

1 AMENDMENT TO HOUSE BILL 1281

2 AMENDMENT NO. _____. Amend House Bill 1281, AS AMENDED,
3 by inserting after the enacting clause the following:

4 "Section 1. Short title. This Act may be cited as the
5 Capital Punishment Reform Study Committee Act.

6 Section 2. Capital Punishment Reform Study Committee.

7 (a) There is created the Capital Punishment Reform Study
8 Committee hereafter referred to as the Committee consisting
9 of 13 members appointed as follows:

10 (1) Two members appointed by the President of the
11 Senate;

12 (2) Two members appointed by the Minority Leader of
13 the Senate;

14 (3) Two members appointed by the Speaker of the
15 House of Representatives;

16 (4) Two members appointed by the Minority Leader of
17 the House of Representatives;

18 (5) One member appointed by the Attorney General;

19 (6) One member appointed by the Governor;

20 (7) One member appointed by the Cook County State's
21 Attorney;

22 (8) One member appointed by the Office of the Cook

1 County Public Defender; and

2 (9) One member appointed by the Office of the State
3 Appellate Defender.

4 (b) The Committee shall study the impact of the various
5 reforms to the capital punishment system enacted by the 93rd
6 General Assembly and annually report to the General Assembly
7 on the effects of these reforms. Each report shall include:

8 (1) The impact of the reforms on the issue of
9 uniformity and proportionality in the application of the
10 death penalty including, but not limited to, the tracking
11 of data related to whether the reforms have eliminated
12 the statistically significant differences in sentencing
13 related to the geographic location of the homicide and
14 the race of the victim and the race of the defendant
15 found by the Governor's Commission on Capital Punishment
16 in its report issued on April 15, 2002.

17 (2) The implementation of training for police,
18 prosecutors, defense attorneys, and judges as recommended
19 by the Governor's Commission on Capital Punishment.

20 (3) The impact of the various reforms on the
21 quality of evidence used during capital prosecutions.

22 (4) The quality of representation provided by
23 defense counsel to defendants in capital prosecutions.

24 (5) The impact of the various reforms on the costs
25 associated with the administration of the Illinois
26 capital punishment system.

27 (c) The Committee shall hold hearings on a periodic
28 basis to receive testimony from the public regarding the
29 manner in which reforms have impacted the capital punishment
30 system.

31 (d) The Committee shall submit its final report to the
32 General Assembly no later than 5 years after the effective
33 date of this Act."; and

34 at the end of subsection (j) of Sec. 14-3 of Section 10 by

1 deleting "and"; and

2 in subsection (k), before the period, by inserting the
3 following:

4 "; and

5 (l) With approval of the State' Attorney of the county in
6 which it is to occur, recording or listening with the aid of
7 any device to any conversation where a law enforcement
8 officer, or any person acting at the direction of law
9 enforcement officer, is a party to the conversation and has
10 consented to it being intercepted or recorded in the course
11 of an investigation of a felony violation of the Illinois
12 Controlled Substances Act or a felony violation of the
13 Cannabis Control Act. In all such cases, an application for
14 an order approving the previous use of an eavesdropping
15 device must be made within 72 hours of the commencement of
16 such use. In the absence of such an order, or upon its
17 denial, any recording or evidence derived as the result of
18 this exemption shall be inadmissible in any proceeding,
19 criminal, civil, or administrative, except when used as
20 direct impeachment of a witness concerning matters contained
21 in the interception or recording. The Director of State
22 Police shall issue rules as are necessary concerning the use
23 of devices, retention of tape recordings, and reports
24 regarding their use"; and

25 in the introductory clause of Section 15 by inserting
26 "108A-12,", after "adding Sections"; and

27 by inserting after the introductory clause of Section 15 the
28 following:

29 "(725 ILCS 5/108A-12 new)

30 Sec. 108A-12. Undercover narcotic investigation exception
31 to procedures.

32 (a) With prior notification to and verbal approval of the

1 State's Attorney of the county in which the conversation is
2 anticipated to occur or his or her designee, recording or
3 listening with the aid of an eavesdropping device to a
4 conversation in which a law enforcement officer, or any
5 person acting at the direction of a law enforcement officer,
6 is a party to an undercover conversation and has consented to
7 the conversation being intercepted or recorded in the course
8 of an investigation of a felony violation of the Illinois
9 Controlled Substances Act or a felony violation of the
10 Cannabis Control Act. The use of an eavesdropping device
11 under this Section shall be deemed necessary for the
12 protection of the law enforcement officer or person acting at
13 the direction of the law enforcement officer.

14 (b) In all such cases, any recording or evidence derived
15 as the result of this exemption shall be inadmissible in any
16 proceeding, criminal, civil, or administrative, unless an
17 application for an order approving the previous or continuing
18 use of an eavesdropping device is made within 72 hours of the
19 commencement of such use and the order is approved. In the
20 absence of an order approving use of the device, any
21 continuing use shall immediately terminate. In order to
22 approve such undercover use of an eavesdropping device during
23 an investigation of a felony violation of the Illinois
24 Controlled Substances Act or a felony violation of the
25 Cannabis Control Act, the judge must make a determination
26 that: (1) a law enforcement officer, or any person acting at
27 the direction of a law enforcement officer has consented to
28 an undercover conversation concerning a felony violation of
29 the Illinois Controlled Substances Act or a felony violation
30 of the Cannabis Control Act being intercepted or recorded and
31 (2) the judge would have granted an order had the information
32 been before the court prior to the use of the eavesdropping
33 device. The manner and form of the application for such order
34 shall be determined by the Attorney General.

1 (c) In the event that an application for approval under
2 this Section is denied the contents of the conversation
3 overheard or recorded shall be treated as having been
4 obtained in violation of this Article."