

State of Arkansas  
84th General Assembly  
Regular Session, 2003

# A Bill

HOUSE BILL 2226

By: Representative Lendall

## For An Act To Be Entitled

THE DEATH PENALTY MORATORIUM ACT.

## Subtitle

THE DEATH PENALTY MORATORIUM ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

### SECTION 1. Title.

This act shall be known as the "Death Penalty Moratorium Act".

### SECTION 2. Findings and Purpose.

(a) Findings. The General Assembly finds that the administration of the death penalty should be consistent with the state's fundamental principles of justice, equality and due process.

(b) Purpose. This law is enacted by the General Assembly as a positive measure to ensure fairness in the operation of the state's death penalty and guarantee that innocent persons are not put to death.

### SECTION 3. Death penalty moratorium.

The state shall not carry out any sentence of death imposed under state law until the General Assembly considers the final findings and recommendations of the Commission on the Death Penalty established under section 4 of this act, and enacts legislation repealing this section and implementing or rejecting the guidelines and procedures recommended by the commission.

### SECTION 4. Creation - Members.



1       (a) There is established a commission to be known as the "Commission  
2 on the Death Penalty".

3       (b)(1) All members of the commission shall be appointed by the  
4 Governor.

5               (2) The commission shall be composed of fifteen (15) members as  
6 follows:

7                       (A) Three (3) members shall be current prosecuting  
8 attorneys;

9                       (B) Three (3) members shall be attorneys experienced in  
10 capital defense;

11                      (C) Two (2) members shall be current or former circuit  
12 judges;

13                      (D) Two (2) members shall be current or former state law  
14 enforcement officials; and

15                      (E) Five (5) members shall be individuals from the public  
16 or private sector who have knowledge or expertise, whether by experience or  
17 training, in matters to be studied by the commission.

18               (3) In appointing the members of the commission, the Governor  
19 shall, to the maximum extent practicable, ensure that the membership of the  
20 commission is fairly balanced with respect to the opinions of the members of  
21 the commission regarding support for or opposition to the use of the death  
22 penalty.

23               (4) The appointments of the initial members of the commission  
24 shall be made not later than thirty (30) days after the effective date of  
25 this act.

26               (5) The Governor shall designate one (1) member to serve as the  
27 chair of the commission.

28               (6)(A) Members shall be appointed for the life of the  
29 commission.

30                      (B) The Governor shall have the power to remove any member  
31 of the commission for good cause.

32                      (C) Any vacancy in the commission shall be filled in the  
33 same manner as the original appointment.

34               (7) Not later than thirty (30) days after all initial members of  
35 the commission have been appointed, the commission shall hold its first  
36 meeting in Little Rock.

1           (8)(A) The commission shall meet once a month in Little Rock at  
2 the call of the chair.

3           (B)(i) The members of the commission shall be volunteers  
4 who shall participate without compensation.

5           (ii) The members of the commission shall be entitled  
6 to expense reimbursement under § 25-16-902, provided appropriated funds are  
7 available.

8           (9) A majority of the membership of the commission shall  
9 constitute a quorum for transacting business, but less than a quorum may hold  
10 hearings.

11          (c) The commission shall adopt rules and procedures to govern its  
12 proceedings.

13  
14          SECTION 5. Duties of the commission.

15          (a) The commission shall conduct a thorough study of all matters  
16 relating to the administration of the death penalty by the state to determine  
17 whether it comports with constitutional principles and requirements of  
18 fairness, justice, equality, and due process.

19          (b) The matters studied by the commission shall include the following:

20               (1) Racial disparities in capital charging, prosecuting, and  
21 sentencing decisions;

22               (2) Disproportionality in capital charging, prosecuting, and  
23 sentencing decisions based on, or in correlation to, the geographic location  
24 and income status of defendant or any other factor resulting in  
25 disproportionality;

26               (3) Adequacy of representation of capital defendants, including  
27 consideration of the American Bar Association "Guidelines for the Appointment  
28 and Performance of Counsel in Death Penalty Cases" adopted February 1989, and  
29 the American Bar Association's policies intended to encourage competency of  
30 counsel in capital cases adopted February 1979, February 1988, February 1990,  
31 and August 1996;

32               (4) Whether innocent persons have been sentenced to death and  
33 the reasons these wrongful convictions have occurred;

34               (5) Procedures to ensure that persons sentenced to death have  
35 access to forensic evidence and modern testing of evidence, including DNA  
36 testing, when the testing could result in new evidence of innocence; and

1           (6) Any other law or procedure to ensure that death penalty  
2 cases are administered fairly and impartially, in accordance with the  
3 Constitution of the State of Arkansas.

4           (c) The commission shall submit a report to the Governor, the  
5 President Pro Tempore of the Senate, and the Speaker of the House containing  
6 a detailed statement of its findings and conclusions, together with its  
7 recommendations for legislative and administrative actions by November 1,  
8 2004.

9           (d) The commission shall expire December 31, 2004.