

**SENATE CONCURRENT RESOLUTION No. 96**

**STATE OF NEW JERSEY**

INTRODUCED OCTOBER 28, 1996

**By Senator CASEY**

1 **A CONCURRENT RESOLUTION** proposing to amend Article VI, Section II of  
2 the Constitution of the State of New Jersey by adding a new paragraph 4  
3 thereto.

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

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

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11 **PROPOSED AMENDMENT**

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13 Amend Article VI, Section II by adding a new paragraph 4 to read as  
14 follows:

15 4. No provision of this Constitution shall be deemed to require that post-  
16 conviction relief proceedings or proportionality review be conducted in a  
17 death penalty case when a defendant who is determined to be mentally  
18 competent knowingly and voluntarily chooses not to pursue these procedures.

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20 2. When this proposed amendment to the Constitution is finally agreed to  
21 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted  
22 to the people at the next general election occurring more than three months  
23 after the final agreement and shall be published at least once in at least one  
24 newspaper of each county designated by the President of the Senate, the  
25 Speaker of the General Assembly and the Secretary of State, not less than  
26 three months prior to the general election.

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

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

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

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

4 b. In every municipality the following question:  
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<p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p>	<p>YES</p>	<p>APPELLATE PROCEEDINGS IN DEATH                  PENALTY CASES</p> <p>Do you approve of the amendment to the                  Constitution of the State of New Jersey agreed to                  by the Legislature, providing that post-conviction                  relief proceedings or proportionality review need                  not be conducted in a death penalty case when a                  defendant who is determined to be mentally                  competent knowingly and voluntarily chooses not                  to pursue these procedures?</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>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>NO</p>	<p>INTERPRETIVE STATEMENT</p> <p>Post- conviction relief refers to motions made after                  a criminal conviction has been upheld on appeal                  seeking reversal of that conviction on grounds such                  as ineffective counsel or new evidence.                  Proportionality review is a part of the appellate                  process in death penalty cases in which a                  defendant's death sentence is compared to the                  sentences imposed in similar cases in order to                  determine whether the sentence was                  disproportionate. This constitutional amendment                  would permit a mentally competent defendant to                  knowingly and voluntarily choose not to pursue                  post- conviction relief and proportionality review.                  In <u>State v. Martini</u>, ___ N.J.__(decided June 28,                  1996), our Supreme Court held that New Jersey's                  Constitution presently does not permit the voluntary                  waiver of post- conviction relief proceedings in                  death penalty cases.</p>

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40 STATEMENT

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42 In State v. Martini, \_\_\_ N.J.\_\_(decided June 28, 1996), our Supreme

1 Court held that mentally competent defendants in death penalty cases could  
2 not voluntarily waive post-conviction relief procedures. This proposed  
3 constitutional amendment would provide that nothing in New Jersey's  
4 Constitution shall be deemed to require that post- conviction relief  
5 proceedings and proportionality review be conducted in a death penalty case  
6 when a defendant who is determined to be mentally competent knowingly and  
7 voluntarily chooses not to pursue these procedures.

8 Post-conviction relief refers to motions made after a criminal conviction has  
9 been upheld on direct appeal seeking reversal of that conviction on grounds  
10 such as ineffective counsel or new evidence. Proportionality review is part of  
11 the appellate process in death penalty cases in which a defendant's death  
12 sentence is compared to the sentences imposed in similar cases in order to  
13 determine whether the sentence was disproportionate.

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18 Amends the State Constitution to permit mentally competent persons to  
19 voluntarily waive certain post-conviction procedures in death penalty cases.