

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO.

Senate Bill 628

PRINTER'S NO.

673

AMOUNT

No Fiscal Impact

FUND

General

DATE INTRODUCED

March 16, 2009

PRIME SPONSOR

Senator M. White

HISTORY OF BILL

Referred to JUDICIARY, March 16, 2009
Reported as committed, March 24, 2009
First consideration, March 24, 2009
Re-referred to APPROPRIATIONS, April 1, 2009

DESCRIPTION AND PURPOSE OF BILL

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in post-trial matters, prohibiting the imposition of the death sentence in cases of mental retardation.

Senate Bill 628 amends Title 42 (Judicial Code) prohibiting the imposition of the death penalty on a person with mental retardation and provides for a defendant with mental retardation that has already been sentenced to death to file a petition under the Post Conviction Relief Act seeking appropriate relief from the sentence of death due to the mental retardation.

This legislation defines a person with mental retardation as an individual who has a mental disability characterized by significant limitations in intellectual functioning and in adaptive behavior as expressed in conceptual, social and practical adaptive skills. The mental retardation must have been present before the individual attained 18 years of age as demonstrated by contemporaneous written records. Under this legislation, no sentence of death shall be imposed

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upon any person who establishes by a preponderance of the evidence that he or she is a person with mental retardation, as defined in the act.

This legislation also establishes a procedure for determining that a defendant is a person with mental retardation and allows for counsel to file a motion requesting a hearing prior to trial to determine if the defendant is not eligible for the death penalty. The defendant would have the burden of proof to determine mental retardation. If the court finds by a preponderance of the evidence that the defendant is a person with mental retardation, the trial shall proceed as a noncapital trial. The Commonwealth has the right to appeal. If the court finds that the defendant is eligible for the death penalty, the trial may proceed as a capital case.

This legislation also provides for the filing of a petition under the Post Conviction Relief Act to seek appropriate relief from a sentence of death for defendants raising a claim of ineligibility for the death sentence because he or she is a person with mental retardation. The trial court shall conduct a hearing on the motion and determine whether or not the defendant is a person with mental retardation. If the court finds, by a preponderance of the evidence, that the petitioner is a person with mental retardation, the court shall vacate the sentence of death and impose a sentence of life imprisonment.

Except for the provisions relating to defendants who have already been sentenced to death, this legislation applies to persons who are sentenced on or after the effective date of this act.

This act would be effective immediately.

FISCAL IMPACT:

The enactment of this legislation may have minimal costs to the Judiciary during the first year for several capital case defendants who have not yet been sentenced and file a motion for a hearing to determine if they are a person with mental retardation, but these costs are estimated to be very minimal. Future costs are estimated to be very minimal as well due to the fact that the provisions of the act would become part of normal trial procedures.