

March 9, 2005

H 529. SUSPEND EXECUTIONS FOR TWO YEARS. *TO SUSPEND EXECUTIONS FOR TWO YEARS WHILE CONDUCTING A TWO-YEAR STUDY ON ISSUES RELATING TO THE DEATH SENTENCE.* As title indicates, applicable only to cases in which a death sentence was imposed prior to January 1, 2005. Does not prevent the prosecution of capital cases at trial or appeal, or the imposition of a death sentence while executions are suspended. Requires that study be conducted by General Assembly or its designee.

Intro. by Hackney, Luebke, Cunningham, Earle.

Ref. to Rules

GS 15, 15A, STUDY

May 31, 2005

H 529. SUSPEND EXECUTIONS FOR TWO YEARS. Intro. 3/9/05. House committee substitute makes the following changes to 1st edition. Creates the Study Commission on Capital Punishment to conduct the study and issue a final report no later than the 2008 Regular Session of the 2007 General Assembly. The Commission will have 15 members including five senators appointed by the President Pro Tem., five representatives appointed by the Speaker, and five members of the public appointed by the Governor. Commission is required to consult with representatives of victims, law enforcement, or other interested parties. Makes technical changes.

July 12, 2005

H 529. STUDY DEATH PENALTY (NEW). Intro. 3/9/05. House committee substitute makes the following changes to 2nd edition. Deletes provision suspending executions for two years. Enacts new provision requiring that during the term of the study directed by act a capital defendant may request that a superior court judge stay defendant's execution. Requires that the execution be stayed if the judge certifies and finds one of the following circumstances: (1) there is credible evidence of the defendant's factual innocence; (2) the case was tried before open file discovery at trial was required and there is credible evidence that prosecutorial misconduct may have contributed to the death sentence or verdict; (3) the case was tried before the appointment of counsel was governed by rules established by the Office of Indigent Defense Services and there is credible evidence that errors by defense counsel may have contributed to the death sentence or verdict; (4) there is credible evidence that a certain racial group has been disproportionately impacted by capital case processing and defendant is a member of that group or that the defendant or victim's race played an improper role in the defendant's prosecution of the death sentence or verdict; (5) there is credible evidence that the sentence is disproportionate as compared to other cases in which defendants received a life sentence or the death penalty; or (6) the case was tried before the effective date of legislation giving prosecutors discretion to try or plead non-capital first degree murder cases or providing for a life sentence without parole as a sentence for first degree murder and there is credible evidence that the death penalty would not have been imposed if those options had been available at the time of the defendant's trial. Requires that Study Comm'n on Capital Punishment also consider whether the felony murder rule should be applied in capital cases. Makes conforming changes.