

Regular Session, 2014

SENATE CONCURRENT RESOLUTION NO. 54

BY SENATOR MORRELL

CRIMINAL JUSTICE. Creates the Capital Punishment Fiscal Impact Commission.

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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

1 Department of Public Safety and Corrections, the office of the attorney general, the
2 Louisiana Public Defender Board, the House Judiciary Committee, the House Committee
3 on Administration of Criminal Justice, the Senate Judiciary B Committee, the Senate
4 Judiciary C Committee, the Joint Legislative Committee on the Budget, victims' rights
5 organizations, and other interested parties in the appropriate use of resources, and would also
6 ensure an adequate service delivery system.

7 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
8 create the Capital Punishment Fiscal Impact Commission to conduct a study of the fiscal
9 impact of capital punishment in this state.

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

- 12 (1) The chairman of the Senate Judiciary B Committee, or his designee, who
13 shall serve as co-chairman of the commission.
- 14 (2) The chairman of the Senate Judiciary C Committee, or his designee.
- 15 (3) The chairman of the House Committee on Administration of Criminal
16 Justice, or his designee, who shall serve as co-chairman of the commission.
- 17 (4) The chairman of the House Judiciary Committee, or his designee.
- 18 (5) A district attorney appointed by the Louisiana District Attorneys Association,
19 or his designee.
- 20 (6) A public defender appointed by the Louisiana Public Defender Board, or his
21 designee.
- 22 (7) A person selected by the secretary of the Department of Public Safety and
23 Corrections, or his designee.
- 24 (8) The legislative auditor, or his designee.
- 25 (9) A member of the Louisiana Sentencing Commission to be selected by the
26 chairman of the commission, or his designee.
- 27 (10) An attorney appointed by the Louisiana Association of Criminal Defense
28 Lawyers, or his designee.
- 29 (11) A person appointed by the Pelican Institute for Public Policy, or his designee.
- 30 (12) A person appointed by Louisiana Budget Project, or his designee.

1 (13) A person appointed by Louisiana Interchurch Conference, or his designee.

2 (14) A person appointed by the Louisiana Sheriff's Association, or his designee.

3 (15) The attorney general, or his designee.

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

9 (1) Legal counsel involved in the prosecution and defense of a capital murder
10 case for all pretrial, trial, and post-conviction proceedings.

11 (2) Additional procedural costs involved in capital murder cases as compared to
12 noncapital murder cases.

13 (3) The investigation of a case before a person is charged with a crime, including
14 costs for investigation by the prosecution and the defense.

15 (4) Pretrial motions and any heightened costs of pretrial discovery associated
16 with capital cases.

17 (5) The length of delay between offense and trial.

18 (6) Extradition.

19 (7) Psychiatric and medical evaluations.

20 (8) Expert witnesses, including but not limited to the costs incurred by the
21 coroner, the court for the appointment of sanity commissions, and other
22 capital crime and punishment experts.

23 (9) Expenses for witnesses other than expert witnesses, including expenses for
24 witnesses during the penalty phase.

25 (10) Facilities, including any additional costs to the court, such as costs for
26 increased security.

27 (11) Juries, including the cost of jury selection and sequestration.

28 (12) Sentencing proceedings.

29 (13) The preparation and maintenance of records, including transcription, lodging
30 of records, and maintaining case files.

1 (14) Appellate and post-conviction proceedings, including motions, writs of
2 certiorari, and state and federal petitions for post-conviction relief.

3 (15) Reversal of verdict or a new trial based upon the heightened standard of
4 review required in capital cases.

5 (16) Requests for clemency.

6 (17) The incarceration of persons awaiting trial in capital murder cases and
7 persons awaiting execution, including the length of such incarceration and
8 additional security costs.

9 (18) Law and policy prohibiting defendants under a death sentence from working
10 at hard labor.

11 (19) Remuneration for wrongful conviction or sentence, or costs incurred for the
12 prevention of wrongful conviction or sentence.

13 (20) Victim services.

14 (21) Protections to ensure the fairness of capital proceedings and the prevention
15 of wrongful executions.

16 (22) Litigation of nonfrivolous civil claims associated with detention on death
17 row, including the costs of defending and prosecuting such claims.

18 (23) The execution of a sentence of death, including costs of facilities and staff,
19 medicine, licensing, and litigation concerning these functions.

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

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

26 (1) The appropriate use of plea bargaining in potential capital cases.

27 (2) Strategic litigation choices by the prosecution and the defense in potential
28 capital cases.

29 (3) The execution of a death sentence.

30 BE IT FURTHER RESOLVED that the commission study shall include an

1 examination and analysis concerning whether potential cost savings can be secured through
2 alternative measures, including but not limited to alteration of punishment schemes,
3 internalizing of cost structures, or oversight.

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

7 BE IT FURTHER RESOLVED that a majority of the total membership shall
8 constitute a quorum of the commission, and any official action by the commission shall
9 require an affirmative vote of a majority of the quorum present and voting.

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

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

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

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

1 commission in carrying out its functions and duties.

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

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

7 BE IT FURTHER RESOLVED that the commission shall report its findings and
8 recommendations, including suggestions for proposed legislation, if any, to the chairman of
9 the Senate Judiciary B Committee, the chairman of the House Committee on Administration
10 of Criminal Justice, and the legislature no later than February 1, 2016.

11 BE IT FURTHER RESOLVED that the commission shall terminate on February 2,
12 2016.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

Morrell

SCR No. 54

Creates the Joint 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.

The commission consists of the following 15 members or their designees:

- (1) The chairman of the Senate Judiciary B Committee, who serves as co-chairman.
- (2) The chairman of the Senate Judiciary C Committee.
- (3) The chairman of the House Committee on Administration of Criminal Justice, who serves as co-chairman.
- (4) The chairman of the House Judiciary Committee.
- (5) A district attorney appointed by the La. District Attorneys Association.
- (6) A public defender appointed by the La. Public Defender Board.
- (7) A person selected by the secretary of the Dept. of Public Safety and Corrections.
- (8) The legislative auditor.
- (9) A member of the La. Sentencing Commission to be selected by the chairman of the commission.
- (10) An attorney appointed by the La. Association of Criminal Defense Lawyers.

- (11) A person appointed by the Pelican Institute for Public Policy.
- (12) A person appointed by Louisiana Budget Project.
- (13) A person appointed by Louisiana Interchurch Conference.
- (14) A person appointed by the Louisiana Sheriff's Association, or his designee.
- (15) The attorney general, or his designee.

Further provides that the commission study is to 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.

Further provides that the commission study is to include an assessment of the costs incurred as a result of the possibility of capital punishment for violations of present law relative to first degree murder, and identification of the agency responsible for bearing these costs, and the impact of those expenditures on the agency.

Further provides that the commission study is to include an examination and analysis concerning any potential cost savings relative to the appropriate use of plea bargaining in potential capital cases, strategic litigation choices by the prosecution and the defense in potential capital cases, and the execution of a death sentence.

Further provides that the commission study is to include an examination and analysis concerning whether potential cost savings can be secured through alternative measures, including alteration of punishment schemes, internalizing of cost structures, or oversight.

Further provides that the members of the commission are to serve without compensation, except per diem or expenses reimbursement to which they may be entitled as members of the constituent organizations.

Specifies that a majority of the total membership constitutes a quorum of the commission, and any official action requires an affirmative vote of a majority of the quorum present and voting.

Further provides that the commission may conduct such public meetings as it deems necessary or convenient to enable it to exercise its powers fully and effectively, perform its duties, and accomplish the commission's objectives and purposes, and may receive at such public meetings testimony and other evidence relative to any of the subjects of study, to the extent permitted by the public records law.

Further provides that the commission has the authority to subpoena any information concerning costs to the extent permitted by the public records law.

Further provides that the staffs of the Senate, the House of Representatives, the legislative fiscal office, and the legislative auditor may provide staff support as requested by the commission and pursuant to the commission's written request 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.

Further provides that every officer, agency, board, commission, and department of the state and every political subdivision and local officer is to 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, 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.

Further provides that the commission may apply for, contract for, receive, and expend for purposes of its study any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

Further provides that the books and records of the commission are subject to audit by the legislative auditor pursuant to present law.

Further provides that the commission is to report its findings and recommendations 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 February 1, 2016.

Further provides that the commission terminates on February 2, 2016.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Changes date commission is to report its findings and date that commission sunsets from February, 2015 to February, 2016.

Senate Floor Amendments to engrossed bill

1. Increases membership of the commission from 13 members to 15 members.
2. Adds the attorney general and a person appointed by the La. Sheriff's Association, or their designees, to the membership of the commission.