

Legislative History Checklist
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Synopsis: Amends the State Constitution to provide that it is not cruel and unusual punishment to impose the death penalty on certain persons.

Bill No.: ACR20

Identical to: SCR48
Substituted for: SCR48
Combined with:
Last Session Bill No.: ACR76 w/c

See Above Bill(s) for Additional History

NJ CONSTITUTION: Article I, paragraph 12

Sponsor(s): Haytaian/Stuhltrager+8

Date Introduced: 02/13/92

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| Committee Reference: | Statement: | Public Hearing: |
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Assembly:

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| Judiciary, Law and Public Safety | Yes | Yes |
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Senate:

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| Judiciary | Yes | Yes |
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Sponsor Statement: Yes

Fiscal Note: No

Dates of Passage:

Assembly:

04/30/92 (61-2)

Senate:

06/18/92 (34-3)

Amended During Passage: No

Governor's Action:

Veto: No

Date of Veto:

Date of Approval:

Message on Signing: No

Additional Information:

SENATE JUDICIARY COMMITTEE
STATEMENT TO
ASSEMBLY CONCURRENT RESOLUTION No. 20
STATE OF NEW JERSEY

DATED: MAY 4, 1992

The Senate Judiciary Committee reports favorably Assembly Concurrent Resolution No. 20.

ACR-20 provides that it is not cruel and unusual punishment to impose the death penalty on a person who has purposely or knowingly caused death or purposely or knowingly caused serious bodily injury resulting in death if he committed the act himself or paid another to do it.

Presently, N.J.S.2C:11-3 provides that criminal homicide constitutes murder if:

- (1) the actor purposely causes death or serious bodily injury resulting in death, or
- (2) the actor knowingly causes death or serious bodily injury resulting in death, or
- (3) the homicide was committed in the attempt or commission of enumerated crimes, the so-called "felony murder" law.

Only defendants convicted of murder under categories (1) or (2) who committed the act themselves or paid another to commit the murder are eligible for the death penalty. This statutory scheme was called into question by the New Jersey Supreme Court in State v. Gerald, 113 N.J. 40 (1986) in which the Court differentiated between "causing death" and "causing serious bodily injury resulting in death."

The Court stated: "We hold, on state constitutional grounds, that a defendant who is convicted of purposely or knowingly causing 'serious bodily injury resulting in death' under N.J.S.A.2C:11-3(a)(1) and (2), or either of them - as opposed to one who is convicted of purposely or knowingly causing death under those same provisions - may not be subjected to the death penalty." 113 N.J. at 69.

This proposed constitutional amendment is intended to overturn the Court's decision in the Gerald case and establish that it is not violative of the New Jersey Constitution to make those convicted of purposely or knowingly causing serious bodily injury resulting in death eligible for the death penalty.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 20

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably Assembly Concurrent Resolution No. 20.

The proposed constitutional amendment provides that it is not cruel and unusual punishment to impose the death penalty on a person who has purposely or knowingly caused death or purposely or knowingly caused serious bodily injury resulting in death if he committed the act himself or paid another to do it. Presently the New Jersey murder statute, N.J.S.A.2C:11-3 provides that criminal homicide constitutes murder if:

(1) the actor purposely causes death or serious bodily injury resulting in death or (2) the actor knowingly causes death or serious bodily injury resulting in death or (3) the homicide was committed in the attempt or commission of enumerated crimes, the so-called "felony murder rule." Under the terms of the statute only a defendant who falls into categories (1) or (2) as listed who is convicted and who committed the act himself or paid another to do it may be eligible for the death penalty sentencing phase in which the judge or jury weighs aggravating and mitigating factors. This statutory scheme was called into question by the New Jersey Supreme Court in the decision of State v. Gerald, 113 N.J. 40 (1988) in which the court differentiated between "causing death" and "causing serious bodily injury resulting in death."

The court stated: "We hold, on state constitutional grounds, that a defendant who is convicted of purposely or knowingly causing 'serious bodily injury resulting in death' under N.J.S.A.2C:11-3(a)(1) and (2), or either of them - as opposed to one who is convicted of purposely or knowingly causing death under those same provisions - may not be subjected to the death penalty." 113 N.J. at 69.

This proposed constitutional amendment is intended to overturn this portion of the court's decision in the Gerald case and establish that it is not violative of the State Constitution to make these defendants eligible for the death penalty sentencing process.

ASSEMBLY CONCURRENT RESOLUTION 20

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1992

By Assemblymen HAYTAIAN, STUHLTRAGER
and Collins

1 A CONCURRENT RESOLUTION proposing to amend Article I,
2 paragraph 12 of the Constitution of the State of New Jersey.

3
4 BE IT RESOLVED by the General Assembly of the State of
5 New Jersey (the Senate concurring):

6 1. The following proposed amendment to the Constitution of
7 the State of New Jersey is hereby agreed to:

8 PROPOSED AMENDMENT

9 Amend Article I, paragraph 12 to read as follows:

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11 12. Excessive bail shall not be required, excessive fines shall
12 not be imposed, and cruel and unusual punishments shall not be
13 inflicted. It shall not be cruel and unusual punishment to impose
14 the death penalty on a person convicted of purposely or knowingly
15 causing death or purposely or knowingly causing serious bodily
16 injury resulting in death committed the homicidal act by his
17 own conduct or who as an accomplice procured the commission of
18 the offense by payment or promise of payment of anything of
19 pecuniary value.

20 (cf: Art. 1, para. 12)

21
22 2. When this proposed amendment to the Constitution is finally
23 agreed to pursuant to Article IX, paragraph 1 of the Constitution,
24 it shall be submitted to the people at the next general election
25 occurring more than three months after the final agreement and
26 shall be published at least once in at least one newspaper of each
27 county designated by the President of the Senate, the Speaker of
28 the General Assembly and the Secretary of State, not less than
29 three months prior to the general election.

30 3. This proposed amendment to the Constitution shall be
31 submitted to the people at that election in the following manner
32 and form:

33 There shall be printed on each official ballot to be used at the
34 general election, the following:

35 a. In every municipality in which voting machines are not used,
36 a legend which shall immediately precede the question, as follows:

37 If you favor the proposition printed below make a cross (x), plus
38 (+) or check (✓) in the square opposite the word "Yes." If you are
39 opposed thereto make a cross (x), plus (+) or check (✓) in the
40 square opposite the word "No."

41 b. In every municipality the following question:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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| <p>YES</p> | <p>PROVIDING IT IS NOT CRUEL AND UNUSUAL PUNISHMENT TO IMPOSE THE DEATH PENALTY ON PERSONS WHO PURPOSELY OR KNOWINGLY CAUSE DEATH OR PURPOSELY OR KNOWINGLY CAUSE SERIOUS BODILY INJURY RESULTING IN DEATH</p> <p>Shall the amendment to Article I, paragraph 12 of the Constitution providing that it is not cruel and unusual punishment to impose the death penalty on a person convicted of purposely or knowingly causing death or purposely or knowingly causing serious bodily injury resulting in death who committed the homicidal act by his own conduct or who as an accomplice procured the commission of the offense by payment or promise of payment of anything of pecuniary value be approved?</p> |
| <p>NO.</p> | <p>INTERPRETIVE STATEMENT</p> <p>This constitutional amendment would provide that it is not cruel and unusual punishment under our State Constitution to impose the death penalty on a person who is convicted of purposely or knowingly causing death or purposely or knowingly causing serious bodily injury resulting in death if that defendant committed the act himself or paid for another to commit the act.</p> |

STATEMENT

The proposed constitutional amendment provides that it is not cruel and unusual punishment to impose the death penalty on a person who has purposely or knowingly caused death or purposely or knowingly caused serious bodily injury resulting in death if he committed the act himself or paid another to do it. Presently the New Jersey murder statute, N.J.S.A.2C:11-3 provides that criminal homicide constitutes murder if:

(1) the actor purposely causes death or serious bodily injury resulting in death or (2) the actor knowingly causes death or serious bodily injury resulting in death or (3) the homicide was committed in the attempt or commission of enumerated crimes, the so-called "felony murder rule." Under the terms of the statute only a defendant who falls into categories (1) or (2) as listed who is convicted and who committed the act himself or paid another to do it may be eligible for the death penalty sentencing phase in which the judge or jury weighs aggravating and mitigating factors. This statutory scheme was called into question by the New Jersey Supreme Court in the decision of State v. Gerald, 113 N.J. 40 (1988) in which the court differentiated between "causing death" and "causing serious bodily injury resulting in death."

1 The court stated: "We hold, on state constitutional grounds,
2 that a defendant who is convicted of purposely or knowingly
3 causing 'serious bodily injury resulting in death' under
4 N.J.S.A.2C:11-3(a)(1) and (2), or either of them - as opposed to
5 one who is convicted of purposely or knowingly causing death
6 under those same provisions - may not be subjected to the death
7 penalty." 113 N.J. at 89.

8 This proposed constitutional amendment is intended to overturn
9 this portion of the court's decision in the Gerald case and
10 establish that it is not violative of the State Constitution to make
11 these defendants eligible for the death penalty sentencing process.
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16 Amends the State Constitution to provide that it is not cruel and
17 unusual punishment to impose the death penalty on certain
18 persons.

