

House Bill 129

By: Representatives Holmes of the 48th, Post 1, Mobley of the 58th, Orrock of the 51st, Epps of the 90th, Brooks of the 47th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
2 sentence and punishment, so as to enact the "Georgia Racial Justice Act"; to provide a short
3 title; to prohibit the execution of the death sentence for any person if the sentence was
4 imposed based on race; to provide for establishing an inference that race was the basis of a
5 death sentence; to provide for relevant and statistical evidence, evidence of statutory
6 aggravating factors, and comparisons of similar cases involving persons of different races;
7 to provide for rebuttal of an inference by clear and convincing evidence; to provide that data
8 collected by public agencies shall be publicly available; to provide for retroactivity; to
9 provide for applicability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to sentence and
13 punishment, is amended by inserting a new article to be designated Article 4 to read as
14 follows:

15 "ARTICLE 4

16 17-10-80.

17 This article shall be known and may be cited as the 'Georgia Racial Justice Act.'

18 17-10-81.

19 (a) No person shall be put to death under color of state law in the execution of a sentence
20 which was imposed based on race.

21 (b) An inference that race was the basis of a death sentence is established if valid evidence
22 is presented demonstrating that race was a statistically significant factor in decisions to

1 seek or impose the sentence of death in the State of Georgia at the time such death sentence
2 was sought or imposed.

3 (c) Evidence relevant to establish an inference that race was the basis of a death sentence
4 may include evidence that death sentences were sought or imposed significantly more
5 frequently:

6 (1) Upon persons of one race more than upon persons of another race; or

7 (2) As punishment for capital offenses against persons of one race more than as
8 punishment for capital offenses against persons of another race.

9 (d) If statistical evidence is presented to establish an inference that race was the basis of
10 a sentence of death, the court shall determine the validity of the evidence and if it provides
11 a basis for that inference. The evidence shall take into account, to the extent it is compiled
12 and publicly made available, evidence of the statutory aggravating factors and shall include
13 comparisons of similar cases involving persons of different races.

14 (e) If an inference that race was the basis of a death sentence is established, the death
15 sentence shall not be carried out unless the state rebuts the inference by clear and
16 convincing evidence. The state cannot rely on mere assertions that it did not intend to
17 discriminate or that the case fits the statutory criteria for seeking or imposing the death
18 sentence.

19 17-10-82.

20 Data collected by public agencies concerning factors relevant to the imposition of the death
21 sentence shall be made publicly available pursuant to Article 4 of Chapter 18 of Title 50
22 and Code Section 17-16-4.

23 17-10-83.

24 This article shall be applied retroactively. Notwithstanding any other law to the contrary,
25 no person shall be barred from raising any claim under this article on the ground that he or
26 she failed to raise or to prosecute such a claim before July 1, 2003, or by reason of any
27 adjudication rendered before July 1, 2003."

28 **SECTION 2.**

29 All laws and parts of laws in conflict with this Act are repealed.