GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

H HOUSE DRH10121-LH-232 (4/10)

| Short Title: | Streamlined & Cost Effective Capital Case Act. | (Public) |
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Sponsors: Representative Bryant.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO STREAMLINE AND MAKE MORE COST EFFECTIVE THE DETERMINATION OF WHETHER A FIRST DEGREE MURDER CASE MAY BE TRIED AS A CAPITAL CASE.

Whereas, between July 2, 2001, and July 1, 2005, the State of North Carolina averaged more than 500 potential capital cases annually; and

Whereas, during that time, according to the Office of Indigent Defense Services, fewer than 1% of those cases resulted in the imposition of the death penalty, 14% resulted in the dismissal of all charges, and 3% resulted in not-guilty verdicts by juries; and

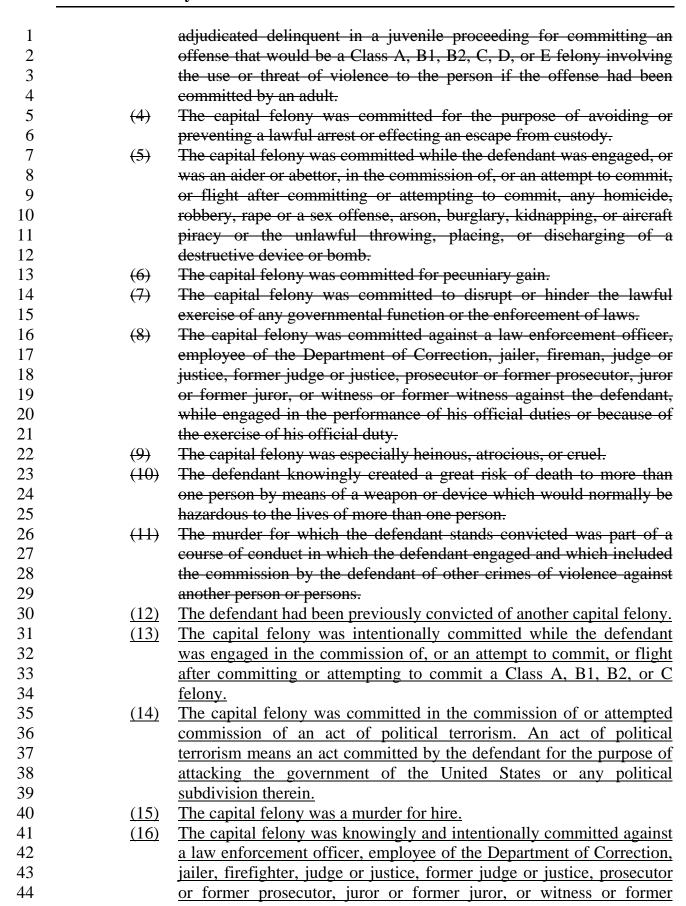
Whereas, the large number of potential capital cases annually costs the State of North Carolina tens of millions of dollars for prosecution and defense services and court costs in excess of the cost of handling those cases as noncapital; and

Whereas, a narrowed definition of aggravating circumstances would continue to permit prosecutors to pursue death penalties for the most culpable defendants and the worst crimes; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-2000(e) reads as rewritten:

- "(e) Aggravating Circumstances. Aggravating circumstances which may be considered shall be limited to the following:
 - (1) The capital felony was committed by a person lawfully incarcerated.
 - (2) The defendant had been previously convicted of another capital felony or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a capital felony if committed by an adult.
 - (3) The defendant had been previously convicted of a felony involving the use or threat of violence to the person or had been previously



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witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duties.

The defendant intentionally tortured the victim, for a prolonged period

- (17) The defendant intentionally tortured the victim, for a prolonged period of time and in a gratuitous and depraved manner, during or immediately prior to the murder. 'Torture' means the infliction of extreme physical pain against a victim who the defendant knew was conscious. 'Gratuitous and depraved manner' means that the defendant inflicted pain in addition to that which necessarily accompanied the act of killing itself or the particular method of killing was chosen by the defendant for the purpose of inflicting such pain.
- (18) The murder for which the defendant stands convicted was part of a course of conduct in which the defendant intentionally killed or inflicted serious bodily injury upon more than one person."

SECTION 2. G.S. 15A-2004 is amended by adding the following subsection:

"(e) On or before the date of the pretrial conference in capital cases required by Rule 24 of the General Rules of Practice for the Superior District Courts, the superior court shall conduct a hearing to determine whether there is substantial evidence of the defendant's guilt of first degree murder and substantial evidence to support one of the aggravating circumstances listed in G.S. 15A-2000(e). Notwithstanding any other provision of Chapter 15A of the General Statutes, if the court does not find substantial evidence that the defendant committed first degree murder, or if the court does not find substantial evidence of an aggravating circumstance, it shall declare the case noncapital."

SECTION 3. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-2007. No execution of person sentenced to death prior to December 1, 2007, except in certain circumstances.

No person sentenced to death prior to December 1, 2007, shall be executed unless the jury that imposed the death sentence found no aggravating factors other than those set forth in G.S. 15A-2000(e), as enacted on December 1, 2007."

SECTION 4. This act becomes effective December 1, 2007.

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