

P.L. 2005, CHAPTER 321, *approved January 12, 2006*
Senate, No. 709 (*First Reprint*)

1 AN ACT creating a study commission on the death penalty ¹and
2 imposing a moratorium on executions and amending P.L.1983,
3 c.245¹.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

- 8 1. ¹(New section)¹ The Legislature finds and declares that:
9 a. Life is the most valuable possession of a human being; the State
10 should exercise utmost care to protect its residents' lives from
11 homicide, accident, or arbitrary or wrongful taking by the State;
12 b. The experience of this State with the death penalty has been
13 characterized by significant expenditures of money and time;
14 c. The financial costs of attempting to implement the death penalty
15 statutes may not be justifiable in light of the other needs of this State;
16 d. There is a lack of any meaningful procedure to ensure uniform
17 application of the death penalty in each county throughout the State;
18 e. There is public concern that racial and socio-economic factors
19 influence the decisions to seek or impose the death penalty;
20 f. There has been increasing public awareness of cases of
21 individuals wrongfully convicted of murder, in New Jersey and
22 elsewhere in the nation;
23 g. The Legislature is troubled that the possibility of mistake in the
24 death penalty process may undermine public confidence in our criminal
25 justice system;
26 h. The execution of an innocent person by the State of New Jersey
27 would be a grave and irreversible injustice;
28 i. Many citizens may favor life in prison without parole or life in
29 prison without parole with restitution to the victims as alternatives to
30 the death penalty; and
31 j. In order for the State to protect its moral and ethical integrity,
32 the State must ensure a justice system which is impartial, uncorrupted,
33 equitable, competent, and in line with evolving standards of decency.
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35 2. ¹(New section)¹ a. There is established the New Jersey Death
36 Penalty Study Commission.
37 b. The commission shall study all aspects of the death penalty as
38 currently administered in the State of New Jersey, including but not

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 Senate floor amendments adopted December 8, 2005.

1 limited to the following issues:

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

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

10 (3) whether the death penalty is consistent with evolving standards
11 of decency;

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

16 (5) whether there is a significant difference in the crimes of those
17 selected for the punishment of death as opposed to those who receive
18 life in prison;

19 (6) whether the penological interest in executing some of those
20 guilty of murder is sufficiently compelling that the risk of an
21 irreversible mistake is acceptable; and

22 (7) whether alternatives to the death penalty exist that would
23 sufficiently ensure public safety and address other legitimate social and
24 penological interests, including the interests of families of victims.

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

26 d. The commission shall be composed of 13 members.
27 Appointments should reflect the diversity of the population of New
28 Jersey. Members will be appointed as follows:

29 (1) five members appointed by the Governor, at least one of whom
30 shall be appointed from each of the following groups: Murder Victims
31 Families for Reconciliation and the New Jersey Crime Victims' Law
32 Center; and at least two of whom shall be appointed from the
33 religious/ethical community in New Jersey;

34 (2) two members appointed by the President of the Senate, one of
35 whom shall be a Republican, and one of whom shall be a Democrat;

36 (3) two members appointed by the Speaker of the General
37 Assembly, one of whom shall be a Republican, and one of whom shall
38 be a Democrat;

39 (4) the Public Defender or his designee;

40 (5) the Attorney General or his designee;

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

43 (7) a representative of the County Prosecutors Association of New
44 Jersey.

45 e. Members shall be appointed within ¹[three months] 45 days¹ of
46 enactment.

1 f. The ¹[Attorney General's office]Office of Legislative Services¹
2 shall provide staffing for the work of the commission.

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

8 h. The commission shall choose a chairperson from among its
9 members.

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

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

19 k. The commission may meet and hold hearings at the places it
20 designates during the sessions or recesses of the Legislature and shall
21 report its findings and recommendations to the Governor and the
22 Legislature, along with any legislation it desires to recommend for
23 adoption by the Legislature, no later than ¹[18 months after the
24 appointment of all members of the commission] November 15, 2006¹.

25
26 ¹3. (New section) Beginning on the effective date of this act, if a
27 defendant has been sentenced to death pursuant to subsection c. of
28 N.J.S.2C:11-3, the sentence of death will not be executed prior to 60
29 days after the issuance of the commission's report and
30 recommendations.¹

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32 ¹4. Section 5 of P.L.1983, c.245 (C.2C:49-5) is amended to read
33 as follows:

34 5. a. When a person is sentenced to the punishment of death, the
35 judge who presided at the sentencing proceeding or if that judge is
36 unavailable for any reason, then the assignment judge of the vicinage
37 and, if not available, then any Superior Court judge of the vicinage,
38 shall make out, sign and deliver to the sheriff of the county, a warrant
39 directed to the commissioner, stating the conviction and sentence,
40 appointing a date on which the sentence shall be executed, and
41 commanding the commissioner to execute the sentence on that date
42 except as provided in section 3 of P.L. c. (C.)(now pending
43 before the Legislature as section 3 of this bill).

44 b. If the execution of the sentence on the date appointed shall be
45 delayed while the conviction or sentence is being appealed, the judge
46 authorized to act pursuant to subsection a. of this section, at the

1 conclusion of the appellate process, if the conviction or sentence is
2 not set aside, shall make out, sign and deliver another warrant as
3 provided in subsection a. of this section. If the execution of the
4 sentence on the date appointed is delayed by any other cause, the
5 judge shall, as soon as such cause ceases to exist, make out, sign and
6 deliver another warrant as provided in subsection a. of this section.

7 c. The date appointed in the warrant shall be not less than 30 days
8 and not more than 60 days after the issuance of the warrant. The
9 commissioner may fix the time of execution on that date.¹

10 (cf: P.L.1983, c.245, s.5)

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12 ¹[3.] 5.¹ This act shall take effect immediately.

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17 _____
18 Creates study commission on the death penalty and imposes
moratorium on imposition of death penalty.