

## 2004 SESSION

INTRODUCED

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### SENATE BILL NO. 47

Offered January 14, 2004

Prefiled December 19, 2003

*A BILL to establish a moratorium on prisoner executions.*

Patrons—Marsh and Whipple; Delegates: Eisenberg, Plum, Van Landingham and Van Yahres

Referred to Committee for Courts of Justice

WHEREAS, imposition of the death penalty is the ultimate punishment that the Commonwealth can impose on a person; and

WHEREAS, the Commonwealth has executed more people per capita than any other state with populations greater than one million, and is second only to the state of Texas in the total number of executions carried out since reinstatement of the death penalty in 1976; and

WHEREAS, the imposition of the death penalty carried out by order of the Commonwealth on an innocent person would be an unspeakable and most lamentable injustice; and

WHEREAS, questions have arisen about disparity, fairness, equity, and due process requirements regarding the imposition of the death penalty, the competence of counsel for capital defendants, and limitations on the introduction of newly discovered and possibly exculpatory evidence; and

WHEREAS, questions still remain about the fairness of the system notwithstanding recent actions by the General Assembly, for example, the "21-Day Rule" has been modified in a limited manner only; and, as another example, a decision by the Supreme Court of the United States has questioned whether Virginia has been utilizing the proper standard of review in the mandatory right of appeal that exists in the Commonwealth, incidentally which has the lowest reversal rate of death sentences on direct appeal in the country; and

WHEREAS, questions still remain regarding the execution of individuals who were juveniles at the time of their offense, and whether the death penalty is being imposed unfairly on those who are indigent, since Virginia has yet to meet standards for appointment performance and compensation of court-appointed counsel; and

WHEREAS, due to these questions and others, there is substantial public support for a moratorium on the death penalty in the Commonwealth; now, therefore,

#### **Be it enacted by the General Assembly of Virginia:**

**1. § 1. Notwithstanding any other provisions of law, the Commonwealth shall not conduct any executions of prisoners sentenced to death. This act is a suspension of executions only; all other matters of law related to the death penalty, including but not limited to bringing and trying capital charges, sentencing proceedings, imposing a death sentence, appeals and habeas review, are not affected by this act.**

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$564,020 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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