

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 5

Short Title: Equal Justice Act.

(Public)

Sponsors: Representative Miller.

Referred to: Rules, Calendar, and Operations of the House.

January 27, 2005

A BILL TO BE ENTITLED
AN ACT TO DELAY THE SETTING OF EXECUTIONS FOR A DEFINITE PERIOD
AND TO STUDY ISSUES RELATING TO THE DEATH SENTENCE.

Whereas, the Chief Justice of the North Carolina Supreme Court has established a Commission on Actual Innocence to study the problems of innocent people being convicted of crimes under our State's system of criminal justice, and to recommend legislative and policy changes to attempt to correct any injustices; and

Whereas, factors that may affect the fair and impartial administration of the death penalty include the following:

- (1) The adequacy of counsel for those on death row in all stages of capital cases and a risk of executing the innocent due to problems with counsel appointed prior to the enactment of current guidelines and qualifications.
- (2) The potential effect of the locale of a crime on the probability that a prosecutor decides to try a homicide as a capital case.
- (3) Proportionality in the use of the death penalty, including the relationship between death sentences and individual culpability for the crimes.
- (4) Possible prosecutorial misconduct.
- (5) The costs of the death penalty system.
- (6) Possible discrimination in death penalty sentencing based on either the victim's race or the defendant's race as well as possible discrimination with regard to other aspects of capital case processing; and

Whereas, the Final Report to the 2001 General Assembly by the Legislative Research Commission's Study on Capital Punishment – Mentally Retarded and Race Basis included a recommendation that there be a moratorium on carrying out the death penalty, and that matters relating to the imposition of the death penalty be further studied; Now, therefore,

The General Assembly of North Carolina enacts:

1 **SECTION 1.** Notwithstanding the provisions of G.S. 15-194, or any other
2 provision of State law, the Secretary of Correction shall not set any date prior to June 1,
3 2007, for the execution for any person who has been sentenced to death under State law.

4 **SECTION 2.** The General Assembly or its designees shall conduct a study
5 to examine issues regarding the imposition of a death sentence under North Carolina
6 law, including:

- 7 (1) The adequacy of counsel in all stages of capital cases, and the
8 sufficiency of guidelines for the appointment and performance of such
9 counsel.
- 10 (2) The process for judicial review of the merits of constitutional claims in
11 State postconviction and federal habeas corpus proceedings.
- 12 (3) Any disproportionate racial impact from any aspect of capital case
13 processing.
- 14 (4) Whether there is discrimination in capital sentencing on the basis of
15 the victim's or the defendant's race.
- 16 (5) Prosecutorial misconduct as a factor in the imposition of the death
17 penalty.
- 18 (6) The presence of innocent persons on death row.
- 19 (7) Any other appropriate or relevant subject.

20 **SECTION 3.** This act is effective when it becomes law.