

AMENDED IN ASSEMBLY JUNE 20, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1121

Introduced by Assembly Member ~~Koretz~~ Members *Koretz and Lieber*

(Principal coauthor: Senator Cedillo)

*(Coauthors: Assembly Members *Dymally and Leno*)*

February 22, 2005

An act to amend Section ~~1216~~ of 3700 of, and to add Section 3700.1 to, the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1121, as amended, Koretz. Sentencing.

Existing law establishes the sentence of death as the penalty for certain crimes under particular circumstances, as specified.

This bill would place a moratorium on the carrying out of any executions, as specified, until certain criteria are met, or, failing that, until January 1, 2009, as specified. The bill would require make findings and state declarations of the Legislature relative to the California Commission on the Fair Administration of Justice, as specified.

~~Existing law provides that if judgment is for imprisonment in the state prison, the sheriff of the county shall, among other duties, upon receipt of a certified abstract or minute order thereof, take and deliver the defendant to the warden of the state prison.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares the*
2 *following:*

3 *(a) Pursuant to Senate Resolution 44, on August 27, 2004, the*
4 *Senate resolved to establish the California Commission on the*
5 *Fair Administration of Justice.*

6 *(b) The California Commission on the Fair Administration of*
7 *Justice will study and review the administration of justice in*
8 *California to determine the extent to which that process has*
9 *failed in the past, resulting in wrongful executions or the*
10 *wrongful conviction of innocent persons. The commission will*
11 *examine ways of providing safeguards and making improvements*
12 *in the way the criminal justice system functions and make any*
13 *recommendations and proposals designed to further ensure that*
14 *the application and administration of criminal justice in*
15 *California is just, fair, and accurate.*

16 *(c) The commission will be conducting its work and must*
17 *complete its study and make any recommendations for reform by*
18 *December 31, 2007.*

19 *(d) There are currently more than 640 inmates on death row*
20 *in California, more than any other state in the country, and of*
21 *those 640, more than 20 have appeals pending in the Ninth*
22 *Circuit Court of Appeals, which is the final procedural step*
23 *before execution dates are set for those inmates whose*
24 *convictions and sentences are affirmed.*

25 *(e) Because of the mature state of the appeals and habeas*
26 *proceedings in so many death penalty appeals, it is highly likely*
27 *that prior to December 31, 2007, dozens of execution dates will*
28 *be set, clemency proceedings will occur in those cases, clemency*
29 *decisions will need to be made, and if clemency is not granted,*
30 *executions will occur, all without the benefit of the California*
31 *Commission on the Fair Administration of Justice's findings and*
32 *recommendations.*

33 *(f) In light of the final and irrevocable nature of the death*
34 *penalty, and to ensure that no innocent person is ever executed in*
35 *this state, it is necessary to place a moratorium on executions*
36 *until the work of the California Commission on the Fair*
37 *Administration of Justice is completed.*

38 *SEC. 2. Section 3700 of the Penal Code is amended to read:*

1 3700. No judge, court, or officer, other than the Governor,
2 can suspend the execution of a judgment of death, except the
3 warden of the State prison to whom he *or she* is delivered for
4 execution, as provided in ~~the six succeeding sections~~ *this*
5 *chapter*, unless an appeal is taken.

6 *SEC. 3. Section 3700.1 is added to the Penal Code, to read:*

7 *3700.1. (a) There is hereby imposed a moratorium on the*
8 *carrying out of executions in this state. The warden of the state*
9 *prison to whom an inmate is delivered for execution shall not*
10 *carry out any executions during the moratorium period.*

11 *(b) The moratorium period shall commence upon the date this*
12 *section becomes effective, and shall continue until the*
13 *Legislature has fully considered any recommendations of the*
14 *California Commission on the Fair Administration of Justice and*
15 *has enacted legislation ending the moratorium period, provided*
16 *however, that if the Legislature fails to enact legislation ending*
17 *or extending the moratorium period, the moratorium shall end on*
18 *January 1, 2009.*

19 *(c) Once the moratorium has ended, any date for an execution*
20 *shall be set as provided by Section 1227.*

21 ~~SECTION 1. Section 1216 of the Penal Code is amended to~~
22 ~~read:~~

23 ~~1216. If the judgment is for imprisonment in the state prison,~~
24 ~~the sheriff of the county shall, upon receipt of a certified abstract~~
25 ~~or minute order thereof, take and deliver the defendant to the~~
26 ~~warden of the state prison. The sheriff also shall deliver to the~~
27 ~~warden the certified abstract of the judgment or minute order, a~~
28 ~~Criminal Investigation and Identification (CI) number, a~~
29 ~~Confidential Medical/Mental Health Information Transfer Form~~
30 ~~indicating that the defendant is medically capable of being~~
31 ~~transported, and shall take from the warden a receipt for the~~
32 ~~defendant.~~