
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 6

Session of
2011

INTRODUCED BY GREENLEAF, ERICKSON, PIPPY, D. WHITE AND LEACH,
JANUARY 12, 2011

REFERRED TO JUDICIARY, JANUARY 12, 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, Postconviction DNA testing has shown that there are
11 wrongful convictions, even in capital cases; therefore be it

12 RESOLVED, That the Senate direct the Joint State Government
13 Commission to establish a bipartisan task force of four members
14 of the Senate to conduct a study of capital punishment in this
15 Commonwealth; and be it further

16 RESOLVED, That the President pro tempore of the Senate
17 appoint two members of the task force and the Minority Leader of
18 the Senate appoint two members of the task force; and be it
19 further

20 RESOLVED, That the Joint State Government Commission oversee
21 the creation of an advisory committee to assist the task force
22 in conducting the study and making recommendations; the advisory
23 committee to have approximately 30 members and be comprised of
24 representatives from those groups most likely to make useful and
25 insightful contributions, such as representatives of the
26 judiciary, prosecution, defense, law enforcement, corrections,
27 victim assistance organizations and also representatives of
28 academia, the faith community, private and public organizations
29 involved in criminal justice issues and other criminal justice
30 experts; and be it further

1 RESOLVED, That the task force, with the assistance of the
2 advisory committee, conduct a study of the following subjects
3 including:

4 (1) Cost: Whether there is a significant difference
5 between the cost of the death penalty from indictment to
6 execution and the cost of life in prison without parole; in
7 considering the overall cost of the death penalty in
8 Pennsylvania, the cost of all the capital trials that result
9 in life sentences as well as death sentences that are
10 reversed on appeal must be factored into the equation;

11 (2) Bias and unfairness: Whether the selection of
12 defendants for capital trials in Pennsylvania is arbitrary,
13 unfair or discriminatory in any way and whether there is
14 unfair, arbitrary or discriminatory variability at any stage
15 in the process including in the sentencing phase;

16 (3) Proportionality: Whether there is a significant
17 difference in the crimes of those selected for the punishment
18 of death as opposed to those who receive life in prison and
19 whether there is an adequate process for determining when
20 death sentences are excessive or out of line with sentences
21 imposed in other cases where a sentence other than death was
22 imposed;

23 (4) Impact on and services for family members: The
24 impact of the death penalty on family members and loved ones
25 of murder victims and the availability and cost of services
26 currently being provided in Pennsylvania for family members
27 and loved ones of murder victims and whether these services
28 are sufficient to meet the needs of surviving families;

29 (5) Mental retardation: Whether, in light of the Supreme
30 Court ruling in *Atkins v. Virginia*, there are adequate

1 procedural protections in place to assure that people with
2 mental retardation are not in fact being sentenced to death
3 and executed;

4 (6) Mental illness: Whether persons suffering from
5 mental illness constitute a disproportionate number of those
6 on death row, what criteria should be used in judging the
7 level of mental illness involved and whether people with
8 mental illness who are convicted of murder should be
9 executed;

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

21 (8) State appeals and postconviction: Whether there are
22 adequate procedures in place to assure that serious error in
23 capital cases is identified and corrected and to what extent
24 procedural doctrines, such as waiver or forfeiture, operate
25 to prevent judicial review of serious constitutional claims
26 on the merits;

27 (9) Clemency: Whether the current clemency process has
28 procedures in place to assure that it functions as a safety
29 net to assure that factual and procedural errors that
30 directly undermine the reliability and fairness of a capital

1 sentence are remedied;

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

5 (11) Innocence: Whether there is a risk of execution of
6 an innocent person and whether there are adequate procedural
7 protections in place to prevent an innocent person from being
8 sentenced to death and executed;

9 (12) Alternatives: Whether alternatives to the death
10 penalty exist that would sufficiently ensure public safety
11 and address other legitimate social and penological
12 interests;

13 (13) Counsel: The quality of counsel provided to
14 indigent capital defendants and whether such counsel and the
15 process for providing counsel assures the reliability and
16 fairness of capital trials;

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

21 (15) Length and conditions of confinement on death row:
22 Whether the conditions comply with the requirements of the
23 United States Constitution, the Constitution of the
24 Commonwealth of Pennsylvania and standards of international
25 law and the impact of those conditions on correctional
26 officers;

27 (16) Lethal injection: Whether there are adequate
28 procedures and protocols in place to assure that the death
29 sentence is administered in accordance with requirements of
30 the United States Constitution and the Constitution of the

1 Commonwealth of Pennsylvania; and

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

6 and be it further

7 RESOLVED, That the task force and advisory committee hold
8 public hearings as necessary to receive testimony about any of
9 the subjects of study enumerated in this resolution; and be it
10 further

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