

# SENATE BILL REPORT

## SB 5786

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As Reported By Senate Committee On:  
Judiciary, February 20, 2007

**Title:** An act relating to creating a death penalty task force.

**Brief Description:** Creating a death penalty task force.

**Sponsors:** Senators Kline, Murray, Regala, Weinstein, Fairley, Pridemore, Brown, Jacobsen, Rockefeller, Kohl-Welles and Spanel.

**Brief History:**

**Committee Activity:** Judiciary: 2/14/07, 2/20/07 [DPS, DNP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 5786 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; Hargrove, Murray and Weinstein.

**Minority Report:** Do not pass.

Signed by Senators McCaslin, Ranking Minority Member; Carrell and Roach.

**Staff:** Juliana Roe (786-7405)

**Background:** Washington State adopted the death penalty in 1981. Committees have been established and studies have been conducted since its adoption to determine the functionality of the system. These efforts have produced little results. Since 1981, Washington State has faced many social and constitutional changes and, more recently, events such as the Gary Ridgway case, have further brought the status of the death penalty system into the limelight. Proponents believe it is time to examine whether: (1) citizens of Washington State still want the death penalty; (2) there are problems with Washington's death penalty system; and if problems exist, (3) they can be fixed.

**Summary of Bill:** A death penalty task force, made up of 14 members, is created to conduct a review of the existing death penalty statutes and court rules to determine the following: (1) uniformity of decision making by prosecutors; (2) impact of race, ethnicity, gender, and economic status; (3) whether the death penalty is applied randomly or arbitrarily; (4) costs associated with capital trials and appeals; and (5) whether revisions to existing statutes and court rules would decrease the likelihood of an inappropriate imposition of the death penalty. The task force is required to report its findings by January 1, 2008.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The sum of \$50,000 is appropriated from the state General Fund to the administrative office of the courts for the purposes of providing staffing and support to the task force for the fiscal year ending June 30, 2007. The sum of \$100,000 is appropriated for the fiscal year ending June 30, 2008.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Judiciary):** Neutral language is inserted in Section 2 regarding the information to be reviewed by the death penalty task force.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We are at a time, in Washington State, which requires new debate and discussion regarding the death penalty. We face more than just moral issues, including those of fairness, cost, geography, the ability of defense attorneys, victims, and public service. There are also many statistics that are troubling regarding race. The death penalty has never been sought where the victim of the crime was an African-American. There are statistics regarding the cost of the death penalty process. It is very expensive compared to cases involving sentences of life without parole. There are even disturbing circumstances where defendants are waiving their rights to appeal, maybe even without proper legal advice, and proceeding with the death penalty.

There are many who are not on death row who have committed more heinous crimes than those who are on death row. The death penalty is not applied fairly. This is not a plea to save a killer, but to save humanity from the mistakes that have been made. As legislators, you have been hired by the citizens of Washington. Do not be afraid to examine the laws of this state and ask questions about the death penalty. It is your duty.

This is not a study on proportionality, but one to determine, for example: whether the death penalty is fair and if it is working fairly; what changes can be made; and whether it should be continued. These are not unusual requests and they are being made all over the country. We finally have history to reflect upon these issues.

There is no uniformity in the application of the death penalty. The death penalty does not deter. Life without the possibility of parole or release is a significant alternative form of punishment. Many of those persons in prison for life live in a small, concrete cell, with little to no human contact, and a miniscule amount of time outdoors. It is a miserable existence. There are many legitimate questions to be asked, including cost, arbitrariness, and wrongful convictions. This is an important study.

CON: The Washington State Bar Association recently completed an 18 month study on the death penalty. There is not a problem with race or small counties when it comes to the death penalty. On those whom the death penalty has been imposed, 12 percent were Caucasian and 12 percent were African-American. In the four largest counties in Washington, the death penalty has been sought in 36 percent of all aggravated first degree murder convictions,

whereas in the smaller counties it has been sought in 34 percent of those cases. The death penalty has been imposed in 13 percent of those cases in the four largest counties and in 10 percent of the cases in the smaller counties. It has not been applied in a disproportionate manner.

**Persons Testifying:** PRO: Ken Davidson, Chair Washington State Bar Association Committee on the Death Penalty; James Basden, Glen Anderson, Beth Walsh, Rozanne Rantz, citizens; Mark Laranaga, Attorney; Kevin Glackin-Coley, Washington State Catholic Conference; Bill Babbitt, citizen of California; Yoshe Revelle, global citizen; Mark Prothero, Attorney.

CON: Tom McBride, Washington Association of Prosecuting Attorneys.