

IN THE TENNESSEE SUPREME COURT
AT NASHVILLE

STATE OF TENNESSEE)
)
v.) No. M1999-01334-SC-DPE-PD
)
PHILIP RAY WORKMAN)

MOTION TO VACATE EXECUTION DATE

On January 17, 2007, this Court set a May 9, 2007 execution date in this matter. Since then, however, various events have occurred in Tennessee which warrant the vacation of that date:

On February 1, 2007, the Governor issued Executive Order 43 declaring a ninety-day moratorium on executions, pending the Commissioner of Correction's comprehensive review of the manner in which death sentences are administered in Tennessee. See Exhibit 1 (Executive Order 43). The Governor simultaneously issued reprieves to four (4) inmates for whom this Court had set execution dates in that ninety-day period.¹ The Governor's moratorium is set to expire May 2, 2007, just a week before the scheduled May 9, 2007 execution date in this case. Id.²

Also, since this Court set the May 9, 2007 execution date, the 105th General Assembly has taken under consideration various bills relating to the execution of capital sentences in Tennessee. Before adjourning (likely at the end of May), the General Assembly will be considering and may pass any of the following measures relating to executions in Tennessee:

¹ Those inmates are Daryl Holton (February 28, 2007 execution date set on January 30, 2007); Mikael Abdullah Abdus' Samad (March 7, 2007 execution date set on December 20, 2006); Pervis Payne (April 11, 2007 execution date set on September 19, 2006); Edward Harbison (February 22, 2007 execution date set on August 15, 2006).

² In fact, in court filings, even the Commissioner assumed that Workman's execution date had been stayed by the Governor's Order: "[T]hat executive order stays the execution of all condemned Tennessee inmates presently scheduled for execution." See Harbison v. Little, M.D.Tenn.No. 3:06-cv-1206, R. 35, p. 3 (Memorandum Of Defendant George Little, Ricky Bell, And John Does In Support Of Motion To Dismiss).

(1) Bills requiring the Attorney General and Reporter, by October 1, 2007, to evaluate, *inter alia*, Tennessee's ability to meet the constitutional prerequisites to imposing capital punishment;³

(2) Bills requiring the House and Senate Judiciary Committees to examine, by January 15, 2008, the fairness of the administration of the death sentence in Tennessee, with an accompanying moratorium on executions until April 15, 2008;⁴

(3) Bills appointing a sixteen-member committee to sit from 2007-2009 to study capital punishment in Tennessee and to make recommendations to insure that capital punishment is uniform in application and free from bias and error;⁵ and

(4) Bills requiring that no execution take place until May 2, 2009, while studies of capital punishment are being conducted.⁶

Certainly, each of these measures would have an impact on whether Philip Workman should be executed, and if so, when. This is especially true because Philip Workman's case involve serious issues relating to the veracity of evidence used to convict him and sentence him to death. It appears, however, that such measures will not be finally addressed until after May 9, 2007.

Under these circumstances, the prudent course is either: (1) to vacate Philip Workman's

³ SB 1184 (Introduced February 8, 2007 by Senator Black); HB 799 (Introduced February 8, 2007 by Representative Casada). See Joint Exhibit 2.

⁴ SB 635 (Introduced February 8, 2007 by Senator Flinn); HB 1357 (Introduced February 14, 2007 by Representative Turner). See Joint Exhibit 3.

⁵ SB 1911 (Introduced February 8, 2007 by Senator Jackson); HB 2162 (Introduced February 15, 2007 by Representative Briley). See Joint Exhibit 4.

⁶ SB 2069 (Introduced February 21, 2007 by Senator Flinn); HB 1985 (Introduced February 15, 2007 by Representative Turner). See Joint Exhibit 5.

current execution date, subject to being re-set by motion following the conclusion of the legislative session; or (2) to re-set the date to a date after the legislative session has concluded. At a minimum, in the interest of justice and fairness, this Court should vacate the May 9, 2007, date, subject to being re-set in the same manner as in the cases involving the four (4) inmates who received reprieves until May 2, 2007. Given the mere fortuity of timing involved in the Governor's order, it is appropriate that Philip Workman be placed on the same footing as those other inmates: He, too, would have received a reprieve had this Court in January instead chosen a May 1 execution date, or had the Governor provided the Corrections Commissioner a mere seven (7) more days to perform his duties under the Executive Order.

Especially where members of the General Assembly are seeking to insure that capital punishment in Tennessee is "impartial" "equitable" and "free from bias,"⁷ this mere fortuity of timing should not mean that Philip Workman faces execution while others similarly situated do not.

CONCLUSION

The motion to vacate the May 9, 2007 execution should be granted. The Court should either: (1) Re-set the date to a date following the conclusion of the 105th General Assembly; (2) Vacate the date pending the conclusion of the 105th General Assembly; or (3) Vacate the date, subject to being re-set after May 2, 2007, just like the other inmates who have been reprieved until then.

⁷ See SB 1911, HB 2162.

Respectfully Submitted,

Christopher M. Minton

Christopher M. Minton
Kelley J. Henry
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway, Suite 200
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(615) 736-5047

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been hand-delivered to Joseph Whalen, Office of the Attorney General, 425 5th Avenue North, Nashville, Tennessee 37243 on this 15th day of March, 2007.

Christopher M. Minton

Exhibit 1



STATE OF TENNESSEE
EXECUTIVE ORDER
BY THE GOVERNOR

Number 43

**AN ORDER DIRECTING THE DEPARTMENT OF CORRECTION TO
COMPLETE A COMPREHENSIVE REVIEW OF THE MANNER IN WHICH THE
DEATH PENALTY IS ADMINISTERED IN TENNESSEE**

WHEREAS, this Administration has been and continues to be firmly committed to carrying out death sentences properly imposed under the laws of this state in a timely and judicious manner; and

WHEREAS, this Administration also recognizes its unique responsibility to ensure that death sentences are administered in a constitutional and appropriate manner; and

WHEREAS, since 2000, two inmates sentenced to death have been executed in Tennessee by lethal injection, and both executions were completed professionally in a constitutional and appropriate manner; and

WHEREAS, while these executions have been carried out appropriately, a recent review has highlighted deficiencies in the written procedures intended to ensure that all legal executions will continue to be carried out appropriately; and

WHEREAS, the administration of the death penalty in a constitutional and appropriate manner is a responsibility of the highest importance.

NOW THEREFORE, I, Phil Bredesen, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and law, do hereby order and direct the following:

1. I hereby direct the Commissioner of Correction ("Commissioner") to initiate immediately a comprehensive review of the manner in which death sentences are administered in Tennessee. This review shall specifically include the state's protocols and any related procedures, whether written or otherwise, related to the administration of death sentences, both by lethal injection and by electrocution. In completing this review, the Commissioner is directed to utilize all relevant and appropriate resources, including but not limited to scientific and medical experts, legal experts, and Correction professionals, both from within and outside of Tennessee. As a component of this review, the Commissioner is further directed to research and perform an analysis of best practices used by other states in administering the death penalty.
2. As soon as practical, but no later than May 2, 2007, the Commissioner of Correction is directed to establish and provide to me new protocols and related written procedures for administering death sentences in Tennessee, both by lethal injection and electrocution. In addition, the Commissioner is directed to provide me with a report outlining the results of the review completed pursuant to paragraph one (1) above.

3. The current protocols and any related procedures, whether written or otherwise, used by the Department of Correction and related to the administration of death sentences in Tennessee, both by lethal injection and by electrocution, are hereby revoked.

By separate orders of reprieve, I have this day granted reprieves to the following individuals, all of whom had sentences of death scheduled to be carried out within the next ninety (90) days: Michael Joe Boyd a/k/a/ Mika'eel Abdullah Abdus-Samad, Edward Jerome Harbison, Daryl Keith Holton and Pervis T. Payne. These four (4) reprieves will remain in place until May 2, 2007.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 1st day of February, 2007.



GOVERNOR

ATTEST:



SECRETARY OF STATE

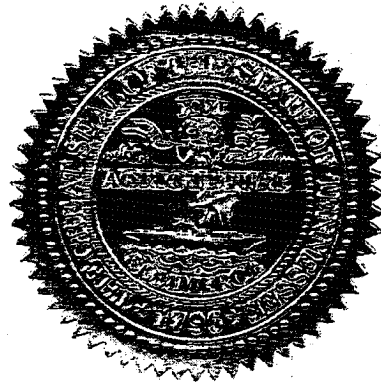


Exhibit 2

SENATE BILL 1184

By Black

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 16; Title 39 and Title 40, relative to capital
punishment.

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

SECTION 1. The attorney general and reporter shall conduct a study of the state's readiness to meet the constitutional prerequisites to imposing capital punishment, including any recommended legislation to resolve impediments to carrying out the present law. The department of correction, department of mental health and developmental disabilities, the administrative office of the courts, the district attorneys general conference and the district public defenders conference shall provide resources and cooperation for the study as requested. Such report shall be submitted to the speakers of the house of representatives and the senate by October 1, 2007.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL 799

By Casada

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 16; Title 39 and Title 40, relative to capital
punishment.

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

SECTION 1. The attorney general and reporter shall conduct a study of the state's readiness to meet the constitutional prerequisites to imposing capital punishment, including any recommended legislation to resolve impediments to carrying out the present law. The department of correction, department of mental health and developmental disabilities, the administrative office of the courts, the district attorneys general conference and the district public defenders conference shall provide resources and cooperation for the study as requested. Such report shall be submitted to the speakers of the house of representatives and the senate by October 1, 2007.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Exhibit 3

SENATE BILL 635
By Flinn

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 2, to provide for a moratorium on the death penalty.

WHEREAS, the General Assembly of the State of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible; and

WHEREAS, the State should exercise utmost care to protect its residents' lives from homicides, preventable illnesses, accidents, and unjust taking by the state; and

WHEREAS, significant numbers of Tennesseans, including members of this Body, have grave reservations about the fairness in the way that the death penalty is imposed in our State and elsewhere, as well as concern about the cost to taxpayers in carrying out the death penalty; and

WHEREAS, many Tennesseans maintain that inadequate representation, economic status, race, judicial error, overzealous prosecution, or other factors may deny some defendants the right to adequate representation or to a fair trial in capital cases; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of accused persons in capital crimes;

WHEREAS, the execution of an innocent person by the State of Tennessee would be an irreversible injustice; and

WHEREAS, it is consistent with Tennessee's history, philosophy, and values to ensure a system of justice which is fair, impartial, and eschews vengeance; now, therefore,

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

SECTION 1. The House and Senate Judiciary committees are hereby directed to study defendants' access to justice and other implications of death penalty trials in the State of Tennessee.

SECTION 2. The House and Senate Judiciary committees shall study, receive testimony, deliberate upon, and make recommendations on all aspects of capital punishment trials in the state. The committees shall examine and consider, but not be limited to, the following:

- (1) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;
- (2) The adequacy of investigative support afforded the accused in capital cases;
- (3) The process for judicial review of meritorious claims in state post-conviction and federal habeas corpus proceedings;
- (4) Any disproportionate racial impact upon any aspect of capital case proceedings;
- (5) Whether mentally retarded persons should be executed, and what criteria should be used in judging the level of retardation involved;
- (6) Whether persons who are minors when the crime is committed should be executed.
- (7) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty; and
- (8) The presence of innocent persons on death row in Tennessee.

SECTION 3. The committees shall report their findings and recommendations to the governor and the general assembly on or before January 15, 2008.

SECTION 4. Tennessee Code Annotated, Section 39-13-204, is amended by adding a new subsection thereto, as follows:

(l)

(1) No sentence of death shall be carried out from the effective date of this act through April 15, 2008.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, all trials and sentencing hearings for the offense of first degree murder shall continue. Persons may be sentenced to death during the moratorium on the death penalty provided by this

act, provided that no sentence of death shall be carried out unless it conforms with subdivision (1).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL 1357
By Turner L

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 2, to provide for a moratorium on the death penalty.

WHEREAS, the General Assembly of the State of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible; and

WHEREAS, the State should exercise utmost care to protect its residents' lives from homicides, preventable illnesses, accidents, and unjust taking by the state; and

WHEREAS, significant numbers of Tennesseans, including members of this Body, have grave reservations about the fairness in the way that the death penalty is imposed in our State and elsewhere, as well as concern about the cost to taxpayers in carrying out the death penalty; and

WHEREAS, many Tennesseans maintain that inadequate representation, economic status, race, judicial error, overzealous prosecution, or other factors may deny some defendants the right to adequate representation or to a fair trial in capital cases; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of accused persons in capital crimes;

WHEREAS, the execution of an innocent person by the State of Tennessee would be an irreversible injustice; and

WHEREAS, it is consistent with Tennessee's history, philosophy, and values to ensure a system of justice which is fair, impartial, and eschews vengeance; now, therefore,

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

SECTION 1. The House and Senate Judiciary committees are hereby directed to study defendants' access to justice and other implications of death penalty trials in the State of Tennessee.

SECTION 2. The House and Senate Judiciary committees shall study, receive testimony, deliberate upon, and make recommendations on all aspects of capital punishment trials in the state. The committees shall examine and consider, but not be limited to, the following:

- (1) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;
- (2) The adequacy of investigative support afforded the accused in capital cases;
- (3) The process for judicial review of meritorious claims in state post-conviction and federal habeas corpus proceedings;
- (4) Any disproportionate racial impact upon any aspect of capital case proceedings;
- (5) Whether mentally retarded persons should be executed, and what criteria should be used in judging the level of retardation involved;
- (6) Whether persons who are minors when the crime is committed should be executed.
- (7) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty; and
- (8) The presence of innocent persons on death row in Tennessee.

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(2) Notwithstanding the provisions of subdivision (1) of this subsection, all trials and sentencing hearings for the offense of first degree murder shall continue. Persons may be sentenced to death during the moratorium on the death penalty provided by this

act, provided that no sentence of death shall be carried out unless it conforms with subdivision (1).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.

Exhibit 4

SENATE BILL 1911

By Jackson

AN ACT to create a special committee to study the administration of the death penalty.

WHEREAS, the state should exercise the utmost care in matters of life and death; and

WHEREAS, new methods and technologies for determining guilt or innocence have shed new light on the causes of wrongful convictions; and

WHEREAS, the execution of an innocent person by the state of Tennessee would be a grave and irreversible injustice; and

WHEREAS, the state must ensure a criminal justice system that is impartial, equitable, competent, accurate, and meets the needs of victims' family members; now, therefore,

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

SECTION 1. In order to ensure a system of justice that is impartial, there is created a special committee to study the administration of Tennessee's death penalty system. The committee shall be known as the Committee to Study the Administration of the Death Penalty, herein referred to as "the committee."

SECTION 2. The committee is charged to study capital punishment in the state of Tennessee and to make recommendations designed to make capital punishment in Tennessee uniform in its application and administration so that the capital process is free from bias and error. To that end, the committee shall, among other things, review non-partisan, academic, and/or government inquiries into the administration of capital punishment at the state and national levels.

SECTION 3. The committee is charged to study, receive testimony, deliberate upon and make recommendations for public policy designed to provide fairness and accuracy in the application and administration of capital punishment. The committee's findings and

recommendations shall address all stages of the capital process and public policy related to the death penalty in areas including, but not limited to, the following:

(1) The provision of enforced guidelines and standards for the identification, recruitment, appointment, training, financing, investigative assistance, attorney resource assistance, forensic expert assistance, and performance of qualified, effective defense counsel in all stages of litigation in capital cases, using as a benchmark the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003);

(2) The risk of innocent people being executed and the causes that lead to wrongful conviction;

(3) Whether the law provides adequate protection for specific vulnerable populations such as the mentally retarded (in accordance with the United States Supreme Court ruling in *Atkins v. Virginia*) and the mentally ill; whether persons suffering from mental illness constitute a disproportionate number of those on death row, what criteria should be used in judging the level of mental illness involved; and whether or not people with mental illness should be executed; and

(4) What services exist in the state of Tennessee for close family members and loved ones of murder victims and capital defendants; whether these services are sufficient; whether additional services are provided in other states; whether additional services should be provided in the state of Tennessee; and whether victims' rights and services are provided on an equal basis to all surviving family members.

SECTION 4. The committee shall consist of sixteen (16) members, as follows; two (2) members of the senate, including at least one (1) member of the senate judiciary committee, appointed by the speaker of the senate; two (2) members of the house of representatives, including at least one (1) member of the house judiciary committee, appointed by the speaker of

the house; two (2) persons appointed by the governor; a representative appointed by the attorney general; a representative appointed by the Tennessee Bar Association; a representative appointed by the Tennessee Association of Criminal Defense Lawyers; a representative appointed by the District Attorneys General Conference; a representative appointed by the District Public Defenders Conference; a representative appointed by the Office of the Post-Conviction Defender; a representative appointed by the Tennessee Justice Project; a representative appointed by the National Alliance on Mental Illness, Tennessee; a representative appointed by Murder Victims' Families for Human Rights; and a representative appointed by You Have the Power.

SECTION 5. The committee shall be convened by the legislative member with the most years of continuous service in the general assembly and, at its organizational meeting, shall elect from among its legislative membership, a chair, vice-chair, and such other officers the committee may deem necessary.

SECTION 6. Members of the committee shall serve without compensation. All legislative members of the special joint committee who are duly elected members of the general assembly shall remain members of such committee until the committee reports its findings and recommendations to the general assembly.

SECTION 7. The committee shall report its findings and recommendations to the governor and the general assembly within two (2) years of the effective date of this act, at which time the committee shall cease to exist.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL 2162

By Briley

AN ACT to create a special committee to study the administration of the death penalty.

WHEREAS, the state should exercise the utmost care in matters of life and death; and

WHEREAS, new methods and technologies for determining guilt or innocence have shed new light on the causes of wrongful convictions; and

WHEREAS, the execution of an innocent person by the state of Tennessee would be a grave and irreversible injustice; and

WHEREAS, the state must ensure a criminal justice system that is impartial, equitable, competent, accurate, and meets the needs of victims' family members; now, therefore,

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

SECTION 1. In order to ensure a system of justice that is impartial, there is created a special committee to study the administration of Tennessee's death penalty system. The committee shall be known as the Committee to Study the Administration of the Death Penalty, herein referred to as "the committee."

SECTION 2. The committee is charged to study capital punishment in the state of Tennessee and to make recommendations designed to make capital punishment in Tennessee uniform in its application and administration so that the capital process is free from bias and error. To that end, the committee shall, among other things, review non-partisan, academic, and/or government inquiries into the administration of capital punishment at the state and national levels.

SECTION 3. The committee is charged to study, receive testimony, deliberate upon and make recommendations for public policy designed to provide fairness and accuracy in the application and administration of capital punishment. The committee's findings and

recommendations shall address all stages of the capital process and public policy related to the death penalty in areas including, but not limited to, the following:

(1) The provision of enforced guidelines and standards for the identification, recruitment, appointment, training, financing, investigative assistance, attorney resource assistance, forensic expert assistance, and performance of qualified, effective defense counsel in all stages of litigation in capital cases, using as a benchmark the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003);

(2) The risk of innocent people being executed and the causes that lead to wrongful conviction;

(3) Whether the law provides adequate protection for specific vulnerable populations such as the mentally retarded (in accordance with the United States Supreme Court ruling in *Atkins v. Virginia*) and the mentally ill; whether persons suffering from mental illness constitute a disproportionate number of those on death row, what criteria should be used in judging the level of mental illness involved; and whether or not people with mental illness should be executed; and

(4) What services exist in the state of Tennessee for close family members and loved ones of murder victims and capital defendants; whether these services are sufficient; whether additional services are provided in other states; whether additional services should be provided in the state of Tennessee; and whether victims' rights and services are provided on an equal basis to all surviving family members.

SECTION 4. The committee shall consist of sixteen (16) members, as follows; two (2) members of the senate, including at least one (1) member of the senate judiciary committee, appointed by the speaker of the senate; two (2) members of the house of representatives, including at least one (1) member of the house judiciary committee, appointed by the speaker of

the house; two (2) persons appointed by the governor; a representative appointed by the attorney general; a representative appointed by the Tennessee Bar Association; a representative appointed by the Tennessee Association of Criminal Defense Lawyers; a representative appointed by the District Attorneys General Conference; a representative appointed by the District Public Defenders Conference; a representative appointed by the Office of the Post-Conviction Defender; a representative appointed by the Tennessee Justice Project; a representative appointed by the National Alliance on Mental Illness, Tennessee; a representative appointed by Murder Victims' Families for Human Rights; and a representative appointed by You Have the Power.

SECTION 5. The committee shall be convened by the legislative member with the most years of continuous service in the general assembly and, at its organizational meeting, shall elect from among its legislative membership, a chair, vice-chair, and such other officers the committee may deem necessary.

SECTION 6. Members of the committee shall serve without compensation. All legislative members of the special joint committee who are duly elected members of the general assembly shall remain members of such committee until the committee reports its findings and recommendations to the general assembly.

SECTION 7. The committee shall report its findings and recommendations to the governor and the general assembly within two (2) years of the effective date of this act, at which time the committee shall cease to exist.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

Exhibit 5

SENATE BILL 2069

By Flinn

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 2, to provide for a moratorium on
executions.

WHEREAS, the general assembly of the state of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible: and

WHEREAS, significant numbers of Tennesseans, including members of this body, have grave reservations about the fairness in the way that the death penalty is imposed in our state and elsewhere, as well as concern about the cost to taxpayers of carrying out the death penalty: and

WHEREAS, new methods and technologies for determining guilt or innocence have shed new light on the causes of wrongful convictions and led to questions regarding the reliability of Tennessee's capital punishment process; and

WHEREAS, many Tennesseans maintain that inadequate representation, economic status, race, judicial error, overzealous prosecution, or other factors may deny some defendants the right to adequate representation or to a fair trial in capital cases; and

WHEREAS, studies of various aspects of Tennessee's capital punishment system are currently underway: and

WHEREAS, continuing to carry out executions while significant questions regarding the fairness and accuracy of Tennessee's death penalty exist may lead to unacceptable and irreversible injustice to Tennessee's citizens; and

WHEREAS it is consistent with Tennessee's history, philosophy, and values to ensure a system of justice which is fair, impartial, and eschews vengeance; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Section 39-13-204, is amended by adding a new subsection thereto, as follows:

(l)

(1) Notwithstanding any other provision of law to the contrary, no sentence of death shall be carried out from the effective date of this act through May 2, 2009.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, all trials, sentencing hearings, and post-conviction appellate procedures for first degree murder shall continue. Persons may be sentenced to death during the moratorium on the death penalty provided by this subsection, provided that no sentence of death shall be carried out unless it conforms with subdivision (1).

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

HOUSE BILL 1985

By Turner L

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 2, to provide for a moratorium on executions.

WHEREAS, the general assembly of the state of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible: and

WHEREAS, significant numbers of Tennesseans, including members of this body, have grave reservations about the fairness in the way that the death penalty is imposed in our state and elsewhere, as well as concern about the cost to taxpayers of carrying out the death penalty: and

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WHEREAS, studies of various aspects of Tennessee's capital punishment system are currently underway: and

WHEREAS, continuing to carry out executions while significant questions regarding the fairness and accuracy of Tennessee's death penalty exist may lead to unacceptable and irreversible injustice to Tennessee's citizens; and

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