

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE JOINT
RESOLUTION 1027

By: Toure

AS INTRODUCED

A Joint Resolution relating to a moratorium on the death penalty in Oklahoma; creating a special committee to study access to justice and death penalty trials; providing for membership; providing for appointment of chair and vice-chair; providing for travel reimbursement; providing for administrative support; providing for duties; requiring certain report to Governor and Legislature; requesting establishment of moratorium on death penalty for certain period of time; and declaring an emergency.

WHEREAS, the Legislature of the State of Oklahoma recognizes the value of life of each person and the need to protect that life whenever possible; and

WHEREAS, the state should exercise utmost care to protect the lives of its residents from homicide, accident, and unjust taking by the state; and

WHEREAS, Oklahoma has one of the highest wrongful conviction rates in the nation; and

WHEREAS, significant numbers of Oklahomans maintain that inadequate representation, economic status, race, judicial error, prosecutorial misconduct, falsification of forensic and other evidence, or other factors may deny some defendants the right to adequate representation and a fair trial in capital cases; and

WHEREAS, the probability of receiving the death penalty rather than a lesser sentence is unfairly influenced by such factors as the county in which the trial occurs; and

WHEREAS, the execution of individuals who were minors at the time they committed crimes is condemned by almost all nations; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of the accused in capital crimes; and

WHEREAS, the execution of an innocent person by the State of Oklahoma would be an irreversible injustice; and

WHEREAS, a death penalty moratorium should be established in order to ensure a system of justice that is as impartial as possible.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 50TH OKLAHOMA LEGISLATURE:

SECTION 1. There is created a special committee to study access to justice and other implications of death penalty trials in the State of Oklahoma. The committee shall be known and may be cited as the "Death Penalty Fairness Study Committee".

SECTION 2. A. The Death Penalty Fairness Study Committee shall consist of fifteen (15) members, as follows:

1. Three members of the Senate, appointed by the President Pro Tempore of the Senate;

2. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives;

3. Three persons appointed by the Governor, including individuals who represent the social sciences;

4. The Attorney General of Oklahoma, or a designee;

5. A representative of the Oklahoma Bar Association;

6. A representative of the Oklahoma Criminal Defense Lawyers Association;

7. A representative of the District Attorneys Council;

8. A representative of the Oklahoma Public Defenders Association; and

9. A representative of the Oklahoma Indigent Defense System.

B. The committee shall be convened by the legislative member with the most years of continuous legislative service and at the

organizational meeting of the committee, shall elect from the legislative membership a chair, vice-chair, and other officers as it may deem necessary. The committee shall meet as often as necessary. Members of the committee shall serve without compensation.

Committee members employed by the state shall be reimbursed for travel expenses related to their service on the committee by their respective agencies in accordance with the provisions of the State Travel Reimbursement Act. Any member of the committee who is not a state employee shall be reimbursed travel expenses related to their duties on the committee in accordance with the provisions of the State Travel Reimbursement Act. Legislative members of the committee shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

C. Administrative support for the committee shall be provided by the Oklahoma Criminal Justice Resource Center to be supplemented, if necessary, by the staff of the Oklahoma House of Representatives and the State Senate. All participating state agencies shall provide for any administrative support as requested by the committee.

D. The committee shall study, receive testimony, deliberate upon and make recommendations on all aspects of capital punishment trials in the State of Oklahoma. The committee shall examine and consider, but not be limited to, the following:

1. The adequacy of counsel in all stages of capital cases and the sufficiency of guidelines for appointment and performance of such counsel;

2. The adequacy of investigative support afforded accused in capital cases;

3. The process for judicial review of the merits of claims in post-conviction and federal habeas corpus proceedings;

4. Any disproportionate racial impact upon any aspect of capital case proceedings;

5. Whether mentally ill persons should be executed and what criteria should be used in judging the level of illness involved;

6. Whether persons who commit crimes while under the age of eighteen (18) should be subject to capital punishment for such crimes;

7. Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty;

8. The presence of innocent persons on death row in Oklahoma and appropriate methods of compensating them after their innocence has been established;

9. The effectiveness of current safeguards against the execution of undeserving or innocent persons including the role of the Pardon and Parole Board; and

10. Fiscal impact of the death penalty or option of life without the possibility of parole.

E. The committee shall report its findings and recommendations to the Governor, the House of Representatives, and the Senate on or before February 1, 2008.

SECTION 3. It is the intent of the House of Representatives and the Senate that a moratorium be established with regard to carrying out any death penalty imposed by a court of this state until such time as the moratorium ends as provided by this act.

SECTION 4. It is the intent of the House of Representatives and the Senate that the death penalty moratorium shall end only after the House of Representatives and the Senate have received, considered, and acted upon the recommendations of the Death Penalty Fairness Study Committee.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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