

SENATE CONCURRENT RESOLUTION NO. 54

BY SENATOR MORRELL

A CONCURRENT RESOLUTION

To create and provide for the Capital Punishment Fiscal Impact Commission to study the fiscal costs of the death penalty in Louisiana and to recommend any action or legislation that the commission deems necessary or appropriate.

WHEREAS, the determination of the appropriate sanction for criminal offenses is a legislative prerogative, to be determined with full understanding of the costs and benefits associated with the punishment; and

WHEREAS, capital punishment is authorized under the Constitution of Louisiana and state statute, including R.S. 14:30, first degree murder; and

WHEREAS, the legislative enactment of statutes authorizing capital punishment requires the provision for and funding of systems to administer the punishment appropriately and effectively; and

WHEREAS, the legislature recognizes the importance of collecting and verifying objective statistical data on the cost of capital punishment in Louisiana; and

WHEREAS, questions are frequently raised regarding the costs of the administration of a system of capital punishment; and

WHEREAS, data regarding the costs associated with the death penalty would assist the executive and legislative branches, including but not limited to district attorneys, the Department of Public Safety and Corrections, the office of the attorney general, the Louisiana Public Defender Board, the House Judiciary Committee, the House Committee on Administration of Criminal Justice, the Senate Judiciary B Committee, the Senate Judiciary C Committee, the Joint Legislative Committee on the Budget, victims' rights organizations, and other interested parties in the appropriate use of resources, and would also ensure an adequate service delivery system.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby create the Capital Punishment Fiscal Impact Commission to conduct a study of the fiscal

impact of capital punishment in this state.

BE IT FURTHER RESOLVED that the commission created herein shall consist of the following fifteen members:

- (1) The chairman of the Senate Judiciary B Committee, or his designee, who shall serve as co-chairman of the commission.
- (2) The chairman of the Senate Judiciary C Committee, or his designee.
- (3) The chairman of the House Committee on Administration of Criminal Justice, or his designee, who shall serve as co-chairman of the commission.
- (4) The chairman of the House Judiciary Committee, or his designee.
- (5) A district attorney appointed by the Louisiana District Attorneys Association, or his designee.
- (6) A public defender appointed by the Louisiana Public Defender Board, or his designee.
- (7) A person selected by the secretary of the Department of Public Safety and Corrections, or his designee.
- (8) The legislative auditor, or his designee.
- (9) A member of the Louisiana Sentencing Commission to be selected by the chairman of the commission, or his designee.
- (10) An attorney appointed by the Louisiana Association of Criminal Defense Lawyers, or his designee.
- (11) A person appointed by the Pelican Institute for Public Policy, or his designee.
- (12) A person appointed by Louisiana Budget Project, or his designee.
- (13) A person appointed by Louisiana Interchurch Conference, or his designee.
- (14) A person appointed by the Louisiana Sheriff's Association, or his designee.
- (15) The attorney general, or his designee.

BE IT FURTHER RESOLVED that the commission study shall include an examination and analysis concerning the costs of prosecuting and adjudicating all potential capital murder cases as compared to noncapital murder cases, including the costs relating to the death penalty that are borne by the state of Louisiana and by local governments in this state at each stage of the proceedings in capital murder cases, including costs relating to:

- (1) Legal counsel involved in the prosecution and defense of a capital murder case for all pretrial, trial, and post-conviction proceedings.
- (2) Additional procedural costs involved in capital murder cases as compared to noncapital murder cases.
- (3) The investigation of a case before a person is charged with a crime, including costs for investigation by the prosecution and the defense.
- (4) Pretrial motions and any heightened costs of pretrial discovery associated with capital cases.
- (5) The length of delay between offense and trial.
- (6) Extradition.
- (7) Psychiatric and medical evaluations.
- (8) Expert witnesses, including but not limited to the costs incurred by the coroner, the court for the appointment of sanity commissions, and other capital crime and punishment experts.
- (9) Expenses for witnesses other than expert witnesses, including expenses for witnesses during the penalty phase.
- (10) Facilities, including any additional costs to the court, such as costs for increased security.
- (11) Juries, including the cost of jury selection and sequestration.
- (12) Sentencing proceedings.
- (13) The preparation and maintenance of records, including transcription, lodging of records, and maintaining case files.
- (14) Appellate and post-conviction proceedings, including motions, writs of certiorari, and state and federal petitions for post-conviction relief.
- (15) Reversal of verdict or a new trial based upon the heightened standard of review required in capital cases.
- (16) Requests for clemency.
- (17) The incarceration of persons awaiting trial in capital murder cases and persons awaiting execution, including the length of such incarceration and additional security costs.

- (18) Law and policy prohibiting defendants under a death sentence from working at hard labor.
- (19) Remuneration for wrongful conviction or sentence, or costs incurred for the prevention of wrongful conviction or sentence.
- (20) Victim services.
- (21) Protections to ensure the fairness of capital proceedings and the prevention of wrongful executions.
- (22) Litigation of nonfrivolous civil claims associated with detention on death row, including the costs of defending and prosecuting such claims.
- (23) The execution of a sentence of death, including costs of facilities and staff, medicine, licensing, and litigation concerning these functions.

BE IT FURTHER RESOLVED that the commission study shall include an assessment of the costs incurred as a result of the possibility of capital punishment for violations of R.S. 14:30, first degree murder, identification of the agency responsible for bearing these costs, and the impact of those expenditures on the agency.

BE IT FURTHER RESOLVED that the commission study shall include an examination and analysis concerning any potential cost savings relative to:

- (1) The appropriate use of plea bargaining in potential capital cases.
- (2) Strategic litigation choices by the prosecution and the defense in potential capital cases.
- (3) The execution of a death sentence.

BE IT FURTHER RESOLVED that the commission study shall include an examination and analysis concerning whether potential cost savings can be secured through alternative measures, including but not limited to alteration of punishment schemes, internalizing of cost structures, or oversight.

BE IT FURTHER RESOLVED that the members of the commission shall serve without compensation, except per diem or expenses reimbursement to which they may be individually entitled as members of the constituent organizations.

BE IT FURTHER RESOLVED that a majority of the total membership shall constitute a quorum of the commission, and any official action by the commission shall

require an affirmative vote of a majority of the quorum present and voting.

BE IT FURTHER RESOLVED that the commission may conduct such public meetings as it may deem necessary or convenient to enable it to exercise its powers fully and effectively, perform its duties, and accomplish the objectives and purposes of this Resolution, and may receive at such public meetings testimony and other evidence relative to any of the subjects of study enumerated in this Resolution to the extent permitted by the public records law.

BE IT FURTHER RESOLVED that the commission shall have the authority to request any information concerning costs, to the extent permitted by the public records law.

BE IT FURTHER RESOLVED that the staffs of the Senate, the House of Representatives, the legislative fiscal office, and the legislative auditor may provide staff support and otherwise assist the commission, during the regular business hours of the respective agencies and when such support and assistance do not conflict with regular staff duties, as requested by the commission pursuant to the commission's written request for approval to the president of the Senate, the speaker of the House of Representatives, the legislative fiscal officer, or the legislative auditor, for specific support and assistance to be provided by the staffs of their respective agencies.

BE IT FURTHER RESOLVED that every officer, agency, board, commission, and department of the state, and every political subdivision and local officer, shall furnish aid, services, and assistance as may be requested by the commission and, to the extent permitted by and in accordance with the public records law, shall make available all facts, records, information, and data requested by the commission, and in all ways cooperate with the commission in carrying out its functions and duties.

BE IT FURTHER RESOLVED that the commission may apply for, contract for, receive, and expend for purpose of this Resolution any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

BE IT FURTHER RESOLVED that the books and records of the commission shall be subject to audit by the legislative auditor pursuant to R.S. 24:513.

BE IT FURTHER RESOLVED that the commission shall report its findings and recommendations, including suggestions for proposed legislation, if any, to the chairman of

the Senate Judiciary B Committee, the chairman of the House Committee on Administration of Criminal Justice, and the legislature no later than January 1, 2016.

BE IT FURTHER RESOLVED that the commission shall terminate on January 2, 2016.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES