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A B I L L

To create a Capital Case Commission to study the 1
imposition and administration of capital 2
punishment in Ohio and to make recommendations for 3
improving Ohio's procedures in capital cases and 4
its capital sentencing procedures. 5

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

Section 1. (A) The Speaker and the Minority Leader of the 6
House of Representatives, one member of the House of 7
Representatives who is a member of the same political party as the 8
Speaker and is designated by the Speaker and one member of the 9
House of Representatives who is a member of the same political 10
party as the Minority leader and is designated by the Minority 11
Leader, the President and Minority Leader of the Senate, one 12
member of the Senate who is a member of the same political party 13
as the President and is designated by the President and one member 14
of the Senate who is a member of the same political party as the 15
Minority Leader and is designated by the Minority leader, and the 16
Governor shall jointly appoint an eighteen-member Capital Case 17
Commission. 18

Two members of the Commission shall be members of the House 19

of Representatives and shall not be members of the same political 20
party. Two members of the Commission shall be members of the 21
Senate and shall not be members of the same political party. Two 22
members of the Commission shall be judges of a court of common 23
pleas, two members shall be judges of a court of appeals, two 24
members shall be prosecuting attorneys, two members shall be 25
attorneys whose practice of law primarily involves the 26
representation of criminal defendants and who are qualified under 27
Rule 20 of the Rules of Superintendence for the Courts of Ohio to 28
be appointed as lead counsel in capital cases or as appellate 29
counsel in cases where a death penalty has been imposed, one 30
member shall be a representative of an organization that advocates 31
for the rights of victims of crime, one member shall be a 32
representative of an organization that advocates for crime 33
victims' families for reconciliation, one member shall be a 34
psychiatrist, one member shall be a psychologist, and two members 35
shall be members of the general public. The members of the 36
Commission who are members of the House of Representatives or 37
Senate shall be different individuals than the House or Senate 38
members who make the appointments to the Commission. Not more than 39
nine members of the Commission shall be members of the same 40
political party. When all members are appointed, the Commission 41
promptly shall meet, select a chairperson and a vice-chairperson, 42
and organize its activities. 43

The Attorney General, the State Public Defender, and the 44
staff and employees of both of those public officials shall 45
provide to the Commission, upon its request, research and 46
technical services and support. Independent of this provision of 47
services and support, the Commission may seek and obtain research 48
and technical services and support from any individual, 49
organization, association, college, or university. 50

(B) The Commission shall review and study all issues that are 51

related to the imposition and administration of capital punishment 52
in Ohio, specifically with respect to resolving capital cases in a 53
fair and orderly manner, to ensuring that all persons charged with 54
a capital offense receive adequate representation, and to 55
eliminating undue delay in capital cases. The Commission shall do 56
all of the following: 57

(1) Review all aspects of Ohio's procedures in capital cases 58
and procedures related to capital sentencing and punishment, 59
including, but not limited to, the pre-trial, trial, sentencing, 60
direct appeal, and post conviction relief procedures related to 61
capital cases and to capital sentencing and punishment; 62

(2) For all trials that involved a charge that a person 63
committed a capital offense on or after October 19, 1981, review 64
and analyze all aspects of the trial, including, but not limited 65
to, facts of each case, including any aggravating and mitigating 66
circumstances specified in sections 2929.03 and 2929.04 of the 67
Revised Code or otherwise present in the case, the race, gender, 68
religious preference, and economic status of the defendant and the 69
victims, the result of the case, and the sentence imposed upon the 70
defendant; 71

(3) Review and analyze in general the procedures in capital 72
cases, including, but not limited to, the adequacy of counsel in 73
all stages of capital cases and the sufficiency of any existing 74
guidelines or rules for the appointment and performance of that 75
counsel, the adequacy of funding for the defense of indigent 76
defendants in capital cases, the process for judicial review in 77
state postconviction and federal habeas corpus proceedings of the 78
merits of constitutional claims present in or resulting from the 79
cases, whether there is any disproportional impact from any aspect 80
of capital case procedures and proceedings, whether there is 81
discrimination in capital sentencing, on any basis, whether a 82
mentally retarded person should be sentenced to death, whether 83

prosecutorial misconduct is present as a factor in the imposition 84
of the death penalty, and the possibility that there are innocent 85
persons who have been sentenced to death in Ohio; 86

(4) Obtain information regarding all aggravated murder cases 87
in the two Category One counties selected under division (D)(1) of 88
this section and in the two Category Two counties selected under 89
that division that is necessary to comply with division (D)(2)(b) 90
of this section, including, but not limited to, information, to 91
the extent it can be obtained, regarding the reasons for the 92
prosecutorial decision as to whether to prosecute the cases as 93
capital cases or to prosecute them as aggravated murder cases that 94
are not capital cases; 95

(5) Appoint subcommittees to assist in the discharge of its 96
duties, including, but not limited to, the four subcommittees 97
described in divisions (C)(1) to (4) of this section to perform 98
the functions described in those divisions; 99

(6) Separate its findings regarding the information it 100
collects under this section into the three data sets described in 101
divisions (D)(2)(a), (b), and (c) of this section, and utilize the 102
information in those data sets for the purposes described in those 103
divisions; 104

(7) Study other topics that the Commission determines 105
appropriate for study because of their relationship to the 106
commission of capital offenses, procedures in capital cases, 107
sentencing or punishment in capital cases, or offenders and 108
victims in capital cases; 109

(8) Make legislative recommendations for improving Ohio's 110
procedures in capital cases and procedures related to capital 111
sentencing and punishment in Ohio based on its review, studies, 112
and analysis described in divisions (B)(1) to (7) and (D) of this 113
section; 114

(9) Not later than one year after the effective date of this section, prepare and submit to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor a preliminary report that sets forth its preliminary findings regarding the imposition and administration of capital sentencing and punishment in Ohio and its preliminary recommendations for improving Ohio's procedures in capital cases and procedures related to capital sentencing and punishment in Ohio;

(10) Not later than eighteen months after the effective date of this section, prepare and submit to the persons identified in division (B)(9) of this section a final report that sets forth its final findings regarding the imposition and administration of capital sentencing and punishment in Ohio and its final recommendations for improving Ohio's procedures in capital cases and procedures related to capital sentencing and punishment in Ohio.

(C) The Commission shall appoint the following four subcommittees to perform the following functions, in the discharge of the Commission's duties under divisions (B) and (D) of this section:

(1) A subcommittee to examine pre-trial issues related to capital cases;

(2) A subcommittee to examine trial issues related to capital cases and sentencing, including, but not limited to, issues involving the guilt phase of the trial in a capital case and the sentencing phase of the trial in a capital case;

(3) A subcommittee to examine issues related to direct appeals of the judgment of the trial court in capital cases and issues related to postconviction relief petitions and proceedings under sections 2953.21 to 2953.23 of the Revised Code as they

pertain to capital cases;	146
(4) A Data Research Subcommittee to compile data and provide statistical analyses for the Commission and the subcommittees described in divisions (C)(1) to (3) of this section.	147 148 149
(D)(1) The Commission, for purposes of division (D)(2) of this section, shall do all of the following:	150 151
(a) Determine the two Category One counties in which the highest and second highest number of capital offense indictments have been returned, out of all Category One counties, on or after October 19, 1981, and not later than July 1, 2002;	152 153 154 155
(b) Determine the two Category Two counties in which the highest and second highest number of capital offense indictments have been returned, out of all Category Two counties, on or after October 19, 1981, and not later than July 1, 2002;	156 157 158 159
(c) Select the four counties determined under divisions (D)(1)(a) and (b) of this section as the counties to be covered by the data set described in division (D)(2)(b) of this section.	160 161 162
(2) The Commission shall separate its findings regarding the information it collects under this section into the following three data sets:	163 164 165
(a) A data set that contains information for all Ohio capital cases in which a defendant was sentenced on or after October 19, 1981, and not later than July 1, 2002. This data set shall profile all defendants and victims of capital offenses in those cases and shall summarize the processing of those cases, including, but not limited to, the time frames between major decision points in the cases, an analysis of the statutes and rules governing the litigation of those cases, and an in-depth study of those cases that required corrective appellate action.	166 167 168 169 170 171 172 173 174
(b) A data set that contains information for all cases in the	175

four counties selected under division (D)(1) of this section in 176
which a person was sentenced, on or after October 19, 1981, and 177
not later than July 1, 2002, for aggravated murder. This data set 178
shall contain profiles and summaries of the type described in 179
division (D)(2)(a) of this section, as they relate to the cases 180
described in this division, shall specify for each of those cases 181
whether the case was a capital case or was not a capital case, and 182
shall specify for each of those cases, to the extent it can be 183
determined, the reasons for the prosecutorial decision to 184
prosecute the case as a capital case or to prosecute it as an 185
aggravated murder case that was not a capital case. This data set 186
shall be further separated into a subcategory that contains the 187
specified information for the two Category One counties selected 188
under division (D)(1) of this section and a separate subcategory 189
that contains the specified information for the two Category Two 190
counties selected under that division. This data set shall contain 191
the specified information for all aggravated murder cases in the 192
four subject counties, including capital cases and cases that are 193
not capital cases. 194

(c) A data set that consists of a comparative analysis of the 195
information contained in the data set described in division 196
(D)(2)(b) of this section to the information contained in the data 197
set described in division (D)(2)(a) of this section, with the 198
analysis focusing on the difference between a capital case and an 199
aggravated murder case that is not a capital case. Using a 200
representative sample of the cases to which the data set described 201
in division (D)(2)(b) of this section pertains, the analysis shall 202
include, but is not limited to, a determination of the incremental 203
additional costs of prosecution, defense, and appeals of a capital 204
case as compared to an aggravated murder case that is not a 205
capital case. The Commission may utilize the information in the 206
data sets described in divisions (D)(2)(a) and (b) of this section 207
for any other purpose in the performance of its duties under this 208

section.	209
(E) The Capital Case Commission and all subcommittees of the Commission shall cease to exist on the date on which the Commission submits its final report to the General Assembly and the Governor.	210 211 212 213
(F) As used in this section:	214
(1) "Capital case" means a case in which a person is charged with a capital offense.	215 216
(2) "Capital offense" has the same meaning as in section 2901.02 of the Revised Code.	217 218
(3) "Category One counties" means Butler County, Cuyahoga County, Franklin County, Lorain County, Hamilton County, Lucas County, Mahoning County, Montgomery County, Stark County, and Summit County.	219 220 221 222
(4) "Category Two counties" means all counties in this state that are not Category One counties.	223 224