



SPONSOR: Rep. George & Rep. Keeley & Sen. Henry & Sen. McDowell & Sen. Simpson & Sen. Sorenson  
Reps. Barbieri, Blakey, Brady, J. Johnson, Kowalko, Mulrooney, Plant, Ramone, Schooley, Scott, B. Short, Viola, D.E. Williams, D.P. Williams; Sen. Cloutier

HOUSE OF REPRESENTATIVES  
145th GENERAL ASSEMBLY

HOUSE BILL NO. 171

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMES AND CRIMINAL PROCEDURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- 1 WHEREAS, there are 20 men on Delaware's death row awaiting execution; and
- 2 WHEREAS, a judicial injunction prohibiting the execution of any of the members of Delaware's death row may
- 3 soon be lifted, which will cause several executions to take place thereafter; and
- 4 WHEREAS, the nationally renowned Cornell University Law School Death Penalty Project has undertaken a
- 5 three-phase systematic empirical examination of how the death penalty operates in Delaware; and
- 6 WHEREAS, Phase I of the Cornell study, which looked at all cases where individuals were sentenced to death in
- 7 Delaware since 1972, has been completed; and
- 8 WHEREAS, Phase I of the Cornell study has revealed the following:
- 9 • Delaware sentences almost 5% of convicted murderers to death, which is more than twice the national mean
- 10 death sentencing rate of 2.2%.
- 11 • Of the 43 sentenced to death in Delaware, 24 (56%) were minorities and 19 (44%) were white.
- 12 • While most murder victims in Delaware are black, in 70% of the cases in which the death penalty was
- 13 imposed in Delaware, the victim was white.
- 14 • The death sentencing rate in Delaware in cases where the defendant was black and the victim was white is
- 15 17.8%. This is more than twice the death sentencing rate in any other race of defendant-victim combination in Delaware,
- 16 and significantly higher than the death sentencing rate in black defendant-white victim cases of all other jurisdictions
- 17 studied by the Cornell Death Penalty Project.
- 18 • There is a significantly higher rate of death sentences imposed for crimes which occurred in New Castle and
- 19 Kent Counties than in Sussex County. Given that Sussex County has more murders and a smaller black population than
- 20 Kent County, this disparity requires further study and findings.

21 ; and

22 WHEREAS, Phases II and III of the Cornell study are underway and should be completed by early 2010. These  
23 phases will focus on all cases where the State sought the death penalty (Phase II) as well as all cases where the defendant  
24 was eligible for the death penalty (Phase III) toward gaining a better understanding of the significance of the raw data  
25 uncovered in Phase I; and

26 WHEREAS, the members of the General Assembly and the people of Delaware, while supporting use of the death  
27 penalty, wish to see it imposed in a fair and just manner; and

28 WHEREAS, several other states, including Maryland and New Jersey, have imposed a moratorium on executions  
29 pending further study of their own administration of the death penalty.

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

31 SECTION 1. Amend Chapter 42, Title 11 of the Delaware code by inserting a new § 4209B to read as follows:

32 “§ 4209B. Moratorium on Executions.

33 a. Notwithstanding the provisions of § 4209 of Title 11, no person shall be executed in the state of Delaware  
34 beginning on the effective date of this act.

35 b. This moratorium shall remain in effect until completion of the Cornell University Law School Death Project’s  
36 Study of the Death Penalty in Delaware, and until the Governor and the General Assembly have had an opportunity to act  
37 upon its findings, or the beginning of the 146th Delaware General Assembly, whichever shall come first.

38 c. Prior to the expiration of the moratorium pursuant to this Section, there shall be a meeting, on a date to be  
39 determined by the Speaker of the House, of a group composed of the following individuals: the Chair of the House  
40 Judiciary Committee, the Chair of the Senate Judiciary Committee, the Resident Judge of the Superior Court, a  
41 representative of the Attorney General, a representative of the Public Defender, and another attorney, to be determined by  
42 the Speaker of the House. The purpose of the meeting shall be to review and discuss the results of Phases II and III of the  
43 Cornell Study.”.

#### SYNOPSIS

This bill establishes a moratorium on executions in Delaware pending completion of the Cornell Law School Death Penalty Project’s study of the death penalty in Delaware and an opportunity for the Governor and the General Assembly to act upon its findings.