



SENATE BILL 416: Amend Racial Justice Act

2011-2012 General Assembly

Committee:	House Judiciary Subcommittee B	Date:	June 5, 2012
Introduced by:		Prepared by:	Hal Pell
Analysis of:	PCS to Second Edition S416-CSRC-53		Committee Counsel

SUMMARY: *This act amends the Racial Justice Act to provide that statistics that are derived from the county or prosecutorial district where the defendant is being tried capitally or was sentenced to death are relevant to determining whether race was a significant factor in seeking or imposing the death sentence. The act is effective when it becomes law, and applies to all capital defendants sentenced to the death penalty prior to, on, or after the effective date of the act.*

CURRENT LAW: The Racial Justice Act (RJA) provides that statistics from the State, judicial district, prosecutorial district, or county where the defendant was sentenced to death are relevant evidence in determining whether race was a significant factor in seeking or imposing the death sentence. If the court finds that race was a significant factor in seeking the death penalty, then the case would be tried non-capitally. If a reviewing court finds that race was a significant factor in imposing the death penalty in the defendant's case, then the court shall vacate the death sentence and impose a sentence of life imprisonment without parole. The motion may be brought pretrial, or by a motion for appropriate relief (MAR) if filed within the deadlines provided by statute. Under the RJA, persons on death row were authorized for a designated period (which has expired) to file an MAR under the RJA, regardless of the statutory deadlines and other limitations.

BILL ANALYSIS: The act makes the following changes to the Racial Justice Act:

- The current law provides that the defendant may show that race was a significant factor in seeking or imposing the death sentence in his or her case "at the time" the sentence was imposed. There is no statutory definition for the term "at the time" included in the statute. The amendment states that the time period for determining whether race was a significant factor in seeking the death sentence in the defendant's case begins 24 months prior to the offense and ends 24 months after the sentence is imposed.
- The amendment includes a provision that a defendant seeking relief under the RJA waives any objection to the imposition of a life without parole sentence. It is arguable that a defendant sentenced to life without parole, who committed the capital murder offense prior to the statute which provided for that sentence, could claim violations of both the Ex Post Facto and Due Process Clauses of the federal and State Constitutions. The act clarifies that the intent is to ameliorate the death sentence and not impose a sentence that is harsher than what the defendant could have received based on the date of the offense.
- Current law allows evidence, including statistical evidence, that race was a significant factor in seeking or imposing the death sentence in the State, judicial district, prosecutorial district or county where the death sentence was sought or imposed. Evidence is deemed relevant if it relates to whether death sentences were sought or imposed significantly more frequently upon persons of one race or another or as punishment for capital offenses against persons of one race as opposed to another race, and whether race was a significant factor in exercising

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peremptory challenges. The amendment provides that statistical evidence, derived from the county or prosecutorial district where the death sentence was imposed, may be used to show that the race of the defendant was a significant factor in seeking or imposing the death sentence; statistical evidence derived from the State and judicial district would not be included as relevant to a determination whether race was a significant factor in a defendant's case.

- The act provides that statistical evidence alone is insufficient to establish that race was a significant factor in a defendant's case. Under current law, the State is provided an opportunity to present rebuttal evidence, including statistics. There is no change to this provision.
- If a defendant has filed a petition under the current Racial Justice Act prior to the effective date of the act, and a court has not made findings of fact and conclusions of law following an evidentiary hearing prior to the act's effective date, then the act would apply to the proceedings in the case. If a court has ruled prior to the effective date of the act, but the court's ruling is reversed upon appellate review and further proceedings are required for a determination whether the defendant is entitled to relief under the RJA, then the act would apply to those proceedings.
- The act does not authorize any additional motions for appropriate relief than were allowed under the Session Law which created the Racial Justice Act. Petitioners would have 60 days from the effective date of the act to amend previously filed motions; any hearings begun prior to the effective date of the act would be stayed for a minimum of 60 days.

EFFECTIVE DATE: This act is effective when it becomes law and applies to all capital trials held prior to, on, or after the effective date of this act and to all capital defendants sentenced to the death penalty prior to, on, or after the effective date of the act.