

CHAPTER 321

AN ACT creating a study commission on the death penalty and imposing a moratorium on executions and amending P.L.1983, c.245.

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

1. The Legislature finds and declares that:
 - a. Life is the most valuable possession of a human being; the State should exercise utmost care to protect its residents' lives from homicide, accident, or arbitrary or wrongful taking by the State;
 - b. The experience of this State with the death penalty has been characterized by significant expenditures of money and time;
 - c. The financial costs of attempting to implement the death penalty statutes may not be justifiable in light of the other needs of this State;
 - d. There is a lack of any meaningful procedure to ensure uniform application of the death penalty in each county throughout the State;
 - e. There is public concern that racial and socio-economic factors influence the decisions to seek or impose the death penalty;
 - f. There has been increasing public awareness of cases of individuals wrongfully convicted of murder, in New Jersey and elsewhere in the nation;
 - g. The Legislature is troubled that the possibility of mistake in the death penalty process may undermine public confidence in our criminal justice system;
 - h. The execution of an innocent person by the State of New Jersey would be a grave and irreversible injustice;
 - i. Many citizens may favor life in prison without parole or life in prison without parole with restitution to the victims as alternatives to the death penalty; and
 - j. In order for the State to protect its moral and ethical integrity, the State must ensure a justice system which is impartial, uncorrupted, equitable, competent, and in line with evolving standards of decency.

2.
 - a. There is established the New Jersey Death Penalty Study Commission.
 - b. The commission shall study all aspects of the death penalty as currently administered in the State of New Jersey, including but not limited to the following issues:
 - (1) whether the death penalty rationally serves a legitimate penological intent such as deterrence;
 - (2) whether there is a significant difference between the cost of the death penalty from indictment to execution and the cost of life in prison without parole; in considering the overall cost of the death penalty in New Jersey, the cost of all the capital trials that result in life sentences as well as the death sentences that are reversed on appeal must be factored into the equation;
 - (3) whether the death penalty is consistent with evolving standards of decency;
 - (4) whether the selection of defendants in New Jersey for capital trials is arbitrary, unfair, or discriminatory in any way and there is unfair, arbitrary, or discriminatory variability in the sentencing phase or at any stage of the process;
 - (5) whether there is a significant difference in the crimes of those selected for the punishment of death as opposed to those who receive life in prison;
 - (6) whether the penological interest in executing some of those guilty of murder is sufficiently compelling that the risk of an irreversible mistake is acceptable; and
 - (7) whether alternatives to the death penalty exist that would sufficiently ensure public safety and address other legitimate social and penological interests, including the interests of families of victims.
 - c. The commission will propose new legislation, if appropriate.
 - d. The commission shall be composed of 13 members. Appointments should reflect the diversity of the population of New Jersey. Members will be appointed as follows:
 - (1) five members appointed by the Governor, at least one of whom shall be appointed from each of the following groups: Murder Victims Families for Reconciliation and the New Jersey Crime Victims' Law Center; and at least two of whom shall be appointed from the religious/ethical community in New Jersey;

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

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

(4) the Public Defender or his designee;

(5) the Attorney General or his designee;

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

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

e. Members shall be appointed within 45 days of enactment.

f. The Office of Legislative Services shall provide staffing for the work of the commission.

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

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

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

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

k. The commission may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature, along with any legislation it desires to recommend for adoption by the Legislature, no later than November 15, 2006.

3. Beginning on the effective date of this act, if a defendant has been sentenced to death pursuant to subsection c. of N.J.S.2C:11-3, the sentence of death will not be executed prior to 60 days after the issuance of the commission's report and recommendations.

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

C.2C:49-5 Warrant of execution; date.

5. a. When a person is sentenced to the punishment of death, the judge who presided at the sentencing proceeding or if that judge is unavailable for any reason, then the assignment judge of the vicinage and, if not available, then any Superior Court judge of the vicinage, shall make out, sign and deliver to the sheriff of the county, a warrant directed to the commissioner, stating the conviction and sentence, appointing a date on which the sentence shall be executed, and commanding the commissioner to execute the sentence on that date except as provided in section 3 of P.L.2005, c.321.

b. If the execution of the sentence on the date appointed shall be delayed while the conviction or sentence is being appealed, the judge authorized to act pursuant to subsection a. of this section, at the conclusion of the appellate process, if the conviction or sentence is not set aside, shall make out, sign and deliver another warrant as provided in subsection a. of this section. If the execution of the sentence on the date appointed is delayed by any other cause, the judge shall, as soon as such cause ceases to exist, make out, sign and deliver another warrant as provided in subsection a. of this section.

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

5. This act shall take effect immediately.

Approved January 12, 2006.