

ASSEMBLY CONCURRENT RESOLUTION No. 90

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1996

By Assemblymen PASCARELL, KELLY, Garcia and Kramer

1 A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 12  
2 of the Constitution of the State of New Jersey.

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4 BE IT RESOLVED by the General Assembly of the State of New Jersey  
5 (the Senate concurring):

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7 1. The following proposed amendment to the Constitution of the State of  
8 New Jersey is hereby agreed to:

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10 PROPOSED AMENDMENT

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12 Amend Article I, paragraph 12 to read as follows:

13 12. Excessive bail shall not be required, excessive fines shall not be  
14 imposed, and cruel and unusual punishments shall not be inflicted. It shall not  
15 be cruel and unusual punishment to impose the death penalty on a person  
16 convicted of purposely or knowingly causing death or purposely or knowingly  
17 causing serious bodily injury resulting in death who committed the homicidal  
18 act by his own conduct or who as an accomplice procured the commission of  
19 the offense by payment or promise of payment of anything of pecuniary value.

20 It shall not be cruel and unusual punishment to impose the death penalty on  
21 every person convicted of the murder of a law enforcement officer acting in  
22 the performance of his duties while in uniform or after exhibiting evidence of  
23 his authority if the person purposely or knowingly caused the death of the law  
24 enforcement officer or purposely or knowingly caused serious bodily injury  
25 resulting in the death of the law enforcement officer.

26 (cf: Art. 1, para. 12, amended Nov. 3, 1992, effective Dec. 3, 1992)

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28 2. When this proposed amendment to the Constitution is finally agreed to  
29 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted  
30 to the people at the next general election occurring more than three months  
31 after the final agreement and shall be published at least once in at least one  
32 newspaper of each county designated by the President of the Senate, the

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.

1 Speaker of the General Assembly and the Secretary of State, not less than  
 2 three months prior to the general election.

3 3. This proposed amendment to the Constitution shall be submitted to the  
 4 people at that election in the following manner and form:

5 There shall be printed on each official ballot to be used at the general  
 6 election, the following:

7 a. In every municipality in which voting machines are not used, a legend  
 8 which shall immediately precede the question, as follows:

9 If you favor the proposition printed below make a cross (X), plus (+) or  
 10 check (T) in the square opposite the word 'Yes.' If you are opposed thereto  
 11 make a cross (X), plus (+) or check (T) in the square opposite the word 'No.'

12 In every municipality the following question:

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<p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p>	<p>YES</p>	<p>DEATH PENALTY FOR MURDER OF A                      LAW ENFORCEMENT OFFICER</p> <p>Shall the amendment to Article I, paragraph 12 of                      the Constitution, providing that it is not cruel and                      unusual punishment to impose the death penalty on                      every person convicted of the murder of a law                      enforcement officer acting in the performance of his                      duties while in uniform or after exhibiting evidence                      of his authority, if the person purposely or                      knowingly caused the death of the law enforcement                      officer or purposely or knowingly caused serious                      bodily injury resulting in the death of the law                      enforcement officer, be approved?</p>
<p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p>	<p>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>This constitutional amendment would provide that                      it is not cruel and unusual punishment under our                      State Constitution to impose the death penalty on                      every person who is convicted of the purposeful                      and knowing murder of a law enforcement officer                      acting in the performance of his duties or after                      exhibiting evidence of his authority.</p>

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STATEMENT

Under current law, a person convicted of purposeful or knowing murder who committed the act by his own conduct is subject to the death penalty, but will only receive the death penalty if the jury weighs the aggravating factors and the mitigating factors of the particular circumstances of his case and determines that all of the aggravating factors outweigh beyond a reasonable doubt all of the mitigating factors. If the jury does not so determine, the court cannot sentence the person to death but can sentence him to a term of 30 years without parole eligibility, or to a specific term between 30 years and life imprisonment, of which the person must serve 30 years before being eligible for parole.

This proposed constitutional amendment would allow every person who murders a law enforcement officer to be sentenced to death without any consideration of aggravating and mitigating factors. The proposed amendment provides that it is not cruel and unusual punishment under our State constitution to impose the death penalty on every person convicted of the murder of a law enforcement officer acting in the performance of his duties while in uniform or after exhibiting evidence of his authority if the person purposely or knowingly caused the death of the law enforcement officer or purposely or knowingly caused serious bodily injury resulting in the death of the law enforcement officer.

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Amends the State Constitution to provide that it is not cruel and unusual punishment to impose the death penalty on all persons who murder law enforcement officers acting in the performance of their duties.