

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

CHAPTER 21
SENATE BILL 2

AN ACT TO PROVIDE FOR LIFE IMPRISONMENT WITHOUT PAROLE FOR FIRST DEGREE MURDER AND TO PROVIDE THAT, AFTER A DEFENDANT HAS SERVED TWENTY-FIVE YEARS OF IMPRISONMENT AND EVERY TWO YEARS THEREAFTER, THE DEFENDANT'S SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE SHALL BE REVIEWED BY A RESIDENT SUPERIOR COURT JUDGE FOR THE COUNTY IN WHICH THE DEFENDANT WAS CONVICTED AND THE JUDGE SHALL MAKE A RECOMMENDATION TO THE GOVERNOR OR AN EXECUTIVE AGENCY DESIGNATED BY THE GOVERNOR AS TO WHETHER OR NOT THE DEFENDANT'S SENTENCE SHOULD BE ALTERED OR COMMUTED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-17, as amended by Section 1127 of Chapter 539 of the 1993 Session Laws, reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for ~~life~~ life without parole. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B felon."

Sec. 2. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the 1993 Session Laws, reads as rewritten:

"§ 15A-1370.1. Applicability of Article 85.

This Article is applicable to all prisoners serving sentences of imprisonment for convictions of impaired driving under G.S. ~~20-138.1~~ and prisoners serving sentences of ~~life imprisonment.~~ 20-138.1. This Article does not apply to a prisoner serving a sentence of life imprisonment without parole. A prisoner serving a sentence of life imprisonment without parole shall not be eligible for parole at any time."

Sec. 3. G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of the 1993 Session Laws, is repealed.

Sec. 4. G.S. 15A-1372(a), as amended by Section 23 of Chapter 538 of the 1993 Session Laws, reads as rewritten:

"(a) Term of Parole. – The term of parole for any person released from imprisonment may be no greater ~~than:~~ than one year.

(1) ~~One year for a conviction for impaired driving under G.S. 20-138.1; or~~

(2) ~~Three years for a sentence of life imprisonment."~~

Sec. 5. G.S. 15A-2002, as amended by Section 29 of Chapter 538 of the 1993 Session Laws, reads as rewritten:

"§ 15A-2002. Capital offenses; jury verdict and sentence.

If the recommendation of the jury is that the defendant be sentenced to death, the judge shall impose a sentence of death in accordance with the provisions of Chapter 15, Article 19 of the General Statutes. If the recommendation of the jury is that the defendant be imprisoned for life in the State's prison, the judge shall impose a sentence of imprisonment for life in the State's ~~prison.~~ prison, without parole.

The judge shall instruct the jury, in words substantially equivalent to those of this section, that a sentence of life imprisonment means a sentence of life ~~with eligibility for parole consideration after 25 years.~~ without parole."

Sec. 6. G.S. 143B-266(a), as amended by Section 42 of Chapter 538 of the 1993 Session Laws, reads as rewritten:

"(a) There is hereby created a Post-Release Supervision and Parole Commission of the Department of Correction with the authority to grant paroles, including both regular and temporary paroles, to persons held by virtue of any final order or judgment of any court of this State as provided in Chapter 148 of the General Statutes and laws of the State of North Carolina, except that ~~for persons sentenced under Article 81B of Chapter 15A of the General Statutes, only those sentenced to life imprisonment are~~ Statutes are not eligible for parole. The Commission shall also have authority to revoke, terminate, and suspend paroles of such persons (including persons placed on parole on or before the effective date of the Executive Organization Act of 1973) and to assist the Governor in exercising his authority in granting reprieves, commutations, and pardons, and shall perform such other services as may be required by the Governor in exercising his powers of executive clemency. The Commission shall also have authority to revoke and terminate persons on post-release supervision, as provided in Article 84A of Chapter 15A of the General Statutes."

Sec. 7. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 85B.

"Review of Sentences of Life Imprisonment Without Parole.

"§ 15A-1380.5. Review of sentences of life imprisonment without parole.

(a) For purposes of this Article the term 'life imprisonment without parole' shall include a sentence imposed for 'the remainder of the prisoner's natural life'.

(b) A defendant sentenced to life imprisonment without parole is entitled to review of that sentence by a resident superior court judge for the county in which the defendant was convicted after the defendant has served 25 years of imprisonment. The defendant's sentence shall be reviewed again every two years as provided by this section, unless the sentence is altered or commuted before that time.

(c) In reviewing the sentence the judge shall consider the trial record and may review the defendant's record from the Department of Correction, the position of any members of the victim's immediate family, the health condition of the defendant, the degree of risk to society posed by the defendant, and any other information that the judge, in his or her discretion, deems appropriate.

(d) After completing the review required by this section, the judge shall recommend to the Governor or to any executive agency or board designated by the Governor whether or not the sentence of the defendant should be altered or commuted. The decision of what to recommend is in the judge's discretion.

(e) The Governor or an executive agency designated under this section shall consider the recommendation made by the judge.

(f) The recommendation of a judge made in accordance with this section may be reviewed on appeal only for an abuse of discretion."

Sec. 8. This act becomes effective on the same date that Chapter 538 of the 1993 Session Laws becomes effective, and applies to offenses occurring on or after that date. Prosecution for, or sentences based on, offenses occurring before the effective date of this act are not abated or affected by the repeal, expiration, or amendment in this act of any statute, and the statutes that would be applicable to those prosecutions or sentences but for the provisions of this act remain applicable to those prosecutions or sentences.

In the General Assembly read three times and ratified this the 23rd day of March, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives