

SECOND REGULAR SESSION

SENATE BILL NO. 1072

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Read 1st time March 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4575S.011

AN ACT

To amend chapter 565, RSMo, relating to offenses against the person by adding thereto one new section relating to the commission on the death penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 565, RSMo, is amended by adding thereto one new section, to be known as section 565.042, to read as follows:

565.042. 1. A commission on the death penalty is hereby created to consist of nine members: One member from each party of the house of representatives, to be appointed by the speaker of the house of representatives; one member from each party of the senate, to be appointed by the president pro tem of the senate; one member appointed by the state public defender or a designee, one member appointed by the attorney general or a designee, and three citizens of the state appointed by the governor. The members of the commission shall serve without compensation, but the members shall be reimbursed for necessary expenses incurred in the work of the commission, such as travel, food and lodging. The commission shall be appointed and staffed on or before December 1, 2000.

2. The commission on the death penalty shall have an executive director appointed by the commission who shall establish and administer projects and programs for the operation of the commission as well as transmit monthly to the commission a report of the operations of the commission for the preceding calendar month.

3. The commission on the death penalty shall hold public hearings and call before it witnesses to testify on issues relevant to the administration of the death penalty in Missouri. The commission may create an Internet web site and other means to communicate with the public and invite citizen input.

4. The commission on the death penalty shall have access to all information relating to death penalty cases and first and second degree murder cases maintained by the Missouri supreme court, other state courts, county and state prosecutor offices and the state public defender system. The commission may contract with universities for research assistance in collecting and analyzing information on all aspects of the death penalty as administered in Missouri.

5. The commission shall study all aspects of the death penalty as administered in the state. As part of this study, the commission on the death penalty shall review and analyze all cases in which charges of second degree murder or first degree murder committed on or after January 1, 1977, were filed. Such review and analysis shall examine all available data concerning:

- (1) The facts of the offense including mitigating and aggravating circumstances;**
- (2) The county in which the charges were filed;**
- (3) The charges originally filed;**
- (4) The crime for which defendant was convicted or entered a plea of guilty;**
- (5) The sentence imposed;**
- (6) The age, race, gender, religious preference, and economic status of the defendant and of the victim;**
- (7) Whether evidence exists that the defendant was mentally retarded;**
- (8) The cost per disposition and implementation of sentence;**
- (9) The identity, number and experience level of defense counsel at trial, appeal and post-conviction;**
- (10) The identity, number and experience level of trial and appellate prosecutors, including, where appropriate, members of the staff of the attorney general;**
- (11) The results of any appellate review; and**
- (12) The results of any post-conviction review in state or federal court.**

6. In considering the experience level of attorneys and the adequacy of resources as described in subdivisions (9) and (10) of subsection 5 of this section, the commission shall consider the experience and training levels required by the Missouri supreme court, the experience and training levels required by the courts and legislatures of other jurisdictions in which the death penalty is imposed, and the recommendations of national associations.

7. The review conducted by the commission shall include new criminal homicide charges filed during the study period.

8. The commission shall report its findings and recommendations regarding the death penalty, including remedies for any deficiencies found by the commission, to the governor, members of the legislature and the Missouri supreme court by January 1,

2003.

9. The commission shall make recommendations for amendments to the statutes and court rules pertaining to cases in which the death penalty is sought or imposed to provide assurances that:

(1) Defendants who are sentenced to death are in fact guilty of first degree murder;

(2) Defendants in cases in which the death penalty is sought are provided adequate and experienced counsel and adequate resources for the defense of their cases at the trial;

(3) Defendants in cases in which the death penalty is imposed are provided adequate and experienced counsel and adequate resources for the defense of their cases at the appellate and post-conviction stages;

(4) Race does not play an impermissible role in determining which defendants are sentenced to death;

(5) Appellate and post-conviction procedures are adequate to provide a fair opportunity for the courts of this state to correct errors and injustices that occurred at trial in cases in which the death penalty is imposed, including but not limited to allowing access to physical evidence for later testing and analysis; and

(6) All prosecutors throughout this state use similar criteria to determine whether to seek the death penalty in a case involving criminal homicide.

10. No execution of a defendant shall take place between the effective date of this section and January 1, 2003.

11. During the moratorium period, the special procedures in cases of first degree murder provided in sections 565.030 to 565.040 and any other proceedings related to capital cases, including motions for post-conviction relief, shall continue to be operative and shall proceed as if no such moratorium were in place, except that no date certain for execution shall be appointed that falls during the moratorium.