

AN ACT relating to the death penalty.

WHEREAS, in 2011, the American Bar Association ("ABA"), in conjunction with the Kentucky Death Penalty Assessment Team, published the "Kentucky Death Penalty Assessment Report," an analysis of the state's death penalty system; and

WHEREAS, while the ABA found that Kentucky has made many strides toward increasing the process and fairness of its death penalty system, the report also found numerous substantive issues; and

WHEREAS, the ABA flagged several issues of particular concern, including inconsistent and disproportionate capital charging and sentencing, inadequate post-conviction review of capital cases, and, most troublingly, inadequate protection against wrongful convictions; and

WHEREAS, the ABA found an error rate of approximately 60% in Kentucky capital cases; and

WHEREAS, since 1989, there have been 336 post-conviction DNA exonerations in the United States, 20 of which served time on death row; and

WHEREAS, the Department for Public Advocacy estimates that Kentucky spends as much as \$8 million a year prosecuting, defending, and incarcerating death-row inmates; and

WHEREAS, the never-ending cycle of capital sentencing and appeals diverts resources from the judicial system and forces the families and loved ones of victims to relive their tragedies each time a new round of appeals commences; and

WHEREAS, the taking of a human life by the state must leave no room for error as to the guilt of the defendant; and

WHEREAS, it is imperative that a moratorium on the death penalty in Kentucky be implemented;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

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

Notwithstanding any other statute to the contrary:

(1) As of the effective date of this Act, the imposition of the death penalty for crimes committed in Kentucky is suspended until lifted by the General Assembly or until the moratorium imposed in this section expires as provided in this section;

(2) During this period, the penalty of death may be imposed; however, no execution shall be carried out, regardless of whether the sentence of death was imposed prior to or after the effective date of this Act, until after the moratorium imposed in this section is lifted by the General Assembly or expires as provided in this section;

(3) Persons sentenced to death whose date of execution falls within the period specified within this moratorium shall be resentenced to a date falling beyond this moratorium; and

(4) The moratorium specified in this section shall expire five (5) years from the effective date of this Act unless sooner repealed or extended by action of the General Assembly.

➔Section 2. The Criminal Justice Council shall study the imposition of the death penalty in Kentucky to determine how best to implement the recommendations outlined in the American Bar Association's "Kentucky Death Penalty Assessment Report" to ensure that defendants have appropriate counsel at every stage of their prosecution and that the sentence is applied fairly and proportionally, and to eliminate the risk of executing an innocent. The council shall submit a report on its findings to the Interim Joint Committee on Judiciary by November 1, 2016.