

# WHAT SB 472 DOES

## Highlights of Illinois Death Penalty Reform Legislation

- **Creates a committee to “study the impact of the various reforms to the capital punishment system,” including issues of proportionality, quality of evidence, quality of representation, costs, and training.**
- **Slightly modifies the most used death eligibility factor, “murder in the course of another felony” to very modestly reduce death-eligible crimes.**
- **Provides that a trial judge who disagrees with a jury’s imposition of the death shall set forth reasons in writing with associated documentation, and this becomes part of the record for appellate review. The court is still bound by the jury’s sentencing determination.**
- **Gives the Illinois Supreme Court broad power to overturn death sentences it deems “fundamentally unjust as applied to the particular case, independent of any procedural grounds for relief.**
- **Provides that State’s Attorneys and the Attorney General will confer regarding non-binding, “advisory” guidelines for seeking the death penalty**
- **Imposes the following requirements on all line-ups:**
  - 1) All live line-ups must be photographed provided to the defense, as well as photos used in photo-spreads. (Already standard procedure.)
  - 2) All eyewitnesses exposed to a live or photo-spread line-up must sign a form informing the witness of the following:
    - a) The suspect might not be in the line-up or photo-spread, and the witness is not obligated to make an identification
    - b) The eyewitness should not assume that the person administering the line-up or photo-spread knows which person is the suspect in the case. [Note: this law does not require double-blind line-ups. The pilot project below includes double-blind procedures.]
  - 3) Suspects in line-ups “should not appear substantially different” from fillers based on the original description of the perpetrator or any other factors that call attention to the suspect (already standard procedure in most jurisdictions).
- **Creates an eyewitness pilot project in three jurisdictions to test new, more accurate line-up protocol. The pilot has three key elements:**
  - 1) Uses the double-blind procedure: the administrator of the line-up is unaware of which person is the suspect to avoid influencing the witness
  - 2) Sequential procedure, instead of showing suspects at the same time
  - 3) collecting a statement from the witness at the time of the identification noting his/her level of confidence in the ID prior to any feedback from authorities.

- **Explicitly requires police to provide all investigative material and exculpatory information to prosecutor, including field notes in homicide cases.**
- **Bars the death penalty for mentally retarded defendants.**
- **Requires disclosure of information concerning witnesses in capital cases (including jailhouse snitch witnesses), such as criminal history, inducements for testimony, and any other information relevant to the credibility of the witness.**
- **Requires pre-trial reliability screening of jailhouse snitch testimony in capital cases**
- **Provides access to pretrial and post-conviction DNA database searches**
- **Removes time-limit on petitions claiming actual innocence for hearing on new evidence in capital cases**
- **Funds DNA testing and database searches, analyses, and expert testimony in capital cases from the Capital Litigation Trust Fund**
- **Provides that State's Attorneys and the Attorney General will confer regarding non-binding, "advisory" guidelines for seeking the death penalty**
- **No death-eligibility "if the court finds that the only evidence supporting the defendant's conviction is the uncorroborated testimony of an informant witness. . . concerning the confession or admission of the defendant, or that the sole evidence against the defendant is a single eyewitness or single accomplice without any other corroborating evidence."**
- **Creates a recording of interrogations pilot program, which supplements a separate bill signed into law earlier this year that implements electronic recording of interrogations over two years. This pilot allows some jurisdictions to begin right away.**
- **Creates two new mitigating factors: 1) "the defendant's background includes a history of extreme emotional or physical abuse" and 2) "the defendant suffers from a reduced mental capacity."**
- **Simplifies jury instruction wording regarding "appropriateness" of death sentence.**