

SENATE CONCURRENT RESOLUTION No. 97

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators MATHEUSSEN, GORMLEY, Kosco and Cafiero

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:

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

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

6 b. In every municipality the following question:
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<p>8 9 10 11 12 13 14 15 16 17 18</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>19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40</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>

1 STATEMENT

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3 In State v. Martini, ___ N.J. ___ (decided June 28, 1996), our Supreme
4 Court held that mentally competent defendants in death penalty cases could
5 not voluntarily waive post-conviction relief procedures. This proposed
6 constitutional amendment would provide that nothing in New Jersey's
7 Constitution shall be deemed to require that post- conviction relief
8 proceedings and proportionality review be conducted in a death penalty case
9 when a defendant who is determined to be mentally competent knowingly and
10 voluntarily chooses not to pursue these procedures.

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

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