

[Third Reprint]

ASSEMBLY, No. 1913

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED FEBRUARY 21, 2002

Sponsored by:

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District 35 (Bergen and Passaic)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

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Assemblywoman Perez-Cinciarelli, Assemblymen S.Kean, Ahearn,
Assemblywoman Pou, Assemblymen Stanley, Doria, Senators Turner,
Bagger, Baer, Lesniak, Codey, Suliga, B.Smith, Gill, Cafiero, James,
Palaia, Buono and Bucco**

SYNOPSIS

Creates study commission on the death penalty.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on November 24, 2003, with amendments.

(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT creating a ²study² commission on the death penalty ¹[and
 2 suspending] ²[, recommending suspension of¹ executions until]²
 3 ¹[such time as a report from the commission is submitted to the
 4 Legislature and the Legislature and the Governor act in response to
 5 recommendations from]¹ ²[the study commission]² ¹[,]² [has
 6 completed its report and¹ supplementing P.L.1983, c.245]².

7

8 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 9 *of New Jersey:*

10

11 1. The Legislature finds and declares that:

12 a. Life is the most valuable possession of a human being¹[. The];
 13 the¹ State should exercise utmost care to protect its residents' lives
 14 from homicide, accident, ¹or¹ arbitrary or wrongful taking by the
 15 State;

16 b. The experience of this State with the death penalty has been
 17 characterized by significant expenditures of money and time;

18 c. The financial costs of attempting to implement the death penalty
 19 statutes may not be justifiable in light of the other needs of this State;

20 d. There is a lack of any meaningful procedure to ensure uniform
 21 application of the death penalty in each county throughout the State;

22 e. There is public concern that racial and socio-economic factors
 23 influence the decisions to seek or impose the death penalty;

24 f. There has been increasing public awareness of cases of
 25 individuals wrongfully convicted of murder, in New Jersey and
 26 elsewhere in the nation;

27 g. The Legislature is troubled that the possibility of mistake in the
 28 death penalty process may undermine public confidence in our criminal
 29 justice system;

30 h. The execution of an innocent person by the State of New Jersey
 31 would be a grave and irreversible injustice;

32 i. Many citizens may favor life in prison without parole or life in
 33 prison without parole with restitution to the victims as alternatives to
 34 the death penalty; and

35 j. In order for the State to protect its moral and ethical integrity,
 36 the State must ensure a justice system which is impartial, uncorrupted,
 37 equitable, competent, and in line with evolving standards of decency.

38

39 2. a. There is established the New Jersey Death Penalty Study
 40 Commission.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted December 9, 2002.

² Assembly floor amendments adopted December 12, 2002.

³ Senate SJU committee amendments adopted November 24, 2003.

1 b. The commission shall study all aspects of the death penalty as
 2 currently administered in the State of New Jersey, including but not
 3 limited to the following issues:

4 (1) whether the death penalty rationally serves a legitimate
 5 penological intent such as deterrence;

6 (2) whether ¹there is a significant difference between¹ the cost of
 7 the death penalty from indictment to execution ¹outweighs ¹and¹ the
 8 cost of life in prison without parole¹. In¹;¹in¹ considering the overall
 9 cost of the death penalty in New Jersey, the cost of all the capital trials
 10 that result in life sentences as well as the death sentences that are
 11 reversed on appeal must be factored into the equation¹.¹

12 (3) whether the death penalty is consistent with evolving standards
 13 of decency¹.¹

14 (4) whether the selection of defendants in New Jersey for capital
 15 trials is arbitrary, unfair, or discriminatory in any way and there is
 16 unfair, arbitrary, or discriminatory variability in the sentencing phase
 17 or at any stage of the process¹. Whether¹;

18 (5) whether¹ there is a significant difference in the crimes of those
 19 selected for the punishment of death as opposed to those who receive
 20 life in prison¹.¹

21 ¹[(5)] (6)¹ whether the penological interest in executing some of
 22 those guilty of murder is sufficiently compelling that the risk of an
 23 ¹inevitable and¹ irreversible mistake is acceptable¹.¹ and¹

24 ¹[(6)] (7)¹ whether alternatives to the death penalty exist that
 25 would sufficiently ensure public safety and address other legitimate
 26 social and penological interests¹, including the interests of families of
 27 victims¹.

28 c. The commission will propose new legislation, if appropriate.

29 d. The commission shall be composed of ¹[11] ¹13¹ members.
 30 Appointments should reflect the diversity of the population of New
 31 Jersey. Members will be appointed as follows:

32 (1) five members appointed by the Governor, ¹at least¹ one of
 33 whom shall be appointed from each of the following groups: Murder
 34 Victims Families for Reconciliation and the New Jersey Crime Victims'
 35 Law Center; and ¹[three] at least two¹ of whom shall be appointed
 36 from the religious/ethical community in New Jersey;

37 (2) ³[one member appointed by each of the co-Presidents of the
 38 Senate] two members appointed by the President of the Senate, one
 39 of whom shall be a Republican, and one of whom shall be a
 40 Democrat³;

41 (3) two members appointed by the Speaker of the General
 42 Assembly ¹[(¹one of whom shall be a Republican, and one of whom
 43 shall be a Democrat¹)]¹;

44 (4) the Public Defender or his designee;

45 (5) the Attorney General or his designee¹;

(6) the President of the New Jersey State Bar Association or his designee; and

(7) a representative of the County Prosecutors Association of New Jersey¹.

e. Members shall be appointed within three months of enactment.

f. The Attorney General's office shall provide staffing ³[and budgeting]³ for the work of the commission.

g. The members of the commission shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

h. The commission shall choose a ¹[Chair] chairperson¹ from among its members.

i. Any vacancy in the membership shall be filled in the same manner as the original appointment.

j. The commission is entitled to the assistance and service of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes, and to employ stenographic and clerical assistance and to incur traveling or other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

k. The commission may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature, along with any legislation it desires to recommend for adoption by the Legislature, no later than ¹[12] 18¹ months after the appointment of all members of the commission.

²[3. ¹[Beginning on the effective date of this act, if a defendant has been sentenced to death pursuant to subsection c. of N.J.S.2C:11-3, the sentence of death will not be executed prior to the issuance of the report and final action of the Legislature and the Governor in response to the Commission's report and recommendations] The Legislature acknowledges the seriousness of the questions raised herein. The Legislature also acknowledges that the commission will need to dispassionately examine all questions surrounding the use of the death penalty in the State of New Jersey. It is further acknowledged that the pressures of a pending execution might affect the deliberations of the commission. It is therefore recommended that no execution should be carried out until the commission has completed its report¹.]²

²[4.] 3.² This act shall take effect immediately.