

THE RESENTENCING TASK FORCE (RTF)
REGULAR MEETING MINUTES
September 9, 2022, 9:00 a.m. – 1:00 p.m.

THIS MEETING WAS HELD VIRTUALLY ON ZOOM

Members Present: Rep. Kelly Cassidy, Jobi Cates, Lisa Daniels, Chief Mitchell Davis, Yaacov Delaney, LaToya Hughes, Hon. Cheyrl Ingram, Ari Jones, Shobha Mahadev, Scott Main, Sharone Mitchell, Sen. Robert Peters, Hon. Marcus Salone.

Members Absent: Bob Berlin, Sen. Darren Bailey, Hon. Steve Sawyer and Rep. Ryan Spain.

Non-Members Present: Orlando Mayorga, Jen Paswater, Alissa Rivera, Jacob Schlosser, Kayla Posley, Sofia Scekcic, Susan Lloyd, Lisa Schneider-Fabes, Lindsey Hammond, William Nissen, Michael Elliott, Kathy Saltmarsh, Mark Powers, John Specker, Ryan Kennedy, and Abigail Drumm.

Overview:

Kathy Saltmarsh began the meeting with an update that RTF member Hon. Steve Sawyer has resigned from the task force for personal reasons. Susan Lloyd then reminded members of the upcoming public hearing process and procedures on September 29, while encouraging all members to attend, if possible, followed by a review of the task force report editing process. Susan then turned the meeting over to Chairperson Hon. Marcus Salone for approval of the August meeting minutes and to continue presenting and voting on the remaining draft recommendations.

Approval of Meeting Minutes: August Task Force meeting – Jobi Cates moved; Scott Main seconded. The minutes were approved unanimously by roll call vote.

Draft Recommendations – Continued:

Following the overview, Chairperson Marc Salone presented the remaining draft recommendations to the members for approval, with the opportunity for more discussion and edits, before voting on their finalization:

Procedural Criteria:

5. *The General Assembly shall determine a process by which individuals eligible under Recommendation #2, including those serving extreme sentences, can petition the court for a resentencing.*

VOTE: Jobi Cates moved; Rep. Kelly Cassidy seconded. Draft recommendation on Procedural Criteria #5 was approved by a vote of 12-0-0, with Sharone Mitchell not voting.

6. *Any procedure adopted by the General Assembly shall provide adequate notice requirements. The Department of Corrections shall provide notice and adequate materials to inform individuals who are incarcerated of their rights.*

VOTE: Rep. Kelly Cassidy moved; Jobi Cates seconded. Draft recommendation on Procedural Criteria #6 was approved by a vote of 11-1-0, with Sharone Mitchell not voting.

Right to Counsel:

7. *A petitioner who is unable to afford counsel is entitled to have counsel appointed, at no cost to the defendant, to represent the defendant for the resentencing petition and proceedings.*

VOTE: Rep. Kelly Cassidy moved; Sen. Robert Peters seconded. Draft recommendation on Right to Counsel #7 was approved by a vote of 9-0-0, with Ari Jones, Sharone Mitchell, LaToya Hughes and Hon. Cheyrl Ingram not voting.

8. *A defendant who files a pro se petition and subsequently retains or is appointed counsel shall be entitled to amend such petition with the assistance of counsel.*

VOTE: Rep. Kelly Cassidy moved; Sen. Robert Peters seconded. Draft recommendation on Right to Counsel #8 was approved by a vote of 10-0-0, with Ari Jones, Sharone Mitchell and LaToya Hughes not voting.

Hearing:

9. *The court shall review petitions for resentencing and determine eligibility based on the factors established by the General Assembly.*

VOTE: Rep. Kelly Cassidy moved to reject recommendation 9; Lisa Daniels seconded. Draft recommendation on Hearing Criteria #9 was REJECTED by a vote of 7-3-0, with Sharone Mitchell, Yaacov Delaney and Chief Mitchell Davis not voting.

10. *Resentencing petitions shall be dismissed if they do not meet the eligibility criteria; such dismissal shall be a final, appealable order. The court shall set forth, either in open court or in writing, the reasons for its decision.*

VOTE: Shobha Mahadev moved; Scott Main seconded. Draft recommendation on Hearing Criteria #10 was approved by a vote of 7-1-0, with Sharone Mitchell, LaToya Hughes, Lisa Daniels, Hon. Marcus Salone and Hon. Cheyrl Ingram not voting.

11. *Upon a determination of eligibility, the court shall conduct a resentencing hearing.*

VOTE: Rep. Kelly Cassidy moved; Jobi Cates seconded. Draft recommendation on Hearing Criteria #11 was approved by a vote of 10-0-0, with Ari Jones and LaToya Hughes not voting.

12. *The sentencing court shall consider, but not be limited to, the following factors:*
 - (1) *The age of the petitioner at the time of the offense and the age of the petitioner at the time of the sentence modification petition;*

- (2) *The nature and circumstances of the offense;*
- (3) *The history and characteristics of the petitioner at the time of the petition for a reduction in sentence, including rehabilitation and maturity demonstrated by the petitioner;*
- (4) *The petitioner's family and community circumstances, including any history of physical, emotional, or sexual abuse; substance abuse; trauma; or involvement in the child welfare system;*
- (5) *Any report from a physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional; validated risk assessment; and*
- (6) *Any changes to the law governing criminal convictions, dispositions, or length of stay since the time of sentencing;*
- (7) *Any other information the court determines is relevant to the decision of the court, including any statement by a victim of an offense or family member of the victim or the recommendation received from the State's Attorney.*

VOTE: Rep. Kelly Cassidy moved; Sen. Robert Peters seconded. Draft recommendation on Hearing Criteria #12 was approved unanimously by roll call vote.

13. *In calculating the new term to be served by the petitioner, the court shall credit the petitioner for any jail time served toward the subject conviction as well as any period of incarceration credited toward the sentence originally imposed.*

VOTE: Rep. Kelly Cassidy moved; Jobi Cates seconded. Draft recommendation on Hearing Criteria #13 was approved unanimously by roll call vote.

14. *The court should be authorized by the General Assembly to depart downward from any mandatory minimum or mandatory sentence enhancement.*

VOTE: Rep. Kelly Cassidy moved; Sen. Robert Peters seconded. Draft recommendation on Hearing Criteria #14 was approved by a vote of 9-2-0, with Lisa Daniels not voting.

Victim's Rights:

15. *All statutory and constitutional rights of victims, including but not limited to the right to notice and to be heard, shall apply to the entire resentencing procedure. The victim shall be notified of any restorative justice programs available at the time the petition is filed.*

VOTE: Rep. Kelly Cassidy moved; Lisa Daniels seconded. Draft recommendation on Victim's Rights Criteria #15 was approved unanimously by roll call vote.

Right to an Appeal:

16. *The petitioner may appeal a final order from a resentencing proceeding.*

VOTE: Sen. Robert Peters moved; Rep. Kelly Cassidy seconded. Draft recommendation on Right to an Appeal Criteria #16 was approved by a vote of 7-2-0, with LaToya Hughes and Lisa Daniels not voting.

Data Reporting:

17. Appropriate data must be collected and reported.

VOTE: Sen. Robert Peters moved; Rep. Kelly Cassidy seconded. Draft recommendation on Data Reporting Criteria #17 was approved unanimously by roll call vote.

Public Comment: There was no public comment offered at the meeting.

Meeting Adjourned: Jobi Cates, moved to adjourn the sixth Resentencing Task Force meeting, seconded by Shobha Mahadev. The sixth Resentencing Task Force meeting was adjourned at 12:30 p.m. by unanimous voice vote.