

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1062
Committee Substitute Favorable 5/3/93
Senate Judiciary I Committee Substitute Adopted 7/16/93

Short Title: No Death Penalty/Mentally Retarded.

(Public)

Sponsors:

Referred to:

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED
OF FIRST DEGREE MURDER MAY NOT BE SENTENCED TO DEATH.

The General Assembly of North Carolina enacts:

Section 1. Article 100 of Chapter 15A of the General Statutes is amended by
adding a new section to read:

"§ 15A-2004. Mentally retarded defendants; death sentence prohibited.

(a) The following definitions apply in this section:

(1) Mentally retarded. – Significantly subaverage intellectual functioning,
existing concurrently with significant impairment in adaptive
functioning, and manifested before the age of 18.

(2) Significantly subaverage intellectual functioning. – An intelligence
quotient of 70 or below evidenced by a score of 70 or below on at least
one individually administered standardized intelligence quotient test
given to the defendant when the defendant was between 6 and 18 years
of age.

(b) Notwithstanding any provision of law to the contrary, no defendant who is
mentally retarded shall be sentenced to death.

(c) Upon motion of the defendant prior to trial, the court shall conduct a hearing
to determine whether the defendant is mentally retarded. The defendant has the burden
of production and persuasion to demonstrate mental retardation by a preponderance of
the evidence. Tests given the defendant when the defendant was at least six years of

1 age shall be admissible to determine mental retardation, but no tests given before the
2 defendant was six years of age shall be admissible. If the court determines the defendant
3 is mentally retarded, the court shall declare the case noncapital and the State may not
4 seek the death penalty against the defendant. The determination by the court is a
5 question of fact.

6 (d) The pretrial determination of the court shall not preclude the defendant from
7 raising any legal defense during the trial.

8 (e) The provisions of this section do not preclude the sentencing of a mentally
9 retarded offender to any other sentence authorized by G.S. 14-17 for the crime of
10 murder in the first degree.

11 (f) Upon motion of the State, the provisions of G.S. 15A-1002, regarding the
12 State's right to an independent examination on capacity to proceed, shall apply."

13 Sec. 2. This act becomes effective December 1, 1993, and applies to original
14 trials begun on or after that date.