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SENATE RESOLUTION

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WHEREAS, On May 4, 2000, the Governor of the State of Illinois issued Executive Order No. 4 that created the Governor's Commission On Capital Punishment; and

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WHEREAS, The duties of the Commission were: (1) to study and review the administration of the capital punishment process in Illinois to determine why that process has failed in the past, resulting in the imposition of death sentences upon innocent people; (2) to examine ways of providing safeguards and making improvements in the way law enforcement and the criminal justice system carry out their responsibilities in the death penalty process from investigation through trial, judicial appeal, and executive review; (3) to consider, among other things, the ultimate findings and final recommendations of the House Death Penalty Task Force and the Special Supreme Court Committee on Capital Cases and determine the effect these recommendations may have on the capital punishment process; and (4) to make any recommendations and proposals designed to further ensure that the application and administration of the death penalty in Illinois is just, fair and accurate; and

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WHEREAS, In April 2002, the Commission issued its recommendations; and

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WHEREAS, Recommendation No. 71 was among the Commission's recommendations and provided that Illinois Supreme Court Rule 3.8 of the Illinois Rules of Professional Conduct, Special Responsibilities of a Prosecutor, should be amended in paragraph (c) by the addition of the following language: "Following conviction, a public prosecutor or other government lawyer has the continuing obligation to make timely disclosure to the counsel for the defendant or to the defendant if the defendant is not represented by a lawyer, of

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1 the existence of evidence, known to the prosecutor or other
2 government lawyer, that tends to negate the guilt of the
3 defendant or mitigate the defendant's capital sentence. For
4 purposes of this post-conviction disclosure responsibility
5 'timely disclosure' contemplates that the prosecutor or other
6 government lawyer should have the opportunity to investigate
7 matters related to the new evidence."; and

8 WHEREAS, Section 16 of Article VI of the Illinois
9 Constitution vests general administrative and supervisory
10 authority over all courts in the Supreme Court of Illinois;
11 and

12 WHEREAS, In accordance with this authority, the Illinois
13 Supreme Court has adopted rules governing trial procedure in
14 criminal cases; and

15 WHEREAS, The adoption of Commission Recommendation No. 71
16 by the Illinois Supreme Court would serve the best interests
17 of the Illinois criminal justice system; therefore, be it

18 RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL
19 ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the Illinois
20 Supreme Court to adopt Recommendation No. 71 of the
21 Governor's Commission On Capital Punishment; and be it
22 further

23 RESOLVED, That a suitable copy of this Resolution be
24 presented to the Honorable Mary Ann McMorrow, Chief Justice
25 of the Illinois Supreme Court.