

ASSEMBLY, No. 2756

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblywoman AURA K. DUNN

District 25 (Morris and Somerset)

SYNOPSIS

Restores death penalty for persons who commit certain murders.

CURRENT VERSION OF TEXT

As introduced.

WITHDRAWN



1 AN ACT concerning the death penalty, amending N.J.S.2C:11-3 and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. N.J.S.2C:11-3 is amended to read as follows:

8 2C:11-3. Murder.

9 a. Except as provided in N.J.S.2C:11-4, criminal homicide
10 constitutes murder when:

11 (1) The actor purposely causes death or serious bodily injury
12 resulting in death; or

13 (2) The actor knowingly causes death or serious bodily injury
14 resulting in death; or

15 (3) It is committed when the actor, acting either alone or with
16 one or more other persons, is engaged in the commission of, or an
17 attempt to commit, or flight after committing or attempting to
18 commit robbery, sexual assault, arson, burglary, kidnapping,
19 carjacking, criminal escape or terrorism pursuant to section 2 of
20 P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of
21 immediate flight therefrom, any person causes the death of a person
22 other than one of the participants; except that in any prosecution
23 under this subsection, in which the defendant was not the only
24 participant in the underlying crime, it is an affirmative defense that
25 the defendant:

26 (a) Did not commit the homicidal act or in any way solicit,
27 request, command, importune, cause or aid the commission thereof;
28 and

29 (b) Was not armed with a deadly weapon, or any instrument,
30 article or substance readily capable of causing death or serious
31 physical injury and of a sort not ordinarily carried in public places
32 by law-abiding persons; and

33 (c) Had no reasonable ground to believe that any other
34 participant was armed with such a weapon, instrument, article or
35 substance; and

36 (d) Had no reasonable ground to believe that any other
37 participant intended to engage in conduct likely to result in death or
38 serious physical injury.

39 b. (1) Murder is a crime of the first degree but a person
40 convicted of murder shall be sentenced, except as provided in
41 paragraphs (2), (3) and (4) of this subsection, by the court to a term
42 of 30 years, during which the person shall not be eligible for parole,
43 or be sentenced to a specific term of years which shall be between
44 30 years and life imprisonment of which the person shall serve 30
45 years before being eligible for parole.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) If the victim was a law enforcement officer and was
2 murdered while performing his official duties or was murdered
3 because of his status as a law enforcement officer, the person
4 convicted of that murder shall be sentenced by the court to a term of
5 life imprisonment, during which the person shall not be eligible for
6 parole.

7 (3) A person convicted of murder shall be sentenced to a term of
8 life imprisonment without eligibility for parole if the murder was
9 committed under all of the following circumstances:

10 (a) The victim is less than 18 years old; and

11 (b) The act is committed in the course of the commission,
12 whether alone or with one or more persons, of a violation of
13 N.J.S.2C:14-2 or N.J.S.2C:14-3.

14 (4) Any person convicted under subsection a.(1) or (2) who
15 committed the homicidal act by his own conduct; or who as an
16 accomplice procured the commission of the offense by payment or
17 promise of payment of anything of pecuniary value; or who, as a
18 leader of a narcotics trafficking network as defined in N.J.S.2C:35-
19 3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3,
20 commanded or by threat or promise solicited the commission of the
21 offense, or, if the murder occurred during the commission of the
22 crime of terrorism, any person who committed the crime of
23 terrorism, shall be sentenced by the court to life imprisonment
24 without eligibility for parole, which sentence shall be served in a
25 maximum security prison, if a jury finds beyond a reasonable doubt
26 that any of the following aggravating factors exist:

27 (a) The defendant has been convicted, at any time, of another
28 murder. For purposes of this section, a conviction shall be deemed
29 final when sentence is imposed and may be used as an aggravating
30 factor regardless of whether it is on appeal;

31 (b) In the commission of the murder, the defendant purposely or
32 knowingly created a grave risk of death to another person in
33 addition to the victim;

34 (c) The murder was outrageously or wantonly vile, horrible or
35 inhuman in that it involved torture, depravity of mind, or an
36 aggravated assault to the victim;

37 (d) The defendant committed the murder as consideration for the
38 receipt, or in expectation of the receipt of anything of pecuniary
39 value;

40 (e) The defendant procured the commission of the murder by
41 payment or promise of payment of anything of pecuniary value;

42 (f) The murder was committed for the purpose of escaping
43 detection, apprehension, trial, punishment or confinement for
44 another offense committed by the defendant or another;

45 (g) The murder was committed while the defendant was engaged
46 in the commission of, or an attempt to commit, or flight after
47 committing or attempting to commit murder, robbery, sexual

1 assault, arson, burglary, kidnapping, carjacking or the crime of
2 contempt in violation of subsection b. of N.J.S.2C:29-9;

3 (h) The defendant murdered a public servant, as defined in
4 N.J.S.2C:27-1, while the victim was engaged in the performance of
5 his official duties, or because of the victim's status as a public
6 servant;

7 (i) The defendant: (i) as a leader of a narcotics trafficking
8 network as defined in N.J.S.2C:35-3 and in furtherance of a
9 conspiracy enumerated in N.J.S.2C:35-3, committed, commanded
10 or by threat or promise solicited the commission of the murder or
11 (ii) committed the murder at the direction of a leader of a narcotics
12 trafficking network as defined in N.J.S.2C:35-3 in furtherance of a
13 conspiracy enumerated in N.J.S.2C:35-3;

14 (j) The homicidal act that the defendant committed or procured
15 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

16 (k) The victim was less than 14 years old; or

17 (l) The murder was committed during the commission of, or an
18 attempt to commit, or flight after committing or attempting to
19 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-
20 2).

21 (5) A juvenile who has been tried as an adult and convicted of
22 murder shall be sentenced pursuant to paragraph (1) of this
23 subsection.

24 c. (Deleted by amendment, P.L.2007, c.204).

25 d. (Deleted by amendment, P.L.2007, c.204).

26 e. (Deleted by amendment, P.L.2007, c.204).

27 f. (Deleted by amendment, P.L.2007, c.204).

28 g. (Deleted by amendment, P.L.2007, c.204).

29 h. (Deleted by amendment, P.L.2007, c.204).

30 i. For purposes of this section the term "homicidal act" shall
31 mean conduct that causes death or serious bodily injury resulting in
32 death.

33 j. In a sentencing proceeding conducted pursuant to this
34 section, the display of a photograph of the victim taken before the
35 homicide shall be permitted.

36 (cf: P.L.2017, c.150)

37

38 2. (New section) a. A person convicted of murder pursuant to
39 paragraphs (2), (3), or (4) of subsection b. of N.J.S.2C:11-3 and a
40 person convicted of murder and sentenced to death prior to the
41 enactment of P.L.2007, c.204 who is subsequently convicted of
42 another murder committed while the person was incarcerated shall
43 be sentenced as provided in subsection b. of this section.

44 b. (1) The court shall conduct a separate sentencing
45 proceeding to determine whether the defendant should be sentenced
46 to death or pursuant to the provisions of subsection b. of
47 N.J.S.2C:11-3.

48 Where the defendant has been tried by a jury, the proceeding

1 shall be conducted by the judge who presided at the trial and before
2 the jury which determined the defendant's guilt, except that, for
3 good cause, the court may discharge that jury and conduct the
4 proceeding before a jury empaneled for the purpose of the
5 proceeding. Where the defendant has entered a plea of guilty or has
6 been tried without a jury, the proceeding shall be conducted by the
7 judge who accepted the defendant's plea or who determined the
8 defendant's guilt and before a jury empaneled for the purpose of the
9 proceeding. On motion of the defendant and with consent of the
10 prosecuting attorney the court may conduct a proceeding without a
11 jury. Nothing in this section shall be construed to prevent the
12 participation of an alternate juror in the sentencing proceeding if
13 one of the jurors who rendered the guilty verdict becomes ill or is
14 otherwise unable to proceed before or during the sentencing
15 proceeding.

16 (2) (a) At the proceeding, the State shall have the burden of
17 establishing beyond a reasonable doubt the existence of any
18 aggravating factors set forth in paragraph (4) of this subsection.
19 The defendant shall have the burden of producing evidence of the
20 existence of any mitigating factors set forth in paragraph (5) of this
21 subsection but shall not have a burden with regard to the
22 establishment of a mitigating factor.

23 (b) The admissibility of evidence offered by the State to
24 establish any of the aggravating factors shall be governed by the
25 rules governing the admission of evidence at criminal trials. The
26 defendant may offer, without regard to the rules governing the
27 admission of evidence at criminal trials, reliable evidence relevant
28 to any of the mitigating factors. If the defendant produces evidence
29 in mitigation which would not be admissible under the rules
30 governing the admission of evidence at criminal trials, the State
31 may rebut that evidence without regard to the rules governing the
32 admission of evidence at criminal trials.

33 (c) Evidence admitted at the trial, which is relevant to the
34 aggravating and mitigating factors set forth in paragraphs (4) and
35 (5) of this subsection, shall be considered without the necessity of
36 reintroducing that evidence at the sentencing proceeding; provided
37 that the fact finder at the sentencing proceeding was present as
38 either the fact finder or the judge at the trial.

39 (d) The State and the defendant shall be permitted to rebut any
40 evidence presented by the other party at the sentencing proceeding
41 and to present argument as to the adequacy of the evidence to
42 establish the existence of any aggravating or mitigating factor.

43 (e) Prior to the commencement of the sentencing proceeding, or
44 at such time as he has knowledge of the existence of an aggravating
45 factor, the prosecuting attorney shall give notice to the defendant of
46 the aggravating factors which he intends to prove in the proceeding.

47 (f) Evidence offered by the State with regard to the
48 establishment of a prior homicide conviction pursuant to paragraph

1 (4)(a) of this subsection may include the identity and age of the
2 victim, the manner of death and the relationship, if any, of the
3 victim to the defendant.

4 (3) The jury or, if there is no jury, the court shall return a
5 special verdict setting forth in writing the existence or nonexistence
6 of each of the aggravating and mitigating factors set forth in
7 paragraphs (4) and (5) of this subsection. If any aggravating factor
8 is found to exist, the verdict shall also state whether it outweighs
9 beyond a reasonable doubt any one or more mitigating factors.

10 (a) If the jury or the court finds that any aggravating factors
11 exist and that all of the aggravating factors outweigh beyond a
12 reasonable doubt all of the mitigating factors, the court shall
13 sentence the defendant to death.

14 (b) If the jury or the court finds that no aggravating factors
15 exist, or that all of the aggravating factors which exist do not
16 outweigh all of the mitigating factors, the court shall sentence the
17 defendant pursuant to subsection b. of N.J.S.2C:11-3.

18 (c) If the jury is unable to reach a unanimous verdict, the court
19 shall sentence the defendant pursuant to subsection b. of
20 N.J.S.2C:11-3.

21 (4) The aggravating factors which may be found by the jury or
22 the court are:

23 (a) The defendant has been convicted, at any time, of another
24 murder. For purposes of this section, a conviction shall be deemed
25 final when sentence is imposed and may be used as an aggravating
26 factor regardless of whether it is on appeal;

27 (b) In the commission of the murder, the defendant purposely or
28 knowingly created a grave risk of death to another person in
29 addition to the victim;

30 (c) The murder was outrageously or wantonly vile, horrible or
31 inhuman in that it involved torture, depravity of mind, or an
32 aggravated assault to the victim;

33 (d) The defendant committed the murder as consideration for the
34 receipt, or in expectation of the receipt of anything of pecuniary
35 value;

36 (e) The defendant procured the commission of the murder by
37 payment or promise of payment of anything of pecuniary value;

38 (f) The murder was committed for the purpose of escaping
39 detection, apprehension, trial, punishment or confinement for
40 another offense committed by the defendant or another;

41 (g) The murder was committed while the defendant was engaged
42 in the commission of, or an attempt to commit, or flight after
43 committing or attempting to commit murder, robbery, sexual
44 assault, arson, burglary, kidnapping, carjacking or the crime of
45 contempt in violation of N.J.S.2C:29-9b.;

46 (h) The defendant murdered a public servant, as defined in
47 N.J.S.2C:27-1, while the victim was engaged in the performance of
48 his official duties, or because of the victim's status as a public

1 servant;

2 (i) The defendant: (i) as a leader of a narcotics trafficking
3 network as defined in N.J.S.2C:35-3 and in furtherance of a
4 conspiracy enumerated in N.J.S.2C:35-3, committed, commanded
5 or by threat or promise solicited the commission of the murder or
6 (ii) committed the murder at the direction of a leader of a narcotics
7 trafficking network as defined in N.J.S.2C:35-3 in furtherance of a
8 conspiracy enumerated in N.J.S.2C:35-3;

9 (j) The homicidal act that the defendant committed or procured
10 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

11 (k) The victim was less than 14 years old; or

12 (l) The murder was committed during the commission of, or an
13 attempt to commit, or flight after committing or attempting to
14 commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-
15 2).

16 (5) The mitigating factors which may be found by the jury or the
17 court are:

18 (a) The defendant was under the influence of extreme mental or
19 emotional disturbance insufficient to constitute a defense to
20 prosecution;

21 (b) The victim solicited, participated in or consented to the
22 conduct which resulted in his death;

23 (c) The age of the defendant at the time of the murder;

24 (d) The defendant's capacity to appreciate the wrongfulness of
25 his conduct or to conform his conduct to the requirements of the
26 law was significantly impaired as the result of mental disease or
27 defect or intoxication, but not to a degree sufficient to constitute a
28 defense to prosecution;

29 (e) The defendant was under unusual and substantial duress
30 insufficient to constitute a defense to prosecution;

31 (f) The defendant has no significant history of prior criminal
32 activity;

33 (g) The defendant rendered substantial assistance to the State in
34 the prosecution of another person for the crime of murder; or

35 (h) Any other factor which is relevant to the defendant's
36 character or record or to the circumstances of the offense.

37 (6) When a defendant at a sentencing proceeding presents
38 evidence of the defendant's character or record pursuant to
39 subparagraph (h) of paragraph (5) of this subsection, the State may
40 present evidence of the murder victim's character and background
41 and of the impact of the murder on the victim's survivors. If the
42 jury finds that the State has proven at least one aggravating factor
43 beyond a reasonable doubt and the jury finds the existence of a
44 mitigating factor pursuant to subparagraph (h) of paragraph (5) of
45 this subsection, the jury may consider the victim and survivor
46 evidence presented by the State pursuant to this paragraph in
47 determining the appropriate weight to give mitigating evidence
48 presented pursuant to subparagraph (h) of paragraph (5) of this

1 subsection. As used in this paragraph "victim and survivor
2 evidence" may include the display of a photograph of the victim
3 taken before the homicide.

4 (7) If the jury or court found the existence of one or more
5 aggravating factors, but that such factors did not outweigh the
6 mitigating factors found to exist by the jury or court or the jury was
7 unable to reach a unanimous verdict as to the weight of the factors,
8 the defendant shall be sentenced by the court to a second term of
9 life imprisonment without eligibility for parole. With respect to a
10 sentence imposed pursuant to this section, the defendant shall not
11 be entitled to a deduction of commutation and work credits from
12 that sentence.

13 c. The sentencing proceeding set forth in this section shall not
14 be waived by the prosecuting attorney.

15 d. Every judgment of conviction which results in a sentence of
16 death under this section shall be appealed, pursuant to the Rules of
17 Court, to the Supreme Court. Upon the request of the defendant,
18 the Supreme Court shall also determine whether the sentence is
19 disproportionate to the penalty imposed in similar cases,
20 considering both the crime and the defendant. Proportionality
21 review under this section shall be limited to a comparison of similar
22 cases in which a sentence of death has been imposed under this
23 section. In any instance in which the defendant fails, or refuses to
24 appeal, the appeal shall be taken by the Office of the Public
25 Defender or other counsel appointed by the Supreme Court for that
26 purpose.

27 e. Prior to the jury's sentencing deliberations, the trial court
28 shall inform the jury of the sentences which may be imposed
29 pursuant to subsection b. of N.J.S.2C:11-3 on the defendant if the
30 defendant is not sentenced to death. The jury shall also be informed
31 that a failure to reach a unanimous verdict shall result in sentencing
32 by the court pursuant to subsection b. of N.J.S.2C:11-3.

33 f. A juvenile who has been tried as an adult and convicted of
34 murder shall not be sentenced pursuant to the provisions of this
35 section but shall be sentenced pursuant to the provisions of
36 subsection b. of N.J.S.2C:11-3.

37 g. In a sentencing proceeding conducted pursuant to this
38 section, no evidence shall be admissible concerning the method or
39 manner of execution which would be imposed on a defendant
40 sentenced to death.

41 h. For purposes of this section the term "homicidal act" shall
42 mean conduct that causes death or serious bodily injury resulting in
43 death.

44 i. In a sentencing proceeding conducted pursuant to this
45 section, the display of a photograph of the victim taken before the
46 homicide shall be permitted.

47
48 3. N.J.S.2B:23-10 is amended to read as follows:

1 2B:23-10. Examination of jurors. a. In the discretion of the
2 court, parties to any trial may question any person summoned as a
3 juror after the name is drawn and before the swearing, and without
4 the interposition of any challenge, to determine whether or not to
5 interpose a peremptory challenge or a challenge for cause. Such
6 examination shall be permitted in order to disclose whether or not
7 the juror is qualified, impartial and without interest in the result of
8 the action. The questioning shall be conducted in open court under
9 the trial judge's supervision.

10 b. ~~[(Deleted by amendment, P.L.2007, c.204).] The~~
11 examination of jurors shall be under oath only in cases in which a
12 death penalty may be imposed pursuant to section 2 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill).
14 (cf: P.L.2007, c.204, s.4)

15
16 4. (New section) Definitions.

17 As used in this act:

18 a. "Commissioner" means the Commissioner of the Department
19 of Corrections.

20 b. "Department" means the Department of Corrections.

21 c. "Inmate" means a person who is incarcerated in the
22 department who is sentenced to death pursuant to the provisions of
23 N.J.S.2C:11-3.

24
25 5. (New section) When a person is sentenced to death pursuant
26 to the provisions of section 2 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), that punishment shall be
28 imposed by continuous, intravenous, administration until the person
29 is dead of a lethal quantity of an ultrashort-acting barbiturate in
30 combination with a chemical paralytic agent in a quantity sufficient
31 to cause death. Prior to the injection of the lethal substance, the
32 person shall be sedated by a licensed physician, registered nurse, or
33 other qualified personnel, by either an oral tablet or capsule or an
34 intramuscular injection of a narcotic or barbiturate such as
35 morphine, cocaine or demerol.

36
37 6. (New section) a. The commissioner shall determine the
38 substances and procedure to be used in an execution. Any
39 imposition of the punishment of death by administration of the
40 required lethal substances in the manner required by section 5 of
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 shall not be construed to be the practice of medicine and any
43 pharmacist or pharmaceutical supplier is authorized to dispense
44 drugs to the commissioner or his designee, without prescription, for
45 carrying out the provisions of section 5 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), notwithstanding any
47 other provision of law to the contrary.

1 b. The commissioner shall designate persons who are qualified
2 to administer injections and who are familiar with medical
3 procedures, other than licensed physicians, as execution technicians
4 to assist in the carrying out of executions, but the procedures and
5 equipment utilized in imposing the lethal substances shall be
6 designed to insure that the identity of the person actually inflicting
7 the lethal substance is unknown even to the person himself.

8
9 7. (New section) The department shall provide and maintain a
10 suitable and efficient facility enclosed from public view, within the
11 confines of a designated State prison for the imposition of the
12 punishment of death. That facility shall contain the apparatus and
13 equipment necessary for the carrying out of executions in
14 accordance with the provisions of this act.

15
16 8. (New section) a. When a person is sentenced to the
17 punishment of death, the judge who presided at the sentencing
18 proceeding or if that judge is unavailable for any reason, then the
19 assignment judge of the vicinage and, if not available, then any
20 Superior Court judge of the vicinage, shall make out, sign and
21 deliver to the sheriff of the county, a warrant directed to the
22 commissioner, stating the conviction and sentence, appointing a
23 date on which the sentence shall be executed, and commanding the
24 commissioner to execute the sentence on that date.

25 b. If the execution of the sentence on the date appointed shall
26 be delayed while the conviction or sentence is being appealed, the
27 judge authorized to act pursuant to subsection a. of this section, at
28 the conclusion of the appellate process, if the conviction or sentence
29 is not set aside, shall make out, sign and deliver another warrant as
30 provided in subsection a. of this section. If the execution of the
31 sentence on the date appointed is delayed by any other cause, the
32 judge shall, as soon as such cause ceases to exist, make out, sign
33 and deliver another warrant as provided in subsection a. of this
34 section.

35 c. The date appointed in the warrant shall be not less than 30
36 days and not more than 60 days after the issuance of the warrant.
37 The commissioner may fix the time of execution on that date.

38
39 9. (New section) a. Within 10 days after issuance of a warrant
40 as provided in section 8 of P.L. , c. (C.) (pending before
41 the Legislature as this bill), the sheriff shall deliver the warrant, and
42 also the person sentenced, if he is not already in the custody of the
43 department, to the department. From the time of the delivery of the
44 warrant and until the imposition of the punishment of death upon
45 him, unless discharged from the sentence, the person shall be kept
46 isolated from the general prison population in a designated State
47 prison.

1 b. During the confinement and isolation no person shall be
2 allowed physical access to him without a court order which shall
3 not be unreasonably withheld, except corrections officers and
4 officials, his counsel, and the members of his immediate family, and
5 then only in accordance with the department's rules for security.
6 Upon the request of the inmate, a clergyman or a member of the
7 press shall be allowed access to the inmate without a court order but
8 only in accordance with the department's rules for security.

9
10 10. (New section) a. The commissioner, the persons designated
11 by the commissioner to act as execution technicians, and one
12 licensed physician shall be present at the execution. The
13 commissioner shall also select and invite the presence of, by at least
14 three days' prior notice, six adult citizens. The names of the
15 execution technicians shall not be disclosed, and the names of the
16 six adult citizens who witnessed the execution shall not be disclosed
17 until after the execution.

18 b. The commissioner shall, at the request of the person
19 sentenced to death, authorize and permit no more than two
20 clergymen, who are not related to the inmate, to be present at the
21 execution. The commissioner may, at the request of the person
22 sentenced to death, authorize and permit no more than two adult
23 members of the person's immediate family to be present at the
24 execution.

25 c. The commissioner shall permit four representatives of the
26 news media to be present at the execution, for the purpose of giving
27 their respective newspapers and associations accounts of the
28 execution. The four representatives shall be composed of one
29 representative of the major wire services, one representative of
30 television news services, one representative of newspapers, and one
31 representative of radio news services. Immediately following the
32 execution, the four representatives of the news media may hold a
33 press conference for the purpose of giving other news
34 representatives an account of the execution.

35 d. The commissioner shall not authorize or permit any person
36 to be present, except those authorized by this section.

37 e. The commissioner shall authorize and permit no more than
38 four adult members of the victim's immediate family to be present
39 at the execution. The names of the members of the victim's
40 immediate family who witnessed the execution shall not be
41 disclosed.

42 f. For purposes of this section, "immediate family" means a
43 spouse, parent, stepparent, legal guardian, grandparent, child, or
44 sibling.

45 g. Nothing in this section shall be construed to give a right to
46 any person to delay or prevent the execution of a sentence of death
47 on the date appointed in the warrant pursuant to section 9 of P.L. ,

48 c. (C.) (pending before the Legislature as this bill).

1 11. (New section) a. Immediately after the execution an
2 examination of the body of the inmate shall be made by the licensed
3 physicians present at the execution, and their report in writing
4 stating the nature of the examination and occurrence of death, so
5 made by them, shall be annexed to the certificate hereinafter
6 mentioned and filed therewith.

7 b. The commissioner shall prepare and sign a certificate setting
8 forth the time and place of the execution and stating that the
9 execution was conducted in conformity to the sentence of the court
10 and the provisions of this act. He shall cause the certificate to be
11 filed, within 10 days after the execution, with the Superior Court in
12 the county in which the person executed was convicted.

13 c. The commissioner may appoint a deputy within the
14 department to execute the warrant of execution and to perform all
15 the other duties imposed upon the commissioner by this act.
16

17 12. (New section) a. Prior to the execution, the inmate shall be
18 given the opportunity to decide in writing to whom his body shall
19 be delivered after the execution. The commissioner or his deputy
20 designated pursuant to subsection c. of section 11 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall sign
22 and authorize the inmate's request if the request is not contrary to
23 public policy or law. If the inmate does not indicate to whom his
24 body shall be delivered or if his request is contrary to public policy
25 or law, then the body of an inmate who has been legally executed
26 shall be embalmed immediately and so directed by the
27 commissioner, unless prior to execution, the inmate, relative, or
28 bona fide friend indicates that the body is to be cremated or buried
29 within 48 hours after death. If the body is not demanded or
30 requested by a relative or bona fide friend within 72 hours after
31 execution then it shall be delivered to a duly authorized and
32 incorporated pathological and anatomical association in the State, if
33 requested by an authorized association. If the body is requested by
34 a relative or bona fide friend, the State shall pay a fee, not to exceed
35 \$25 to the mortician for his services in embalming the body for
36 which the mortician shall issue to the State a written receipt. If the
37 body is requested by a duly authorized and incorporated
38 pathological and anatomical association, the association shall pay a
39 fee, not to exceed \$25 to the mortician for his services in
40 embalming the body for which the mortician shall issue to the
41 association a written receipt. When the receipt is delivered to the
42 commissioner, the body of the deceased shall be delivered to the
43 party named in the receipt or his authorized agent.

44 b. If the body is not delivered to a relative, bona fide friend, or
45 a duly authorized and incorporated pathological and anatomical
46 association, the commissioner shall cause the body to be decently
47 buried, and the fee for embalming shall be paid by the State, and no
48 religious or other services shall be held over the body after the

1 execution, except within the facility selected for the execution by
2 the department, and no one shall be present at the service except the
3 officers of the prison, the person conducting the services and
4 relatives by blood or marriage of the person executed.

5 c. The commissioner shall contact the Social Security
6 Administration, Veterans' Administration, Public Welfare, and
7 appropriate insurance companies for any possible death benefits to
8 offset the State incurred burial expenses. The inmate's account may
9 also be used for burial expenses.

10
11 13. (New section) a. If there is reasonable ground to believe
12 that a female inmate, sentenced to the punishment of death, is
13 pregnant, the superintendent of the State institution having custody
14 of the inmate shall impanel a jury of three licensed physicians to
15 inquire into her pregnancy. A physician acting as a juror upon this
16 inquisition need not be qualified to serve as a juror in a court of
17 record.

18 b. The inquisition of the jury shall be signed by the jurors and
19 the superintendent of the institution. If it is found by the jury that
20 the inmate is pregnant, the superintendent shall suspend the
21 execution of the warrant directing her execution until he receives a
22 warrant from the commissioner directing that the convict be
23 executed.

24 c. The superintendent shall immediately transmit the
25 inquisition to the commissioner, who, as soon as he is satisfied that
26 the inmate is no longer pregnant, shall issue his warrant, appointing
27 a time and place for her execution, pursuant to her sentence.

28
29 14. (New section) The department may adopt any rules or
30 regulations necessary to implement the provisions of this
31 amendatory and supplementary act.

32
33 15. (New section) The Judiciary Committee of the General
34 Assembly and the Judiciary Committee of the Senate, or their
35 respective successors, are constituted a joint committee for the
36 purposes of monitoring and evaluating the effectiveness of the
37 implementation of this act. The Commissioner of the Department of
38 Corrections shall, two years from the effective date of this act,
39 report to the joint committee, an evaluation of the effectiveness of
40 this act and the joint committee shall, upon receiving the report,
41 issue as it may deem necessary and proper, recommendations for
42 administrative or legislative changes affecting the implementation
43 of this act.

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45 16. This act shall take effect immediately and shall be applicable
46 to any murder committed on or after the effective date.

STATEMENT

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P.L.2007, c.204, enacted on December 17, 2007, repealed the death penalty in this State and replaced it with life without parole. This bill would restore the death penalty for persons who are already incarcerated for life because of a murder conviction and who subsequently commit another murder during their incarceration. The bill reenacts the applicable statutes that were in effect prior to the enactment of P.L.2007, c.204 for these persons.

It is the sponsor's intent to introduce this legislation as a means by which those individuals who are corrections officers and are charged with the responsibility of maintaining security in our prisons are protected.

WITHDRAWN