

**Introduced by Senator Anderson**

February 24, 2012

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Senate Constitutional Amendment No. 20—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 11 and 12 of Article VI thereof, relating to death penalty appeals.

**LEGISLATIVE COUNSEL'S DIGEST**

SCA 20, as introduced, Anderson. Death penalty appeals: jurisdiction.

The California Constitution provides that the California Supreme Court has appellate jurisdiction when a judgment of death has been pronounced. The Constitution also authorizes the Supreme Court to, before a decision, transfer a cause from itself to a court of appeal, and review the decision of a court of appeal in any case, except that this transfer authorization does not apply to appeals involving a judgment of death.

This measure would amend the California Constitution to give courts of appeal appellate jurisdiction when judgment of death has been pronounced. The measure would delete the provision specifying that the California Supreme Court's transfer authorization does not apply to appeals involving a judgment of death.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

1 WHEREAS, The Legislature finds and declares all of the  
2 following:

3 (a) During a three-week period in October 2002, a deranged  
4 sniper shot and killed 10 people and injured three others along  
5 Interstate 95 in Virginia and the Capital Beltway in Washington

1 D.C. John Allen Muhammad, the “Beltway Sniper,” and an  
2 accomplice were caught and arrested on October 24, 2002.

3 (b) Muhammad was convicted and sentenced to death in two  
4 states, Maryland and Virginia. After six years of legal maneuvering,  
5 Muhammad’s last-minute appeal to the United States Supreme  
6 Court was rejected and he was executed by lethal injection on  
7 November 9, 2009.

8 (c) It took two states with separate judicial systems less than  
9 seven years to convict, sentence, and execute a murderer. Compare  
10 that to California where the average time in death penalty cases  
11 from sentencing until punishment is over 25 years. In the last 20  
12 years, California has executed only 13 murderers while Texas has  
13 executed over 400.

14 (d) Justice delayed is justice denied.

15 *Resolved by the Senate, the Assembly concurring,* That the  
16 Legislature of the State of California at its 2011–12 Regular  
17 Session commencing on the sixth day of December 2010,  
18 two-thirds of the membership of each house concurring, hereby  
19 proposes to the people of the State of California that the  
20 Constitution of the State be amended as follows:

21 First—Section 11 of Article VI of the California Constitution  
22 is amended to read:

23 SEC. 11. (a) ~~The Supreme Court has appellate jurisdiction~~  
24 ~~when judgment of death has been pronounced. With that exception~~  
25 courts of appeal have appellate jurisdiction when superior courts  
26 have original jurisdiction in causes of a type within the appellate  
27 jurisdiction of the courts of appeal on June 30, 1995, and *when*  
28 *judgment of death has been pronounced, and* in other causes  
29 prescribed by statute. When appellate jurisdiction in civil causes  
30 is determined by the amount in controversy, the Legislature may  
31 change the appellate jurisdiction of the courts of appeal by  
32 changing the jurisdictional amount in controversy.

33 (b) Except as provided in subdivision (a), the appellate division  
34 of the superior court has appellate jurisdiction in causes prescribed  
35 by statute.

36 (c) The Legislature may permit courts exercising appellate  
37 jurisdiction to take evidence and make findings of fact when jury  
38 trial is waived or not a matter of right.

39 Second—Section 12 of Article VI of the California Constitution  
40 is amended to read:

1 SEC. 12. (a) The Supreme Court may, before decision, transfer  
2 to itself a cause in a court of appeal. It may, before decision,  
3 transfer a cause from itself to a court of appeal or from one court  
4 of appeal or division to another. The court to which a cause is  
5 transferred has jurisdiction.

6 (b) The Supreme Court may review the decision of a court of  
7 appeal in any cause.

8 (c) The Judicial Council shall provide, by rules of court, for the  
9 time and procedure for transfer and for review, including, among  
10 other things, provisions for the time and procedure for transfer  
11 with instructions, for review of all or part of a decision, and for  
12 remand as improvidently granted.

13 ~~(d) This section shall not apply to an appeal involving a~~  
14 ~~judgment of death.~~