

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION**No. 6**Session of
2011

INTRODUCED BY GREENLEAF, ERICKSON, PIPPY, D. WHITE, LEACH,
FERLO, WASHINGTON, WILLIAMS AND WOZNIAK, JANUARY 12, 2011

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, DECEMBER 6, 2011

A RESOLUTION

1 Directing the Joint State Government Commission to establish a
2 bipartisan task force and an advisory committee to conduct a
3 study of capital punishment in this Commonwealth and to
4 report their findings and recommendations.

5 WHEREAS, In 1972, the Pennsylvania Supreme Court declared
6 Pennsylvania's capital sentencing procedure unconstitutional
7 based on the United States Supreme Court's *Furman v. Georgia*
8 decision; and

9 WHEREAS, In 1978, the Pennsylvania General Assembly responded
10 by reinstating capital punishment in compliance with United
11 States and Pennsylvania Supreme Court rulings; and

12 WHEREAS, Since 1978, 352 people have been sentenced to death
13 in Pennsylvania but only three people have been executed; and

14 WHEREAS, Each of the three people executed waived the right
15 to appeal; and

16 WHEREAS, There are more than 220 existing capital sentences;
17 and

18 WHEREAS, Questions are frequently raised regarding the costs,
19 deterrent effect and appropriateness of capital punishment; and

1 WHEREAS, The American Bar Association has identified several
2 areas in which Pennsylvania's death penalty system falters in
3 guaranteeing each capital defendant fairness and accuracy in all
4 proceedings; and

5 WHEREAS, The Pennsylvania Supreme Court Committee on Racial
6 and Gender Bias in the Justice System has determined that
7 racial, ethnic and gender biases exist and that those biases
8 significantly affect the way parties, witnesses, litigants,
9 lawyers, court employees and potential jurors are treated; and

10 WHEREAS, THE JUSTICE CENTER FOR RESEARCH AT THE PENNSYLVANIA
11 STATE UNIVERSITY, IN CONJUNCTION WITH THE PENNSYLVANIA
12 INTERBRANCH COMMISSION ON GENDER, RACIAL AND ETHNIC FAIRNESS, IS
13 CONDUCTING A STUDY OF THE ADMINISTRATION OF THE DEATH PENALTY IN
14 PENNSYLVANIA AND HAS EXPRESSED INTEREST IN COLLABORATING WITH
15 THE TASK FORCE AND ADVISORY COMMITTEE ESTABLISHED BY THIS
16 RESOLUTION; AND

17 WHEREAS, Postconviction DNA testing has shown that there are
18 wrongful convictions, even in capital cases; therefore be it

19 RESOLVED, That the Senate direct the Joint State Government
20 Commission to establish a bipartisan task force of four members
21 of the Senate to conduct a study of capital punishment in this
22 Commonwealth; and be it further

23 RESOLVED, That the President pro tempore of the Senate
24 appoint two members of the task force and the Minority Leader of
25 the Senate appoint two members of the task force; and be it
26 further

27 RESOLVED, That the Joint State Government Commission oversee
28 the creation of an advisory committee to assist the task force
29 in conducting the study and making recommendations; the advisory
30 committee to have approximately 30 members and be comprised of

1 representatives from those groups most likely to make useful and
2 insightful contributions, such as representatives of the
3 judiciary, prosecution, defense, law enforcement, corrections,
4 victim assistance organizations and also representatives of
5 academia, the faith community, private and public organizations
6 involved in criminal justice issues and other criminal justice
7 experts; and be it further

8 RESOLVED, That the task force, with the assistance of the
9 advisory committee, conduct a study of the following subjects
10 including:

11 (1) Cost: Whether there is a significant difference
12 between the cost of the death penalty from indictment to
13 execution and the cost of life in prison without parole; in
14 considering the overall cost of the death penalty in
15 Pennsylvania, the cost of all the capital trials that result
16 in life sentences as well as death sentences that are
17 reversed on appeal must be factored into the equation;

18 (2) Bias and unfairness: Whether the selection of
19 defendants for capital trials in Pennsylvania is arbitrary,
20 unfair or discriminatory in any way and whether there is
21 unfair, arbitrary or discriminatory variability at any stage
22 in the process including in the sentencing phase;

23 (3) Proportionality: Whether there is a significant
24 difference in the crimes of those selected for the punishment
25 of death as opposed to those who receive life in prison and
26 whether there is an adequate process for determining when
27 death sentences are excessive or out of line with sentences
28 imposed in other cases where a sentence other than death was
29 imposed;

30 (4) Impact on and services for family members: The

1 impact of the death penalty on family members and loved ones
2 of murder victims and the availability and cost of services
3 currently being provided in Pennsylvania for family members
4 and loved ones of murder victims and whether these services
5 are sufficient to meet the needs of surviving families;

6 (5) Mental retardation: Whether, in light of the Supreme
7 Court ruling in *Atkins v. Virginia*, there are adequate
8 procedural protections in place to assure that people with
9 mental retardation are not in fact being sentenced to death
10 and executed;

11 (6) Mental illness: Whether persons suffering from
12 mental illness constitute a disproportionate number of those
13 on death row, what criteria should be used in judging the
14 level of mental illness involved and whether people with
15 mental illness who are convicted of murder should be
16 executed;

17 (7) Juries: The impact on the reliability and fairness
18 of capital trials of death qualifying jurors and the impact
19 of this practice on the ability of women, people of color and
20 people of faith to serve on capital juries; whether there are
21 adequate procedural protections and remedies in place to make
22 sure that women and African Americans are not excluded from
23 serving as jurors in capital cases; and whether there are
24 adequate procedural protections in place to assure that
25 jurors are able to understand and apply instructions in
26 determining guilt or innocence and the appropriate punishment
27 in a capital case;

28 (8) State appeals and postconviction: Whether there are
29 adequate procedures in place to assure that serious error in
30 capital cases is identified and corrected and to what extent

1 procedural doctrines, such as waiver or forfeiture, operate
2 to prevent judicial review of serious constitutional claims
3 on the merits;

4 (9) Clemency: Whether the current clemency process has
5 procedures in place to assure that it functions as a safety
6 net to assure that factual and procedural errors that
7 directly undermine the reliability and fairness of a capital
8 sentence are remedied;

9 (10) Penological intent: Whether the death penalty
10 rationally serves a legitimate penological intent such as
11 public safety or deterrence;

12 (11) Innocence: Whether there is a risk of execution of
13 an innocent person and whether there are adequate procedural
14 protections in place to prevent an innocent person from being
15 sentenced to death and executed;

16 (12) Alternatives: Whether alternatives to the death
17 penalty exist that would sufficiently ensure public safety
18 and address other legitimate social and penological
19 interests;

20 (13) Counsel: The quality of counsel provided to
21 indigent capital defendants and whether such counsel and the
22 process for providing counsel assures the reliability and
23 fairness of capital trials;

24 (14) Secondary trauma: The impact of the death penalty
25 process on law enforcement, prosecutors, defense counsel,
26 judges, jurors, correctional officers, family members and
27 loved ones of victims and family members of the accused;

28 (15) Length and conditions of confinement on death row:
29 Whether the conditions comply with the requirements of the
30 United States Constitution, the Constitution of the

1 Commonwealth of Pennsylvania and standards of international
2 law and the impact of those conditions on correctional
3 officers;

4 (16) Lethal injection: Whether there are adequate
5 procedures and protocols in place to assure that the death
6 sentence is administered in accordance with requirements of
7 the United States Constitution and the Constitution of the
8 Commonwealth of Pennsylvania; and

9 (17) Public opinion: The opinions of Pennsylvania
10 residents regarding capital punishment, including whether it
11 is a just and appropriate punishment and, if so, under what
12 circumstances should it be imposed;

13 and be it further

14 RESOLVED, THAT THE TASK FORCE AND ADVISORY COMMITTEE
15 COLLABORATE WITH THE JUSTICE CENTER FOR RESEARCH AT THE
16 PENNSYLVANIA STATE UNIVERSITY IN CONDUCTING A STUDY OF THE
17 ADMINISTRATION OF THE DEATH PENALTY IN THIS COMMONWEALTH; AND BE
18 IT FURTHER

19 RESOLVED, THAT THE COLLABORATION BETWEEN THE TASK FORCE AND
20 ADVISORY COMMITTEE AND THE JUSTICE CENTER BE FORMALIZED THROUGH
21 A MEMORANDUM OF UNDERSTANDING SPECIFYING WHAT EACH ORGANIZATION
22 WILL PROVIDE TO THE OTHER IN CONDUCTING THIS STUDY; AND BE IT
23 FURTHER

24 RESOLVED, That the task force and advisory committee hold
25 public hearings as necessary to receive testimony about any of
26 the subjects of study enumerated in this resolution; and be it
27 further

28 RESOLVED, That the task force and advisory committee report
29 their findings and recommendations to the Senate no later than
30 two years after the date this resolution is adopted.

