



AN ACT CONCERNING THE DEATH PENALTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (i) of section 53a-46a of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (i) The aggravating factors to be considered shall be limited to the
4 following: (1) The defendant committed the offense during the
5 commission or attempted commission of, or during the immediate
6 flight from the commission or attempted commission of, a felony and
7 [he] the defendant had previously been convicted of the same felony;
8 or (2) the defendant committed the offense after having been convicted
9 of two or more state offenses or two or more federal offenses or of one
10 or more state offenses and one or more federal offenses for each of
11 which a penalty of more than one year imprisonment may be imposed,
12 which offenses were committed on different occasions and which
13 involved the infliction of serious bodily injury upon another person; or
14 (3) the defendant committed the offense and in such commission
15 knowingly created a grave risk of death to another person in addition
16 to the victim of the offense; or (4) the defendant committed the offense
17 in an especially heinous, cruel or depraved manner; or (5) the
18 defendant procured the commission of the offense by payment, or
19 promise of payment, of anything of pecuniary value; or (6) the
20 defendant committed the offense as consideration for the receipt, or in
21 expectation of the receipt, of anything of pecuniary value; or (7) the

22 defendant committed the offense with an assault weapon, as defined
23 in section 53-202a; or (8) the defendant committed the offense set forth
24 in subdivision (1) of section 53a-54b, as amended by this act, to avoid
25 arrest for a criminal act or prevent detection of a criminal act or to
26 hamper or prevent the victim from carrying out any act within the
27 scope of the victim's official duties or to retaliate against the victim for
28 the performance of the victim's official duties.

29 Sec. 2. Subsection (h) of section 53a-46a of the general statutes is
30 repealed and the following is substituted in lieu thereof:

31 (h) The court shall not impose the sentence of death on the
32 defendant if the jury or, if there is no jury, the court finds by a special
33 verdict, as provided in subsection (e), that at the time of the offense (1)
34 [he] the defendant was under the age of eighteen years, or (2) the
35 defendant was a person with mental retardation, as defined in section
36 1-1g, or [(2) his] (3) the defendant's mental capacity was significantly
37 impaired or [his] the defendant's ability to conform [his] the
38 defendant's conduct to the requirements of law was significantly
39 impaired but not so impaired in either case as to constitute a defense to
40 prosecution, or [(3) he] (4) the defendant was criminally liable under
41 sections 53a-8, 53a-9 and 53a-10 for the offense, which was committed
42 by another, but [his] the defendant's participation in such offense was
43 relatively minor, although not so minor as to constitute a defense to
44 prosecution, or [(4) he] (5) the defendant could not reasonably have
45 foreseen that [his] the defendant's conduct in the course of commission
46 of the offense of which [he] the defendant was convicted would cause,
47 or would create a grave risk of causing, death to another person.

48 Sec. 3. Section 53a-54b of the general statutes is repealed and the
49 following is substituted in lieu thereof:

50 A person is guilty of a capital felony who is convicted of any of the
51 following: (1) Murder of a member of the Division of State Police
52 within the Department of Public Safety or of any local police
53 department, a chief inspector or inspector in the Division of Criminal

54 Justice, a state marshal who is exercising authority granted under any
55 provision of the general statutes, a judicial marshal in performance of
56 the duties of a judicial marshal, a constable who performs criminal law
57 enforcement duties, a special policeman appointed under section 29-
58 18, an employee of the Department of Correction or a person
59 providing services on behalf of said department when such employee
60 or person is acting within the scope of [his] such employee's or
61 person's employment or duties in a correctional institution or facility
62 and the actor is confined in such institution or facility, or any fireman,
63 while such victim was acting within the scope of [his] such victim's
64 duties; (2) murder committed by a defendant who is hired to commit
65 the same for pecuniary gain or murder committed by one who is hired
66 by the defendant to commit the same for pecuniary gain; (3) murder
67 committed by one who has previously been convicted of intentional
68 murder or of murder committed in the course of commission of a
69 felony; (4) murder committed by one who was, at the time of
70 commission of the murder, under sentence of life imprisonment; (5)
71 murder by a kidnapper of a kidnapped person during the course of the
72 kidnapping or before such person is able to return or be returned to
73 safety; [(6) the illegal sale, for economic gain, of cocaine, heroin or
74 methadone to a person who dies as a direct result of the use by him of
75 such cocaine, heroin or methadone; (7)] (6) murder committed in the
76 course of the commission of sexual assault in the first degree; [(8)] (7)
77 murder of two or more persons at the same time or in the course of a
78 single transaction; or [(9)] (8) murder of a person under sixteen years of
79 age.

80 Sec. 4. (a) There is established a Commission on the Death Penalty
81 to study the imposition of the death penalty in this state.

82 (b) The commission shall be comprised of nine members appointed
83 as follows: The Governor shall appoint two members, the Chief Justice
84 shall appoint one member and the president pro tempore of the Senate,
85 the speaker of the House of Representatives, the majority leader of the
86 Senate, the majority leader of the House of Representatives, the
87 minority leader of the Senate and the minority leader of the House of

88 Representatives shall each appoint one member. Any vacancy on the
89 commission shall be filled by the appointing authority having the
90 power to make the original appointment. The Governor shall appoint a
91 chairperson from among the membership.

92 (c) The study shall include, but not be limited to:

93 (1) An examination of whether the administration of the death
94 penalty in this state comports with constitutional principles and
95 requirements of fairness, justice, equality and due process;

96 (2) An examination and comparison of the financial costs to the state
97 of imposing a death sentence and of imposing a sentence to life
98 imprisonment without the possibility of release;

99 (3) An examination of whether there is any disparity in the decision
100 to charge, prosecute and sentence a person for a capital felony based
101 on the race, ethnicity, gender, religion, sexual orientation, age or
102 socioeconomic status of the defendant or the victim;

103 (4) An examination of whether there is any disparity in the decision
104 to charge, prosecute and sentence a person for a capital felony based
105 on the judicial district in which the offense occurred;

106 (5) An examination of the training and experience of prosecuting
107 officials and defense counsel involved in capital cases at the trial and
108 appellate and post-conviction levels;

109 (6) An examination of the process for appellate and post-conviction
110 review of death sentences;

111 (7) An examination of the delay in attaining appellate and post-
112 conviction review of death sentences, the delay between imposition of
113 the death sentence and the actual execution of such sentence, and the
114 reasons for such delays;

115 (8) An examination of procedures for the granting of a reprieve, stay
116 of execution or commutation from the death penalty;

117 (9) An examination of the extent to which the Governor is
118 authorized to grant a reprieve or stay of execution from the death
119 penalty and whether the Governor should be granted that authority;

120 (10) An examination of safeguards that are currently in place or that
121 should be put in place to ensure that innocent persons are not
122 executed;

123 (11) An examination of the extent to which the victim impact
124 statement authorized by section 53a-46d of the general statutes affects
125 the sentence imposed upon a defendant convicted of a capital felony;

126 (12) A recommendation regarding the financial resources required
127 by the Judicial Branch, Division of Criminal Justice, Division of Public
128 Defender Services, Department of Correction and Board of Pardons to
129 ensure that there is no unnecessary delay in the prosecution, defense
130 and appeal of capital cases;

131 (13) An examination and review of any studies by other states and
132 the federal government on the administration of the death penalty; and

133 (14) An examination of the emotional and financial effects that the
134 delay between the imposition of the death sentence and the actual
135 execution of such sentence has on the family of a murder victim.

136 (d) Not later than January 8, 2003, the commission shall report its
137 findings and recommendations, including any recommendations for
138 legislation and appropriations, to the General Assembly in accordance
139 with the provisions of section 11-4a of the general statutes.

140 Sec. 5. This act shall take effect July 1, 2001.

JUD *Joint Favorable Subst.*