

[Third Reprint]

**ASSEMBLY, No. 1913**

**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

INTRODUCED FEBRUARY 21, 2002

**Sponsored by:**

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**District 35 (Bergen and Passaic)**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

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**SYNOPSIS**

Creates study commission on the death penalty.

**CURRENT VERSION OF TEXT**

As reported by the Senate Judiciary Committee on November 24, 2003, with amendments.

(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT creating a <sup>2</sup>study<sup>2</sup> commission on the death penalty <sup>1</sup>[and  
2 suspending] <sup>2</sup>[, recommending suspension of<sup>1</sup> executions until]<sup>2</sup>  
3 <sup>1</sup>[such time as a report from the commission is submitted to the  
4 Legislature and the Legislature and the Governor act in response to  
5 recommendations from]<sup>1</sup> <sup>2</sup>[the study commission]<sup>2</sup> <sup>1</sup>[,]<sup>2</sup> [has  
6 completed its report and<sup>1</sup> supplementing P.L.1983, c.245]<sup>2</sup>.

7

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

10

11 1. The Legislature finds and declares that:

12 a. Life is the most valuable possession of a human being<sup>1</sup>[. The];  
13 the<sup>1</sup> State should exercise utmost care to protect its residents' lives  
14 from homicide, accident, <sup>1</sup>or<sup>1</sup> arbitrary or wrongful taking by the  
15 State;

16 b. The experience of this State with the death penalty has been  
17 characterized by significant expenditures of money and time;

18 c. The financial costs of attempting to implement the death penalty  
19 statutes may not be justifiable in light of the other needs of this State;

20 d. There is a lack of any meaningful procedure to ensure uniform  
21 application of the death penalty in each county throughout the State;

22 e. There is public concern that racial and socio-economic factors  
23 influence the decisions to seek or impose the death penalty;

24 f. There has been increasing public awareness of cases of  
25 individuals wrongfully convicted of murder, in New Jersey and  
26 elsewhere in the nation;

27 g. The Legislature is troubled that the possibility of mistake in the  
28 death penalty process may undermine public confidence in our criminal  
29 justice system;

30 h. The execution of an innocent person by the State of New Jersey  
31 would be a grave and irreversible injustice;

32 i. Many citizens may favor life in prison without parole or life in  
33 prison without parole with restitution to the victims as alternatives to  
34 the death penalty; and

35 j. In order for the State to protect its moral and ethical integrity,  
36 the State must ensure a justice system which is impartial, uncorrupted,  
37 equitable, competent, and in line with evolving standards of decency.

38

39 2. a. There is established the New Jersey Death Penalty Study  
40 Commission.

**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:**

<sup>1</sup> Assembly ALP committee amendments adopted December 9, 2002.

<sup>2</sup> Assembly floor amendments adopted December 12, 2002.

<sup>3</sup> Senate SJU committee amendments adopted November 24, 2003.

1       b. The commission shall study all aspects of the death penalty as  
2 currently administered in the State of New Jersey, including but not  
3 limited to the following issues:

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

6       (2) whether <sup>1</sup>there is a significant difference between<sup>1</sup> the cost of  
7 the death penalty from indictment to execution <sup>1</sup>[outweighs] and<sup>1</sup> the  
8 cost of life in prison without parole<sup>1</sup>[. In]; in<sup>1</sup> considering the overall  
9 cost of the death penalty in New Jersey, the cost of all the capital trials  
10 that result in life sentences as well as the death sentences that are  
11 reversed on appeal must be factored into the equation<sup>1</sup>[.];<sup>1</sup>

12       (3) whether the death penalty is consistent with evolving standards  
13 of decency<sup>1</sup>[.];<sup>1</sup>

14       (4) whether the selection of defendants in New Jersey for capital  
15 trials is arbitrary, unfair, or discriminatory in any way and there is  
16 unfair, arbitrary, or discriminatory variability in the sentencing phase  
17 or at any stage of the process<sup>1</sup>[. Whether];

18       (5) whether<sup>1</sup> there is a significant difference in the crimes of those  
19 selected for the punishment of death as opposed to those who receive  
20 life in prison<sup>1</sup>[.];<sup>1</sup>

21       <sup>1</sup>[(5)] (6)<sup>1</sup> whether the penological interest in executing some of  
22 those guilty of murder is sufficiently compelling that the risk of an  
23 <sup>1</sup>[inevitable and]<sup>1</sup> irreversible mistake is acceptable<sup>1</sup>[.]; and<sup>1</sup>

24       <sup>1</sup>[(6)] (7)<sup>1</sup> whether alternatives to the death penalty exist that  
25 would sufficiently ensure public safety and address other legitimate  
26 social and penological interests<sup>1</sup>, including the interests of families of  
27 victims<sup>1</sup>.

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

29       d. The commission shall be composed of <sup>1</sup>[11] 13<sup>1</sup> members.  
30 Appointments should reflect the diversity of the population of New  
31 Jersey. Members will be appointed as follows:

32       (1) five members appointed by the Governor, <sup>1</sup>at least<sup>1</sup> one of  
33 whom shall be appointed from each of the following groups: Murder  
34 Victims Families for Reconciliation and the New Jersey Crime Victims'  
35 Law Center; and <sup>1</sup>[three] at least two<sup>1</sup> of whom shall be appointed  
36 from the religious/ethical community in New Jersey;

37       (2) <sup>3</sup>[one member appointed by each of the co-Presidents of the  
38 Senate] two members appointed by the President of the Senate, one  
39 of whom shall be a Republican, and one of whom shall be a  
40 Democrat<sup>3</sup>;

41       (3) two members appointed by the Speaker of the General  
42 Assembly <sup>1</sup>[(], <sup>1</sup>one of whom shall be a Republican, and one of whom  
43 shall be a Democrat<sup>1</sup>[()];

44       (4) the Public Defender or his designee;

45       (5) the Attorney General or his designee<sup>1</sup>;

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

3     (7) a representative of the County Prosecutors Association of New  
4 Jersey<sup>1</sup>.

5     e. Members shall be appointed within three months of enactment.

6     f. The Attorney General's office shall provide staffing <sup>3</sup>[and  
7 budgeting]<sup>3</sup> for the work of the commission.

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

13     h. The commission shall choose a <sup>1</sup>[Chair] chairperson<sup>1</sup> from  
14 among its members.

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

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

24     k. The commission may meet and hold hearings at the places it  
25 designates during the sessions or recesses of the Legislature and shall  
26 report its findings and recommendations to the Governor and the  
27 Legislature, along with any legislation it desires to recommend for  
28 adoption by the Legislature, no later than <sup>1</sup>[12] 18<sup>1</sup> months after the  
29 appointment of all members of the commission.

30  
31     <sup>2</sup>[3. <sup>1</sup>[Beginning on the effective date of this act, if a defendant  
32 has been sentenced to death pursuant to subsection c. of N.J.S.2C:11-  
33 3, the sentence of death will not be executed prior to the issuance of  
34 the report and final action of the Legislature and the Governor in  
35 response to the Commission's report and recommendations] The  
36 Legislature acknowledges the seriousness of the questions raised  
37 herein. The Legislature also acknowledges that the commission will  
38 need to dispassionately examine all questions surrounding the use of  
39 the death penalty in the State of New Jersey. It is further  
40 acknowledged that the pressures of a pending execution might affect  
41 the deliberations of the commission. It is therefore recommended that  
42 no execution should be carried out until the commission has completed  
43 its report<sup>1</sup>.]<sup>2</sup>

44  
45     <sup>2</sup>[4.] 3.<sup>2</sup> This act shall take effect immediately.