

Assembly Concurrent Resolution No. 3—Joint Rules Committee

FILE NUMBER.....

ASSEMBLY CONCURRENT RESOLUTION—Directing the Legislative Commission to conduct an interim study of issues regarding the death penalty and related DNA testing.

WHEREAS, It has been 25 years since the United States Supreme Court allowed the death penalty to resume in the United States under certain circumstances; and

WHEREAS, There have been almost 700 executions in the United States since the reinstatement of the death penalty, eight of those have been in Nevada; and

WHEREAS, The death row population in this country has continued to grow, reaching over 3,700 prisoners in the year 2000; and

WHEREAS, Recent national studies have found that capital trials and sentences cost more than noncapital ones and the time and expense involved in curing errors in capital cases imposes a terrible cost on taxpayers, victims' families, the judicial system and persons wrongly condemned; and

WHEREAS, The determination of genetic markers, commonly referred to as "DNA testing," was not widely available in criminal cases tried before 1994; and

WHEREAS, In the last several years, DNA testing has emerged as the most reliable forensic technique for identifying criminals when biological material is left at a crime scene; and

WHEREAS, Post-conviction exoneration of more than 75 innocent men and women, including some incarcerated under a sentence of death, has been achieved through DNA testing; and

WHEREAS, Because collection of a DNA sample from an inmate consists simply of obtaining a swab of saliva and costs approximately \$100, it is now less costly and less burdensome to make DNA testing available to inmates in appropriate cases; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the Legislative Commission is hereby directed to appoint a committee to conduct an interim study of issues regarding the death penalty and related DNA testing; and be it further

RESOLVED, That the committee to conduct the study consists of eight members of the 71st Legislative Session to be appointed by the Legislative Commission as follows:

1. Four members of the Assembly, at least two of whom are members of the Assembly Standing Committee on Judiciary; and

2. Four members from the Senate, at least two of whom are members of the Senate Standing Committee on Judiciary; and be it further

RESOLVED, That the chairman of the committee may appoint a technical advisory committee to assist the committee in carrying out the study; and be it further

RESOLVED, That the interim study must include, without limitation, consideration of the following issues regarding the death penalty:

1. The costs in Nevada of prosecuting capital cases and incarcerating a person under the death penalty versus the cost of prosecuting a noncapital case and sentencing a person for life without the possibility of parole;

2. The number of prisoners actually executed compared with the number of those who were sentenced to death;

3. The impact of race, color, religion, national origin, gender, economic status and geographic location of defendants in capital cases with respect to decisions concerning charging, prosecuting and sentencing;

4. Whether defendants who are under 18 years of age or who are mentally retarded at the time of committing an offense should be sentenced to death;

5. The competency and expertise of counsel to defendants in capital cases;

6. The adequacy of resources provided to defendants in capital cases;

7. Whether jurors have a proper and adequate understanding of the application of the law and of jury instructions in capital cases;

8. Whether rules pertaining to arguments during any phase of a trial are an impediment in capital cases;

9. Whether capital punishment serves as an effective deterrent against the commission of murder;

10. The expertise of judges that hear capital cases; and

11. The process of appealing a sentence of death; and be it further

RESOLVED, That the study must also include, without limitation, consideration of the following issues concerning DNA testing:

1. The availability, cost and extent of its use, both in Nevada and in the rest of the country;

2. Current policies regarding the use of DNA testing in Nevada compared with policies in the remainder of the states;

3. The manner for storing and using such DNA information;

4. Post-conviction DNA testing, criteria for requests by prisoners and procedures for handling those requests; and

5. Any Fifth Amendment or other constitutional issues related to the use of DNA evidence in capital cases; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the committee; and be it further

RESOLVED, That the Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 72nd session of the Nevada Legislature.