

107TH CONGRESS
2^D SESSION

S. 2443

To ensure that death penalty defendants have a true opportunity to have their cases considered by the courts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2002

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure that death penalty defendants have a true opportunity to have their cases considered by the courts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Death Penalty Review
5 Act of 2002”.

6 **SEC. 2. PROTECTING THE RIGHTS OF DEATH ROW INMATES**
7 **TO REVIEW OF CASES GRANTED CERTIORARI.**

8 Section 2101 of title 28, United States Code, is
9 amended by adding at the end the following:

1 “(h) Upon notice by a party that has filed a motion
2 for a stay of execution or filed for certiorari with, or has
3 been granted certiorari by, the United States Supreme
4 Court in an appeal from a case in which the sentence is
5 death, the Governor of the State in which the death sen-
6 tence is to be carried out, in a State case, or the Director
7 of the Bureau of Prisons, the Secretary of a military
8 branch, or any other Federal official with authority to
9 carry out the death sentence, in a Federal case, shall sus-
10 pend the execution of the sentence of death until the
11 United States Supreme Court enters a stay of execution
12 or until certiorari is acted upon and the case is disposed
13 of by the United States Supreme Court.

14 “(i) For purposes of this section, the United States
15 Supreme Court shall treat a motion for a stay of execution
16 as a petition for certiorari.

17 “(j) In an appeal from a case in which the sentence
18 is death, a writ of certiorari shall be issued by the United
19 States Supreme Court upon the vote of at least 4 qualified
20 justices.”.

21 **SEC. 3. HABEAS CORPUS.**

22 (a) STATE COURT PROCEEDINGS.—Section 2251 of
23 title 28, United States Code, is amended—

24 (1) by inserting “(a)” at the beginning of the
25 text;

1 (2) by designating the second sentence as sub-
2 section (b); and

3 (3) by adding at the end the following:

4 “(c)(1) Notwithstanding any other provision of law,
5 a justice or judge of the United States before whom a ha-
6 beas corpus proceeding that involves the death sentence
7 is pending shall stay the execution of the death sentence
8 until the proceeding is completed. If the issuance of such
9 a stay requires more than 1 judge to concur or vote on
10 the stay, the court before which the proceeding is pending
11 shall grant the stay.

12 “(2) For purposes of this subsection, a case is pend-
13 ing before—

14 “(A) a court in the Circuit Court of Appeals, if
15 a notice of appeal has been filed; and

16 “(B) the United States Supreme Court, if a pe-
17 tition for certiorari has been filed, or if a motion to
18 stay execution has been filed.

19 “(3) A case described in paragraph (2) remains pend-
20 ing before the court until the petition for certiorari is de-
21 nied. If the petition is granted, the case remains pending.

22 “(4) If a higher court is unable or fails to issue a
23 stay pursuant to this subsection, a lower court before
24 which the case had been pending shall issue the stay of
25 execution.

1 “(d) For purposes of this section, a motion to stay
2 execution shall be treated as a petition for certiorari.”.

3 (b) FEDERAL COURT PROCEEDINGS.—Section 2255
4 of title 28, United States Code, is amended by adding at
5 the end the following:

6 “Notwithstanding any other provision of law, a jus-
7 tice or judge of the United States, before whom a habeas
8 corpus proceeding that involves a Federal death sentence
9 is pending, shall stay the execution of the death sentence
10 until the proceeding is completed. If the issuance of such
11 a stay requires more than 1 judge to concur or vote on
12 the stay, the court before which the proceeding is pending
13 shall grant the stay.

14 “If a higher court is unable or fails to issue a stay
15 pursuant to the preceding paragraph, a lower court before
16 which the case had been pending shall issue the stay of
17 execution. For purposes of this section, a motion to stay
18 execution shall be treated as a petition for certiorari. A
19 case described in the preceding paragraph—

20 “(1) is pending before a court in the Circuit
21 Court of Appeals if a notice of appeal has been filed;
22 and

23 “(2) is pending before the United States Su-
24 preme Court if—

1 “(A) a petition for certiorari has been filed
2 and has not been denied; or

3 “(B) a motion to stay execution has been
4 filed.”.

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