GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

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HOUSE BILL 1116 Committee Substitute Reported Without Prejudice 4/24/01

Short Title: Death Penalty Moratorium.

Sponsors:

Referred to:

April 12, 2001

1	A BILL TO BE ENTITLED		
2	AN ACT TO ESTABLISH A MORATORIUM ON CARRYING OUT THE DEATH		
3	PENALTY AND TO CREATE A LEGISLATIVE STUDY COMMISSION ON		
4	THE DEATH PENALTY.		
5	The General Assembly of North Carolina enacts:		
6	SECTION 1. Notwithstanding any other provision of law, a moratorium is		
7	established with regard to carrying out any death penalty imposed by a court of this		
8	State. No person who has been or is sentenced to death by a court of this State shall be		
9	executed until the moratorium ends as provided by this act.		
10	SECTION 2. The moratorium on carrying out the death penalty shall end		
11	only upon action by the General Assembly addressing the fair and impartial		
12	administration of the death penalty in accordance with due process, and limiting, to the		
13	degree practicable, the risk that innocent persons may be executed. Action by the		
14	General Assembly pursuant to this section shall be supported by a study conducted		
15	during the period of the moratorium pursuant to Section 3 of this act.		
16	SECTION 3.(a) Commission established. – There is established a Death		
17	Penalty Study Commission.		
18	SECTION 3.(b) Membership. – The Commission shall be composed of 12		
19	members as follows:		
20	(1) Four members of the House of Representatives, appointed by the		
21	Speaker of the House of Representatives.		
22	(2) Four members of the Senate, appointed by the President Pro Tempore		
23	of the Senate.		
24	(3) Two members of the public, appointed by the Speaker of the House of		
25	Representatives.		
26	(4) Two members of the public, appointed by the President Pro Tempore		
27	of the Senate.		
28	SECTION 3.(c) Duties of the Commission. – The study shall include the		
29	examination of all the following:		

(Public)

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1	(1)	The adequacy of counsel in all stages of capital cases, and the	
2 3		sufficiency of guidelines for the appointment and performance of such	
3 4	(2)	counsel. The process for judicial review of the merits of constitutional claims in	
5	(2)	State postconviction and federal habeas corpus proceedings.	
6	(3)	Any disproportionate racial impact from any aspect of capital case	
7		processing.	
8	(4)	Whether there is discrimination in capital sentencing on the basis of	
9		the victim's or the defendant's race.	
10	(5)	Whether mentally retarded persons should be executed.	
11 12	(6)	Prosecutorial misconduct as a factor in the imposition of the death penalty.	
12	(7)	The presence of innocent persons on death row.	
14		FION 3.(d) Vacancies. – Any vacancy on the Commission shall be	
15	filled by the appointing authority.		
16	SECTION 3.(e) Cochairs. – Cochairs of the Commission shall be designated		
17	by the Speaker of the House of Representatives and the President Pro Tempore of the		
18	Senate from among their respective appointees. The Commission shall meet upon the		
19	call of the chairs. A quorum of the Commission shall be six members.		
20	SECTION 3.(f) Expenses of Members. – Members of the Commission shall		
21	receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,		
22	138-5, or 138-6, as appropriate.		
23 24	SECTION 3.(g) Staff. – The Legislative Services Office shall assign		
24 25	professional and clerical staff to the assist the Commission in its work. SECTION 3 (b) Consultants The Commission may hire consultants to		
23 26	SECTION 3.(h) Consultants. – The Commission may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S.		
20 27	120-32.02.		
28	SECTION 3.(i) Meetings During Legislative Session. – The Commission		
29	may meet during a regular or extra session of the General Assembly, subject to approval		
30	of the Speaker of the House of Representatives and the President Pro Tempore of the		
31	Senate.		
32	SECT	FION 3.(j) Meeting Location. – The Commission may meet at various	
33		d the State in order to promote greater public participation in its	
34	deliberations. The Legislative Services Commission shall grant adequate meeting space		
35	to the Commission in the State Legislative Building or the Legislative Office Building.		
36	SECTION 3.(k) Report. – The Commission shall submit a final report of its		
37	findings and recommendations to the President Pro Tempore of the Senate, the Speaker		
38	of the House of Representatives, the Governor, and the Attorney General no later than		
39 40	February 1, 2003. Upon the filing of its final report, the Commission shall terminate.		
40 41	SECTION 4. There is appropriated from the General Fund to the Legislative Services Commission the sum of fifty thousand dollars (\$50,000) for the 2001-2002		
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- 1 fiscal year and the sum of fifty thousand dollars (\$50,000) for the 2002-2003 fiscal year
- 2 to fund the expenses of the Commission.

3 **SECTION 5.** Sections 1, 2, and 5 of this act are effective when it becomes 4 law. Sections 3 and 4 of this act become effective July 1, 2001.