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SENATE BILL NO. 312

Offered January 13, 2016

Prefiled January 8, 2016

A BILL to establish a moratorium on prisoner executions.

Patrons—Dance, Ebbin, McEachin and Surovell

Referred to Committee on Rehabilitation and Social Services

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

Whereas, since the reinstatement of the death penalty following *Furman v. Georgia*, 408 U.S. 238 (1972), the Commonwealth has carried out a consistently high number of executions in comparison with most other states that allow the death penalty; 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, on the basis of post-conviction DNA testing not available at the time of his trial, Earl J. Washington, Jr., who was convicted of capital murder and twice scheduled to be executed for the 1982 rape and murder of a Culpeper woman, was found to be innocent and granted an absolute pardon for capital murder; 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 regarding whether the death penalty is being imposed unfairly on those who are indigent; and

Whereas, costs are higher at every level of a death penalty case, which require more pretrial time and preparation, more pretrial motions, more experts, the involvement of more attorneys, lengthier and more complex jury selection, longer trials, and more post-conviction reviews, than the costs of similar cases for which life imprisonment is the maximum penalty; and

Whereas, the supply of approved drugs for lethal injections is increasingly unreliable, and other states have encountered problems in the administration of such drugs, raising questions of whether executions can be carried out without violating the cruel and unusual punishment prohibitions of the Eighth Amendment to the United States Constitution; and

Whereas, on the basis of these and other issues, there exists 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 bringing and trying capital charges, sentencing proceedings, imposing the death penalty, appeals, and habeas review, are not affected by this act.

2. That the provisions of this act shall expire upon adjournment sine die of a regular session of the General Assembly that commences after a joint subcommittee of the General Assembly established pursuant to a joint resolution passed by the 2016 Session of the General Assembly has conducted a comprehensive study of the death penalty in the Commonwealth and published its conclusions in a report.

INTRODUCED

SB312