

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2220 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin McDugle

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2220

By: McDugle

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to the death penalty; establishing the Death Penalty Disclosure Review Committee; requiring completion of review process in death penalty cases prior to execution date; providing for the appointment of members to the Committee; authorizing members to establish meeting schedule; prohibiting members from being compensated for their services; requiring district attorneys to disclose death penalty case files upon request by the Committee; directing district attorneys to retain evidence and files of death penalty cases for certain time period; prohibiting the disclosure of documents obtained by the Committee; providing for the return of documents; stating powers and duties of the Committee; authorizing the Oklahoma Court of Criminal Appeals to consider the merits of the review in post-conviction relief proceedings; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1801 of Title 22, unless there is created a duplication in numbering, reads as follows:

1 A. There is hereby established the Death Penalty Disclosure
2 Review Committee, an independent, ad hoc committee that shall
3 conduct a review in each death penalty case in Oklahoma.

4 B. The Committee shall be required to complete the review
5 process including the issuance and public release of the report, in
6 every case in which a defendant has been sentenced to death, before
7 the Attorney General may request or the Oklahoma Court of Criminal
8 Appeals may set, an execution date for the defendant. The Committee
9 shall be comprised of three (3) members who have not participated in
10 the prosecution or defense of a defendant in a death penalty case at
11 any stage. The members shall be chosen as follows:

12 1. One member who shall be appointed by the Speaker of the
13 Oklahoma House of Representatives from a list submitted by the
14 Oklahoma District Attorneys Association;

15 2. One member who shall be appointed by the President Pro
16 Tempore of the Oklahoma State Senate from a list submitted by the
17 Oklahoma Indigent Defense System; and

18 3. One member who is admitted to practice law in Oklahoma who
19 shall be appointed by the Governor from an agreed upon list of names
20 submitted by the Oklahoma District Attorneys Association and the
21 Oklahoma Indigent Defense System.

22 C. Members of the Committee shall meet on a schedule to be
23 determined by the Committee.

24 D. Members of the Committee shall serve without compensation.

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2 E. 1. Upon request by the Death Penalty Disclosure Review
3 Committee, the office of the district attorney who prosecuted a
4 death penalty case shall be required to disclose to the Committee,
5 on a confidential basis, the complete case file including all
6 documents and materials of any kind in the possession of the
7 district attorney or other agency to whom the obligations of the
8 district attorney under the Oklahoma Criminal Discovery Code would
9 extend, and any work product that may be excluded from discovery
10 under the Oklahoma Criminal Discovery Code.

11 2. District attorneys in this state shall retain all files and
12 evidence of any kind, including protected work product, pertaining
13 to any death penalty case until sixty (60) days after the defendant
14 is no longer on death row.

15 3. The Death Penalty Disclosure Review Committee shall be
16 prohibited from disclosing or otherwise making public any document
17 obtained pursuant to its duties under this section to anyone,
18 including the defendant. The Committee shall be required to
19 immediately return all documents to the office of the district
20 attorney that provided said documents upon completion of the review
21 of the case by the Committee.

22 F. The Death Penalty Disclosure Review Committee shall have the
23 following powers and duties:
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1 1. Obtain the complete file of the death penalty case from the
2 office of the district attorney that prosecuted the case. The
3 Committee shall have the power to subpoena and compel the production
4 of documents pertinent to the review, as necessary;

5 2. Conduct a comprehensive review of every document and all
6 other material in the case file of the district attorney to
7 determine if the case file contains any evidence in any way
8 favorable or exculpatory to the defense that should have been
9 disclosed pursuant to United States Supreme Court decisions "Brady
10 vs. Maryland", 373 U.S. 83 (1963) and "Giglio vs. United States",
11 405 U.S. 150 (1972), or the Oklahoma Criminal Discovery Code but, in
12 fact, was not;

13 3. Upon completion of its review, issue a report to the
14 Executive Director of the Pardon and Parole Board stating its
15 findings on whether any disclosure errors were made by the
16 prosecution in violation of the requirements of "Brady vs.
17 Maryland", 373 U.S. 83 (1963), "Giglio vs. United States", 405 U.S.
18 150 (1972), and the Oklahoma Criminal Discovery Code, and if so,
19 identifying those errors. The report shall set forth the findings
20 of each member of the Committee and shall be delivered to the
21 attorney for the defendant, the office of the district attorney who
22 prosecuted the case and the Office of the Attorney General; and

23 4. Make the report issued by the Committee available to the
24 public. If the report contains any privileged material, the

1 Committee shall, upon the agreement of at least two members of the
2 Committee, redact such material from the version made available to
3 the public.

4 G. If the Death Penalty Disclosure Review Committee identifies
5 evidence that should have been disclosed but was not disclosed by
6 the prosecution, the Oklahoma Court of Criminal Appeals may consider
7 the merits of the review by the Committee and grant relief on any
8 application for post-conviction relief based on the nondisclosure,
9 even if the request is an otherwise untimely or a subsequent
10 petition for post-conviction relief.

11 SECTION 2. This act shall become effective November 1, 2021.

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13 58-1-7270 GRS 02/02/21

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