

OAKLAND CITY COUNCIL

\_\_\_\_\_  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCIL MEMBER DESLEY BROOKS

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**TITLE: ADOPT A RESOLUTION SUPPORTING AB 1121, SPONSORED BY ASSEMBLY MEMBER KORETZ, WHICH WOULD PLACE A MORATORIUM ON THE CARRYING OUT OF ANY EXECUTIONS IN THE STATE OF CALIFORNIA UNTIL CERTAIN CRITERIA ARE MET, OR, FAILING THAT, UNTIL JANUARY 1, 2009. THE BILL WOULD ALSO MAKE FINDINGS AND STATE DECLARATIONS OF THE LEGISLATURE RELATIVE TO THE CALIFORNIA COMMISSION ON THE FAIR ADMINISTRATION OF JUSTICE.**

**Whereas**, AB 1121, sponsored by Assembly Member Koretz, would place a moratorium on the carrying out of any executions, until certain criteria are met, or, failing that, until January 1, 2009. The bill would require, make findings and state declarations of the Legislature relative to the California Commission on the Fair Administration of Justice; and

**Whereas**, pursuant to Senate Resolution 44, on August 27, 2004, the Senate resolved to establish the California Commission on the Fair Administration of Justice; and

**Whereas**, the California Commission on the Fair Administration of Justice will study and review the administration of justice in California to determine the extent to which that process has failed in the past, resulting in wrongful executions or the wrongful conviction of innocent persons. The commission will examine ways of providing safeguards and making improvements in the way the criminal justice system functions and make any recommendations and proposals designed to further ensure that the application and administration of criminal justice in California is just, fair, and accurate; and

**Whereas**, the commission will be conducting its work and must complete its study and make any recommendations for reform by December 31, 2007; and

**Whereas**, there are currently more than 640 inmates on death row in California, more than any other state in the country, and of those 640, more than 20 have appeals pending in the Ninth Circuit Court of Appeals, which is the final procedural step before execution dates are set for those inmates whose convictions and sentences are affirmed; and

  
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**Whereas**, because of the mature state of the appeals and habeas proceedings in so many death penalty appeals, it is highly likely that prior to December 31, 2007, dozens of execution dates will be set, clemency proceedings will occur in those cases, clemency decisions will need to be made, and if clemency is not granted, executions will occur, all without the benefit of the California Commission on the Fair Administration of Justice's findings and Recommendations; and

**Whereas**, in light of the final and irrevocable nature of the death penalty, and to ensure that no innocent person is ever executed in this state, it is necessary to place a moratorium on executions until the work of the California Commission on the Fair Administration of Justice is completed; and

**Whereas**, no judge, court, or officer, other than the Governor, can suspend the execution of a judgment of death, except the warden of the State prison to whom he or she is delivered for execution unless an appeal is taken; and

**Whereas**, AB 1121 would impose a moratorium on the carrying out of executions in this state. The warden of the state prison to whom an inmate is delivered for execution shall not carry out any executions during the moratorium period; and

**Whereas**, the moratorium period shall commence upon the date AB 1121 becomes law, and shall continue until the Legislature has fully considered any recommendations of the California Commission on the Fair Administration of Justice and has enacted legislation ending the moratorium period, provided however, that if the Legislature fails to enact legislation ending or extending the moratorium period, the moratorium shall end on January 1, 2009; and

**Whereas**, once the moratorium has ended, any date for an execution shall be set as provided by Section 1227.

**RESOLVED**, that the City of Oakland, hereby declares its support for Assembly Bill 1121; directs our State Lobbyist to include this matter as a legislative priority and to lobby appropriate officials; and

**BE IT FURTHER RESOLVED THAT**, the City Administrator is directed to forward a copy of this resolution along with a cover letter to the California State Legislature and Governor Arnold Schwarzenegger advising them of the City's position.

IN COUNCIL, OAKLAND, CALIFORNIA, December 2005.

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LA TONDA SIMMONS

Interim City Clerk and Clerk of the Council  
of the City of Oakland, California

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BILL NUMBER: AB 1121 AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY JUNE 20, 2005

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:

SECTION 1.

The Legislature finds and declares the following:

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

(b) The California Commission on the Fair Administration of  
Justice will study and review the administration of justice in  
California to determine the extent to which that process has failed  
in the past, resulting in wrongful executions or the wrongful  
conviction of innocent persons. The commission will examine ways of

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providing safeguards and making improvements in the way the criminal justice system functions and make any recommendations and proposals designed to further ensure that the application and administration of criminal justice in California is just, fair, and accurate.

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

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

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

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

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

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

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

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

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

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

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

~~If the judgment is for imprisonment in the state prison, the sheriff of the county shall, upon receipt of a certified abstract or minute order thereof, take and deliver the defendant to the warden of the state prison. The sheriff also shall deliver to the warden the~~

~~certified abstract of the judgment or minute order, a Criminal Investigation and Identification (CII) number, a Confidential Medical/Mental Health Information Transfer Form indicating that the defendant is medically capable of being transported, and shall take from the warden a receipt for the defendant.~~

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 1121  
AUTHOR : Koretz  
TOPIC : Sentencing.

TYPE OF BILL :

Active  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
Non-State-Mandated Local Program  
Fiscal  
Non-Tax Levy

BILL HISTORY

2005

June 21 Re-referred to Com. on PUB. S.

June 20 Referred to Com. on PUB. S. From committee chair, with author's

amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.

Feb. 23 From printer. May be heard in committee March 25.

Feb. 22 Read first time. To print.



CURRENT BILL STATUS

MEASURE : A.B. No. 1121  
AUTHOR(S) : Koretz and Lieber (Principal coauthor: Senator  
Cedillo)  
(Coauthors: Dymally and Leno).  
TOPIC : Sentencing.  
HOUSE LOCATION : ASM  
+LAST AMENDED DATE : 06/20/2005

TYPE OF BILL :  
Active  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
Non-State-Mandated Local Program  
Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 06/21/2005  
LAST HIST. ACTION : Re-referred to Com. on PUB. S.  
COMM. LOCATION : ASM PUBLIC SAFETY

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

  
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