, Greenleaf, Leach and Rafferty).⁵

Senate Resolution 6 was a simple resolution and was never presented to, or considered by, the House of Representatives. More importantly, while Senate Resolution 6 authorized the task force, the eventual work product (the JSGC Report) has never been endorsed by either the Senate, the House or the General Assembly as a whole.⁶ It merely reflects the conclusions of those aforementioned

⁵ JSGC Report at TASK FORCE MEMBERS.

⁶ It is also worth noting that the report itself explains that “task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.” See JSGC Report.

Senators. The opinions of four Senators, which were not expressed during legislative debate,⁷ have no greater weight than any other four people and certainly are not of constitutional import on such a fundamental question. Finally, the JSGC Report does not contain any individualized analysis of unfair treatment or prejudice specifically related to the Petitioner.

B. House Resolution 143

In contrast, during the significant interim between the Senate's adoption of Senate Resolution 6 in 2011 and the eventual release of the JSGC Report in 2018, the House did have the opportunity to express its opinion on the suitability of capital punishment as the penalty for heinous offenses. On June 10, 2015, the Pennsylvania House of Representatives considered House Resolution 143, Printer's Number 1781 (House Resolution 143). Attached at Exhibit A. The resolution recited Governor Wolf's actions in granting reprieves to Terrance Williams and Hubert Michael, and in declaring that the Governor would issue reprieves in all future capital cases that were presented to him, pending the

⁷ Legislative history is relevant to ascertaining the meaning of ambiguous language in statutes. 1 Pa.C.S. § 1921(c)(7). Even in that context, however, the Commonwealth Court has noted that the comments of individual legislators during floor debate are not controlling. *Roman Catholic Archdiocese of Philadelphia v. Com., Pennsylvania Human Relations Comm'n*, 548 A.2d 328, 330–31 (Pa. Cmwlth. 1988) (citations omitted). Legislators' statements during enactment are "not dispositive of legislative intent." *Commonwealth v. Berryman*, 649 A.2d 961, 966 (Pa. Super. 1994), citing *Commonwealth v. Wilson*, 529 Pa. 268, 602 A.2d 1290 (1992), cert. denied in *Aultman v. Pennsylvania*, 504 U.S. 977, 112 S.Ct. 2952, 119 L.Ed.2d 574 (1992).

publication of the JSGC report and subsequent legislative action. House Resolution 143 specifically noted that “[e]ven the Governor has conceded that there is no doubt as to the guilt of Terrance Williams or as to the monstrosity of his violent crimes”⁸ and there was no evidence that Williams’ sentence was the result of unfair or prejudicial treatment. The resolution condemned the Governor’s actions and denounced them as disrespectful to the victims of those who had been sentenced to death as well as the surviving families and loved ones of those victims. The resolution also condemned the Governor’s actions usurping the authority of the General Assembly to enact laws related to capital punishment, a concept more fully explored below. House Resolution 143 was adopted by the House by a bipartisan majority of 119 to 71.

C. Comparison of JSGC Report to House Resolution 143

Neither the JSGC Report nor House Resolution 143 have been enacted into law.

While House Resolution 143 was adopted by the House, the JSGC Report has not been adopted by either chamber of the General Assembly.⁹ Of the two, only House Resolution 143 is a “formal expression of the opinion or will” of a

⁸ H.R. 143, P.N. 1781, page 1, lines 11-13. Page 2, lines 12-15 of the resolution similarly noted that “[o]n June 3, 2015, Governor Wolf issued a reprieve for the scheduled execution of Hubert Michael, a man who confessed to and was convicted in the kidnap, rape and murder of a 16-year-old girl.”

⁹ Senate Resolution 6 authorized the report but did not speak to the final product issued seven years later.

chamber “adopted by vote ... as a legislative resolution.” *McGinley v. Scott*, 64 A.2d 424, 430 (Pa. 1960) (citation omitted).

Without some further legislative action by the General Assembly, or at least some endorsement by the General Assembly of the opinions expressed by the four Senators on the task force, the JSGC Report is of no moment on such a weighty constitutional question.

IV. Decisions About the Death Penalty Belong to the People of Pennsylvania Speaking Through the General Assembly

In contrast to Petitioner’s effort to seek an end run around the democratic process, there is a “right way” (actually, two) for the People of Pennsylvania to address death sentences if they so choose. Both roads, however, lead through the General Assembly.

A. Constitutional Change

One option would be an amendment to the Pennsylvania Constitution, either to eliminate the possibility of the death penalty altogether or to more speedily allow Petitioner to apply for or achieve a commutation of his current sentence. After all, the practical effect of Petitioner’s requested relief is a blanket commutation of sentences of death, both those currently extant and in the

foreseeable future. The appropriate means by which a sentence of death may be commuted is found in Article IV, Section 9 of the Pennsylvania Constitution.¹⁰

Amendments to Pennsylvania’s Constitution “may be proposed in the Senate or the House of Representatives” and follow a prescribed process which ultimately requires adoption by the People of Pennsylvania at the ballot box. Pa. Const. art. XI, § 1. The requirements of Article XI, Section 1 ensure that the Commonwealth’s foundational document will never be amended without information and opinions being gathered from all interested parties. “All amendments since 1790, whether proposed by convention or by the legislature, were submitted to the electorate and approved by a majority of those voting on them before they became effective.” Robert E. Woodside, *Pennsylvania Constitutional Law* 9 (Murrelle Printing Company, Inc. 1985).

¹⁰ Pa. Const. art. IV, § 9. Pardoning power; Board of Pardons.

(a) In all criminal cases except impeachment the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutation of sentences and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, and, in the case of a sentence of death or life imprisonment, on the unanimous recommendation in writing of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be delivered to the Governor and a copy thereof shall be kept on file in the office of the Lieutenant Governor in a docket kept for that purpose.

(b) The Board of Pardons shall consist of the Lieutenant Governor who shall be chairman, the Attorney General and three members appointed by the Governor with the consent of a majority of the members elected to the Senate for terms of six years. The three members appointed by the Governor shall be residents of Pennsylvania. One shall be a crime victim, one a corrections expert and the third a doctor of medicine, psychiatrist or psychologist. The board shall keep records of its actions, which shall at all times be open for public inspection.

B. Legislative Change

A second option would be legislation. “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” Pa. Const. art. II, § 1. “The legislative power is the power to make, alter and repeal laws.” *Jubelirer v. Rendell*, 953 A.2d 514, 529 (Pa. 2008) (internal quotation marks, citations omitted).¹¹

Upon introduction, any legislation would follow the process outlined in Article III of the Pennsylvania Constitution.¹² While focused specifically on an analysis of Article III, Section 4, the court recently outlined the ultimate purpose of all the Pennsylvania Constitution’s numerous procedural requirements for legislation:

[E]nsuring an open and deliberative legislative process in which all legislators are given a full opportunity to scrutinize a bill and offer changes which they may deem necessary, and to also make certain that, during this process, every member of the public has the opportunity to make his or her

¹¹ The Governor, in turn, has the “limited legislative power” to veto legislation after the General Assembly’s passage. *Jubelirer*, 953 A.2d at 529.

¹² The process includes:

- Introduction as a bill (Pa. Const. art. III, § 1);
- Reference to, and report from, committee (Pa. Const. art. III, § 2);
- Consideration on three different days in each legislative chamber (Pa. Const. art. III, § 4);
- Final passage in each legislative chamber by a “majority of the members elected” (Pa. Const. art. III, § 4; *See also* Pa. Const. art. III, § 5);
- Signature of the bill by the presiding officer of each chamber after publicly reading the title and in the presence of the chamber over which the officer presides (Pa. Const. art. III, § 8); and
- Gubernatorial approval by signature or by inaction (Pa. Const. art. IV, § 15).

views known to their representatives and senators on all provisions of a bill before its final passage.

Washington v. Dep't of Pub. Welfare of Commonwealth, 188 A.3d 1135, 1148 (Pa. 2018).

At each step of the way, the People have the opportunity to be informed and provide input. They could encourage the enactment, or rejection, of any bill.

In stark contrast, Petitioner would shut out the People of Pennsylvania from, in the first place, contemplating whether a change should be considered and, in the second place, whether to accept or reject such a fundamental change. Instead of leaving this up to the People, either directly via constitutional amendment or indirectly through their elected representatives in the legislature, Petitioner would rely on the opinions expressed by just four Senators in a report authorized, but never endorsed, by only one legislative chamber.

C. A Bipartisan Proposal

In April of this year, Representatives Christopher Rabb (Democrat – Philadelphia County) and Francis X. Ryan (Republican – Lebanon County) released a co-sponsorship memorandum to solicit their colleagues' support for legislation to repeal the death penalty in Pennsylvania:

Join us in our bipartisan effort to repeal the death penalty in Pennsylvania. It is not only an ineffective deterrent, it is an incredibly costly and flawed system of punishment.

One innocent life taken at the hands of the state is one too many.

....

Co-Sponsorship Memorandum from Representative Christopher M. Rabb and Representative Francis X. Ryan to All House members (Apr. 29, 2019), *available at*

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=29410>. Attached at Exhibit B.¹³

It is the People of Pennsylvania, acting through the General Assembly, who will decide whether this bill progresses beyond introduction and referral to committee. Their views take precedence. Both the legislative process, and the method to amend the Pennsylvania Constitution, are designed to be arduous. The difficulty of these tasks, however, does not absolve the Petitioner from the effort.

¹³ A co-sponsorship memorandum is traditionally distributed prior to the introduction of legislation in the Pennsylvania House of Representatives to explain proposed legislation and obtain the names of legislators who wish to sign on as co-sponsors of the proposal. It appears a similar co-sponsorship memorandum was also distributed in the Pennsylvania Senate by Senators Muth and Street. Co-Sponsorship Memorandum from Senator Katie J. Muth and Senator Sharif Street to All Senate members (Apr. 29, 2019), *available at* <https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20190&cosponId=29422>.

CONCLUSION

For the foregoing reasons, Petitioner's petition for extraordinary relief under King's Bench jurisdiction, as well as other requested relief, should be denied.

Respectfully submitted,

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/s/ James G. Mann
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

I further certify that this filing complies with the 7,000 word limit of Pa.R.A.P. 531(b)(3) based on the word count of 3,261 according to the word processing system used to prepare it.

/s/ Rodney A. Corey
Rodney A. Corey (Pa. 69742)
Republican Caucus
Pennsylvania House of Representatives

Exhibit A

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 143 Session of
2015

INTRODUCED BY VEREB, STEPHENS, MARSICO, CUTLER, BAKER, BARRAR,
DELOZIER, DUSH, FEE, GINGRICH, GREINER, GROVE, HARHART,
HARPER, A. HARRIS, HEFFLEY, HICKERNELL, IRVIN, JAMES,
JOZWIAK, M. K. KELLER, KNOWLES, KRIEGER, LAWRENCE, MAJOR,
MCGINNIS, MENTZER, METCALFE, MILLARD, B. MILLER, OBERLANDER,
PYLE, QUIGLEY, SACCONI, SANKEY, SAYLOR, SONNEY, STAATS,
TALLMAN, TAYLOR, TOEPEL, WATSON, MILNE, HACKETT, GILLEN,
MURT, FARRY AND KLUNK, MARCH 4, 2015

AS AMENDED, HOUSE OF REPRESENTATIVES, JUNE 10, 2015

A RESOLUTION

1 Condemning Governor Tom Wolf's ~~unconstitutional~~ action to usurp <--
2 the authority of the General Assembly to make the laws and of
3 the judiciary to administer justice by declaring a moratorium
4 on capital punishment in Pennsylvania and calling upon
5 Governor Wolf to reverse this action and to carry out his
6 constitutional duty.

7 WHEREAS, On February 13, 2015, approximately two weeks before
8 the scheduled execution of convicted murderer Terrance Williams,
9 Governor Tom Wolf announced that he was granting a reprieve of
10 that execution; and

11 WHEREAS, Even the Governor has conceded that there is no
12 doubt as to the guilt of Terrance Williams or as to the
13 monstrosity of his violent crimes; and

14 WHEREAS, The Governor has not suggested that there was any
15 miscarriage of justice in the Williams case; nor that the duly
16 enacted laws of Pennsylvania relating to Williams' trial,
17 including the preconviction and postconviction procedure, failed

1 Williams in any way; nor that the subsequent Federal court
2 review of his case was anything less than robust and thorough;
3 nor that the aggravating circumstances in Williams' case were
4 insufficient to merit the penalty of death under the duly
5 enacted laws of Pennsylvania; nor that Williams was in any way
6 the victim of unfair or prejudicial treatment; nor that Williams
7 has in any way attempted to redeem himself; and

8 WHEREAS, Governor Wolf has also declared that he will issue
9 reprieves in all future capital cases that are presented to him
10 for warrants, in a concerted effort to impose a blanket
11 moratorium on the death penalty in Pennsylvania; and

12 WHEREAS, On June 3, 2015, Governor Wolf issued a reprieve for
13 the scheduled execution of Hubert Michael, a man who confessed
14 to and was convicted in the kidnap, rape and murder of a 16-
15 year-old girl, demonstrating the Governor's intention of
16 imposing a blanket moratorium on the death penalty in
17 Pennsylvania; and

18 WHEREAS, The grounds for a reprieve are, and only ever have
19 been during the history of Pennsylvania law, a temporary stay of
20 a criminal judgment for a defined period of time for the purpose
21 of allowing a defendant to pursue a legal remedy or enabling the
22 executive branch time to arrange for an execution; and

23 WHEREAS, The reprieve that Governor Wolf has granted is
24 actually, by the Governor's admission, a subterfuge by which he
25 is refusing to impose Terrance Williams' sentence, which was
26 legally and properly imposed, as leverage in order to extract
27 from the General Assembly legislation that conforms to the
28 Governor's personal specifications with regard to the reform of
29 Pennsylvania's criminal law; and

30 WHEREAS, This is not only an improper use of a gubernatorial

1 reprieve, but is also an affront to the coequal branches of
2 government and to the residents of Pennsylvania who elect
3 Representatives to create the law, judges to interpret and
4 uphold the law in order to ensure that justice is served in each
5 individual case and a Governor to faithfully execute the law;
6 and

7 WHEREAS, The Governor's cavalier action in unilaterally
8 declaring a moratorium on capital punishment exhibits an
9 astounding disregard for the additional and unnecessary
10 heartache he has now caused to the family and loved ones of
11 Terrance Williams' victims, and for the families and loved ones
12 of all the victims of all of the inmates currently on death row,
13 as Governor Wolf has promised each and every one of these
14 inmates that he will grant them the same reprieve until his
15 legislative demands are met; and

16 WHEREAS, The Governor's action in standing side by side with
17 the inmates on death row, fighting to overturn their sentences
18 even as he expresses confidence in their guilt, makes a mockery
19 of his claim that he "stands with victims of violence"; and

20 WHEREAS, Governor Wolf's assertion that he "stands with all
21 those who have suffered" even while he chooses to ignore
22 sentences imposed by juries across this Commonwealth and instead
23 to extend the lives of those who have willfully and violently
24 taken the lives of others rings false and is an affront to
25 victims everywhere; and

26 WHEREAS, Victims of violent crime deserve to know that a
27 sentence properly imposed will be faithfully carried out, and
28 the residents of Pennsylvania deserve to know that their laws,
29 properly enacted, will be faithfully executed by their Governor;
30 therefore be it

1 RESOLVED, That the House of Representatives condemn Governor
2 Tom Wolf's ~~unconstitutional~~ action to usurp the authority of the <--
3 General Assembly to make the laws and of the judiciary to
4 administer justice by declaring a moratorium on capital
5 punishment in Pennsylvania and call upon Governor Wolf to
6 reverse this action and to carry out his constitutional duty;
7 and be it further

8 RESOLVED, That no Governor of this Commonwealth can be
9 allowed to nullify a duly enacted law, unilaterally reverse a
10 legally and properly imposed verdict and substitute his own
11 judgment for decades of exhaustive judicial review based on
12 nothing more than his own personal disapproval with the
13 legislative and legal processes that make up the rule of law in
14 this Commonwealth.

Exhibit B

Pennsylvania House of Representatives

06/14/2019 02:22 PM

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20190&cosponId=29410>

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House Co-Sponsorship Memoranda

House of Representatives Session of 2019 - 2020 Regular Session

MEMORANDUM

Posted: April 29, 2019 10:27 AM
From: [Representative Christopher M. Rabb](#) and [Rep. Francis X. Ryan](#)
To: All House members
Subject: Death Penalty Repeal

Join us in our bipartisan effort to repeal the death penalty in Pennsylvania. It is not only an ineffective deterrent, it is an incredibly costly and flawed system of punishment.

One innocent life taken at the hands of the state is one too many

Although Pennsylvania has the country's fifth highest death row population, currently at 175 inmates, only three executions have occurred in recent decades, and the state has not executed anyone who did not voluntarily give up their appeals in more than 50 years. According to a *Reading Eagle* analysis, those three executions have cost taxpayers \$816 million. Additionally, the Urban Institute's study on the cost of the death penalty in Maryland estimates a death penalty case costs \$2 million more than a non-death penalty case. We believe this to be an irresponsible use of our state's limited resources.

Additionally, since 2010, the homicide rate in states with the death penalty has been 18% or higher than in states without it. Thus, it is clearly not an effective deterrent to criminals. Furthermore, we know that when a person is convicted of the death penalty they will start an appeals process lasting decades, making it more likely that they die of old age rather than lethal injection.

One innocent life taken at the hands of the state is one too many

There are also incredible risks and irreparable injustices of having the death penalty. Of the 408 Pennsylvania prisoners sentenced to death since 1978, 169 were re-sentenced to life, 16 were re-sentenced to a term of years, and 6 were exonerated. Therefore, the state has not only freed twice the number of people it has executed in recent decades, there is a risk of executing an innocent person every time we have an execution as long as the death penalty remains on the books.

Lastly, according to a recent study, at least 4.1% of all defendants sentenced to death in the United States in the modern era are innocent. For this reason, the risks of continuing the death penalty far outweigh the benefits, to which, there are few, if any.

One innocent life taken at the hands of the state is one too many
