

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 785

Short Title: Exclusionary Rule/Const. Amend.

(Public)

Sponsors: Representatives Cromer; Jones, Stam, Hurley, and Bowman.

Referred to: Judiciary.

March 22, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE CONSTITUTION OF NORTH CAROLINA SHALL NOT BE CONSTRUED TO REQUIRE THAT RELEVANT MATERIAL EVIDENCE BE EXCLUDED IN A CRIMINAL TRIAL UNLESS ITS EXCLUSION IS REQUIRED UNDER THE CONSTITUTION OF THE UNITED STATES.

The General Assembly of North Carolina enacts:

Section 1. Article IV, Section 13(2) of the Constitution of North Carolina reads as rewritten:

"(2) Rules of procedure. The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Neither this constitution nor the power granted by this Article to the Supreme Court to make rules of procedure and practice for the Appellate Division shall be construed to require that relevant material evidence be excluded from evidence in a criminal trial unless its exclusion is required under the Constitution of the United States."

Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1990, which

1 election shall be conducted under the laws then governing elections in the State. At that
2 election, each qualified voter desiring to vote shall be provided a ballot on which shall
3 be printed the following:

4 " FOR Constitutional amendment.

5 AGAINST Constitutional amendment."

6 Those qualified voters favoring the amendment set out in Section 1 of this
7 act shall vote by making an X or a check mark in the square beside the statement
8 beginning "FOR", and those qualified voters opposed to that amendment shall vote by
9 making an X or check mark in the square beside the statement beginning "AGAINST".

10 Notwithstanding the foregoing provisions of this section, voting machines
11 may be used in accordance with rules and regulations prescribed by the State Board of
12 Elections.

13 Sec. 3. If a majority of votes cast thereon are in favor of the amendment set
14 out in Section 1 of this act, the State Board of Elections shall certify the amendment to
15 the Secretary of State, who shall enroll the amendment so certified among the
16 permanent records of his office, and the amendment shall become effective upon such
17 certification.

18 Sec. 4. This act is effective upon ratification.