

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 1526**

Short Title: Streamlined & Cost Effective Capital Case Act. (Public)

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Sponsors: Representatives Bryant, Hall, Luebke, Harrison (Primary Sponsors);  
Adams, Alexander, Coleman, Cotham, Farmer-Butterfield, Jones,  
McAllister, Mobley, Wainwright, and Womble.

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Referred to: Judiciary I.

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April 17, 2007

A BILL TO BE ENTITLED

1 AN ACT TO STREAMLINE AND MAKE MORE COST EFFECTIVE THE  
2 DETERMINATION OF WHETHER A FIRST DEGREE MURDER CASE MAY  
3 BE TRIED AS A CAPITAL CASE.  
4

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

7 Whereas, during that time, according to the Office of Indigent Defense  
8 Services, fewer than 1% of those cases resulted in the imposition of the death penalty,  
9 14% resulted in the dismissal of all charges, and 3% resulted in not-guilty verdicts by  
10 juries; and

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

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

17 The General Assembly of North Carolina enacts:

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

19 "(e) Aggravating Circumstances. – Aggravating circumstances which may be  
20 considered shall be limited to the following:

- 21 (1) ~~The capital felony was committed by a person lawfully incarcerated.~~  
22 (2) ~~The defendant had been previously convicted of another capital felony~~  
23 ~~or had been previously adjudicated delinquent in a juvenile proceeding~~  
24 ~~for committing an offense that would be a capital felony if committed~~  
25 ~~by an adult.~~  
26 (3) ~~The defendant had been previously convicted of a felony involving the~~  
27 ~~use or threat of violence to the person or had been previously~~

1 adjudicated delinquent in a juvenile proceeding for committing an  
2 offense that would be a Class A, B1, B2, C, D, or E felony involving  
3 the use or threat of violence to the person if the offense had been  
4 committed by an adult.

5 (4) ~~The capital felony was committed for the purpose of avoiding or~~  
6 ~~preventing a lawful arrest or effecting an escape from custody.~~

7 (5) ~~The capital felony was committed while the defendant was engaged, or~~  
8 ~~was an aider or abettor, in the commission of, or an attempt to commit,~~  
9 ~~or flight after committing or attempting to commit, any homicide,~~  
10 ~~robbery, rape or a sex offense, arson, burglary, kidnapping, or aircraft~~  
11 ~~piracy or the unlawful throwing, placing, or discharging of a~~  
12 ~~destructive device or bomb.~~

13 (6) ~~The capital felony was committed for pecuniary gain.~~

14 (7) ~~The capital felony was committed to disrupt or hinder the lawful~~  
15 ~~exercise of any governmental function or the enforcement of laws.~~

16 (8) ~~The capital felony was committed against a law enforcement officer,~~  
17 ~~employee of the Department of Correction, jailer, fireman, judge or~~  
18 ~~justice, former judge or justice, prosecutor or former prosecutor, juror~~  
19 ~~or former juror, or witness or former witness against the defendant,~~  
20 ~~while engaged in the performance of his official duties or because of~~  
21 ~~the exercise of his official duty.~~

22 (9) ~~The capital felony was especially heinous, atrocious, or cruel.~~

23 (10) ~~The defendant knowingly created a great risk of death to more than~~  
24 ~~one person by means of a weapon or device which would normally be~~  
25 ~~hazardous to the lives of more than one person.~~

26 (11) ~~The murder for which the defendant stands convicted was part of a~~  
27 ~~course of conduct in which the defendant engaged and which included~~  
28 ~~the commission by the defendant of other crimes of violence against~~  
29 ~~another person or persons.~~

30 (12) The defendant had been previously convicted of another capital felony.

31 (13) The capital felony was intentionally committed while the defendant  
32 was engaged in the commission of, or an attempt to commit, or flight  
33 after committing or attempting to commit a Class A, B1, B2, or C  
34 felony.

35 (14) The capital felony was committed in the commission of or attempted  
36 commission of an act of political terrorism. An act of political  
37 terrorism means an act committed by the defendant for the purpose of  
38 attacking the government of the United States or any political  
39 subdivision therein.

40 (15) The capital felony was a murder for hire.

41 (16) The capital felony was knowingly and intentionally committed against  
42 a law enforcement officer, employee of the Department of Correction,  
43 jailer, firefighter, judge or justice, former judge or justice, prosecutor  
44 or former prosecutor, juror or former juror, or witness or former

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

3            (17)    The defendant intentionally tortured the victim, for a prolonged period  
4                    of time and in a gratuitous and depraved manner, during or  
5                    immediately prior to the murder. 'Torture' means the infliction of  
6                    extreme physical pain against a victim who the defendant knew was  
7                    conscious. 'Gratuitous and depraved manner' means that the defendant  
8                    inflicted pain in addition to that which necessarily accompanied the act  
9                    of killing itself or the particular method of killing was chosen by the  
10                   defendant for the purpose of inflicting such pain.

11           (18)    The murder for which the defendant stands convicted was part of a  
12                   course of conduct in which the defendant intentionally killed or  
13                   inflicted serious bodily injury upon more than one person."

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

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

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

27            **§ 15A-2007. No execution of person sentenced to death prior to December 1,**  
28                    **2007, except in certain circumstances.**

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

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