

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2016 REGULAR SESSION
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Amend printed copy of HB 203

On page 1, line 3, through page 17, line 1, delete all text in its entirety and insert in lieu thereof:

"→SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) In order for the death penalty to be authorized in a capital offense, the Commonwealth shall prove:

(a) Deoxyribonucleic acid (DNA) evidence or other biological evidence connects the defendant to the capital offense;

(b) An audio-visual recording documents a confession to the capital offense voluntarily offered by the defendant during custodial interrogation; or

(c) A video recording directly connects the defendant to the capital offense.

(2) Prior to trial for a capital offense, when the Commonwealth makes known to the defendant the evidence in aggravation under KRS 532.025, the Commonwealth shall also provide notice to the defendant of any evidence it will offer to prove one (1) or more of the elements listed in subsection (1) of this section.

(3) Upon conviction of a capital offense, if a sentence of death is recommended, the jury, or a judge in a nonjury trial, shall designate in writing that the Commonwealth proved beyond a reasonable doubt facts which satisfy one (1) or more of the elements listed in subsection (1) of this section.

Amendment No. HFA 1

Sponsor: Rep. David Floyd

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Lyon, Alice

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXXXX

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➔Section 2. KRS 532.075 is amended to read as follows:

- (1) Whenever the death penalty is imposed for a capital offense, and upon the judgment becoming final in the Circuit Court, the sentence shall be reviewed on the record by the Supreme Court. The circuit clerk, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court.
- (2) The Supreme Court shall consider the punishment as well as any errors enumerated by way of appeal.
- (3) With regard to the sentence, the court shall determine:
 - (a) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;~~}; and}~~
 - (b) Whether the evidence supports the jury's or judge's finding of statutory aggravating circumstances as enumerated in KRS 532.025(2);~~}; and}~~
 - (c) **Whether the evidence supports the jury's or judge's finding of one (1) or more of the elements required under Section 1 of this Act; and**
 - (d)** Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.
- (4) Both the defendant and the Commonwealth shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court.
- (5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with

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regard to review of death sentences, shall be authorized to:

- (a) Affirm the sentence of death; or
 - (b) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration.
- (6) The Chief Justice shall assign to an administrative assistant who is an attorney the following duties:
- (a) To accumulate the records of all felony offenses in which the death penalty was imposed after January 1, 1970, or such earlier date as the court may deem appropriate.
 - (b) To provide the court with whatever extracted information it desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the crime and the defendant.
 - (c) To compile such data as are deemed by the Chief Justice to be appropriate and relevant to the statutory questions concerning the validity of the sentence.
- (7) The administrative office of the courts shall provide such staff, services, and data as are necessary to proper consideration of any matter relating to the imposition of the death penalty in any case.
- (8) The sentence review shall be in addition to the direct appeal, if taken, and the review and appeal shall be consolidated. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence."