

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 702 Session of
2010

INTRODUCED BY WATERS, BROWN, JOHNSON, PARKER, PRESTON, BISHOP,
CALTAGIRONE, COHEN, D. COSTA, CREIGHTON, CUTLER, FABRIZIO,
GERBER, HARKINS, MELIO, SABATINA, SIPTROTH, J. TAYLOR,
VITALI, WHEATLEY AND YOUNGBLOOD, MARCH 23, 2010

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 23, 2010

A CONCURRENT RESOLUTION

1 Directing the Joint State Government Commission to establish a
2 bipartisan legislative task force and an advisory committee
3 to conduct a study of capital punishment in Pennsylvania and
4 to report its findings and recommendations to the General
5 Assembly.

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

8 WHEREAS, Each of the three people executed waived the right
9 to appeal; and

10 WHEREAS, As of February 1, 2010, there were 220 existing
11 capital sentences; and

12 WHEREAS, Family members of a murder victim struggle to cope
13 with the loss of their loved one and need services from the
14 Commonwealth in order to manage that loss; and

15 WHEREAS, The financial costs of attempting to implement the
16 death penalty during a national economic crisis may place a
17 burden on the Commonwealth that is not proportionate to what the
18 citizens of Pennsylvania are receiving in return; 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 racial
7 biases exist, and that those biases significantly affect the way
8 parties, witnesses, litigants, lawyers, court employees and
9 potential jurors are treated; and

10 WHEREAS, The public is increasingly concerned about
11 individuals who are wrongly convicted of murder across the
12 nation and in this Commonwealth; and

13 WHEREAS, Postconviction DNA testing has shown that there are
14 wrongful convictions in Pennsylvania, even in capital cases;
15 therefore be it

16 RESOLVED (the Senate concurring), That the General Assembly
17 direct the Joint State Government Commission to establish a
18 bipartisan legislative task force of four members of the Senate
19 and four members of the House of Representatives to conduct a
20 study of capital punishment in Pennsylvania; and be it further

21 RESOLVED, That the President pro tempore of the Senate and
22 the Speaker of the House of Representatives each appoint two
23 members of the task force and the Minority Leader of the Senate
24 and the Minority Leader of the House of Representatives each
25 appoint two members; and be it further

26 RESOLVED, That the Joint State Government Commission oversee
27 the creation of an advisory committee to assist the task force
28 in its study and recommendations; and be it further

29 RESOLVED, That the advisory committee shall consist of the
30 following members who shall be likely to make useful and

1 insightful contributions, including:

2 (1) Two members of the religious, academic or ethical
3 communities.

4 (2) One member or former member of the judiciary,
5 appointed by the Chief Justice of the Pennsylvania Supreme
6 Court.

7 (3) The Attorney General or his designee.

8 (4) One prosecutor, appointed by The Pennsylvania
9 District Attorneys Association.

10 (5) One criminal defense attorney who has handled death
11 penalty cases, to be appointed by the Pennsylvania
12 Association of Criminal Defense Lawyers.

13 (6) One member of the Pennsylvania Bar Association,
14 appointed by the President of the Pennsylvania Bar
15 Association.

16 (7) The Secretary of Corrections or his designee.

17 (8) Two family members of murder victims, one of whom is
18 appointed by the Office of Victim Advocate and one of whom is
19 appointed by Murder Victims' Families for Reconciliation.

20 (9) The president of the Pennsylvania Innocence Project
21 or his designee.

22 (10) One criminologist, to be appointed by the President
23 of The Pennsylvania State University.

24 (11) One member appointed by a civil rights
25 organization.

26 (12) One member appointed by each member of the
27 legislative task force, for a total of eight legislative
28 appointees;

29 and be it further

30 RESOLVED, That the task force, with the assistance of the

1 advisory committee, shall:

2 (1) Review other recent studies of the death penalty
3 from around the country.

4 (2) Review other recent studies pertaining to the death
5 penalty system or its subsystems in Pennsylvania.

6 (3) Undertake a comprehensive analysis of the State's
7 death penalty system to determine what policy
8 recommendations, if any, would guarantee that, in its
9 application and administration, capital punishment in this
10 Commonwealth is free from bias and error;

11 and be it further

12 RESOLVED, That the task force, with the assistance of the
13 advisory committee, shall review every stage of the capital
14 process, including pretrial procedures, jury selection, defense,
15 prosecution, trial procedures, postconviction appeals and
16 clemency procedures, and shall make findings and public policy
17 recommendations in each of the following areas, including, but
18 not limited to:

19 (1) The risk of innocent people being sentenced to death
20 or executed. Where a wrongful conviction occurred in a
21 capital case or case that resulted in a long or a life
22 sentence in this Commonwealth, the task force shall also look
23 at the factors and characteristics of these cases and
24 determine additional areas of study or policy change
25 necessary.

26 (2) Whether the selection of defendants for capital
27 trials is arbitrary, unfair or discriminatory in any way,
28 looking specifically at race, geography and socioeconomic
29 background and any other relevant characteristics of both the
30 defendants and victims.

1 (3) Whether there is unfair, arbitrary or discriminatory
2 variability in the sentencing phase or at any stage of the
3 process. In determining the presence of unfair bias, the task
4 force shall review not only death penalty cases, but also
5 death-eligible cases where the death penalty was not sought.

6 (4) Whether there is a significant difference in the
7 crimes selected for the death penalty as opposed to life in
8 prison.

9 (5) The services that exist in this Commonwealth for
10 family members and loved ones of murder victims, whether
11 these services are sufficient, whether additional services
12 are provided in other states, whether additional services
13 should be provided in this Commonwealth and whether victims'
14 rights and services are provided on an equal basis to all
15 surviving family members regardless of their support for,
16 opposition to or neutrality on the death penalty.

17 (6) The cost of the death penalty system, taking into
18 account all expenses from indictment to execution, as
19 compared to the cost of life in prison. In considering the
20 overall cost of the death penalty, the cost of capital trials
21 that result in life sentences, as well as the death sentences
22 that are reversed on appeal, shall be factored into the
23 equation.

24 (7) Changes to the death penalty, if any, that would
25 ensure a system that is fairly administered and consistently
26 applied, free from impermissible racial, ethnic or geographic
27 bias and that would prevent the innocent from being sentenced
28 to death and execution.

29 (8) Whether the law provides adequate protections for
30 specific vulnerable populations such as persons with mental

1 retardation in accordance with the United States Supreme
2 Court ruling in Atkins v. Virginia, 536 U.S. 304, 122 S.Ct.
3 2242, and persons with mental illness.

4 (9) Whether the death penalty rationally serves a
5 legitimate penological interest, such as deterrence;
6 and be it further

7 RESOLVED, That the task force may propose new legislation, if
8 necessary and appropriate; and be it further

9 RESOLVED, That the task force shall be convened by the
10 legislative member with the most years of continuous service in
11 the General Assembly and, at its organizational meeting, shall
12 elect from among its legislative membership, a chair, vice-
13 chairperson, vice chairperson and such other officers the task
14 force may deem necessary; and be it further

15 RESOLVED, That the advisory committee shall choose a
16 chairperson from among its members; and be it further

17 RESOLVED, That members of the task force and advisory
18 committee shall serve without compensation but may be reimbursed
19 for necessary expenses incurred in the performance of their
20 duties, within the limits of funds appropriated or otherwise
21 made available to the task force and advisory committee for
22 their purposes. All members of the task force or advisory
23 committee who are duly elected members of the General Assembly
24 shall remain members of the task force or advisory committee
25 until they report their findings and recommendations to the
26 General Assembly; and be it further

27 RESOLVED, That the task force and advisory committee shall
28 hold public hearings and may meet in closed executive session to
29 make their final deliberations; and be it further

30 RESOLVED, That all State, county and municipal agencies,

1 departments, boards, bureaus and commissions shall cooperate
2 fully with the task force and advisory committee; and be it
3 further

4 RESOLVED, That the task force and advisory committee shall
5 report their findings and recommendations to the General
6 Assembly no later than two years after the date this resolution
7 is adopted in both houses.