

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 51

Short Title: Capital Offense/Life Without Parole.

(Public)

Sponsors: Senators Cochrane, Forrester, Carpenter, Codington, Shaw, Smith; Allran, Blackmon, Hartsell, Kincaid, Simpson, and Gunter.

Referred to: Corrections/Punishment.

February 10, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A DEFENDANT CONVICTED OF A CAPITAL OFFENSE MAY BE SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT PAROLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-1.1(a) reads as rewritten:

"(a) For felonies that occur on or after the effective date of Article 81A of Chapter 15A [July 1, 1981] of the General Statutes, the following punishments shall be applicable:

- (1) A Class A felony shall be punishable by death or life imprisonment without parole as provided by Article 100 of Chapter 15A of the General Statutes;
- (2) A Class B felony shall be punishable by life imprisonment;
- (3) A Class C felony shall be punishable by imprisonment up to 50 years, or by life imprisonment, or a fine, or both imprisonment and fine;
- (4) A Class D felony shall be punishable by imprisonment up to 40 years, or a fine or both;
- (5) A Class E felony shall be punishable by imprisonment up to 30 years, or a fine or both;
- (6) A Class F felony shall be punishable by imprisonment up to 20 years, or a fine or both;
- (7) A Class G felony shall be punishable by imprisonment up to 15 years, or a fine or both;

- 1 (8) A Class H felony shall be punishable by imprisonment up to 10 years,
2 or a fine or both;
- 3 (9) A Class I felony shall be punishable by imprisonment up to five years,
4 or a fine or both;
- 5 (10) A Class J felony shall be punishable by imprisonment up to three
6 years, or a fine or both."

7 Sec. 2. G.S. 14-17 reads as rewritten:

8 **"§ 14-17. Murder in the first and second degree defined; punishment.**

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

28 Sec. 3. G.S. 15A-1370.1 reads as rewritten:

29 **"§ 15A-1370.1. Applicability of Article 85.**

30 This Article is applicable to all sentenced prisoners, including ~~Class A and Class B~~
31 ~~felons~~, and Class C felons who receive a sentence of life imprisonment, who are not
32 subject to Article 85A of this Chapter.

33 This Article does not apply to prisoners sentenced to life imprisonment without
34 parole."

35 Sec. 4. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the
36 1993 Session Laws, reads as rewritten:

37 **"§ 15A-1370.1. Applicability of Article 85.**

38 This Article is applicable to all prisoners serving sentences of imprisonment for
39 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of
40 ~~life imprisonment~~ imprisonment, except for prisoners serving life imprisonment without
41 parole."

42 Sec. 5. G.S. 15A-1371(a1) reads as rewritten:

43 "(a1) A prisoner serving a term of life imprisonment other than for first degree
44 murder and with no minimum term is eligible for parole after serving 20 years. A

1 prisoner serving a term of life imprisonment for first degree murder shall be imprisoned
2 for the remainder of his natural life. This subsection applies to offenses committed on
3 and after July 1, 1981."

4 Sec. 6. G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of the
5 1993 Session Laws, reads as rewritten:

6 "(a1) A prisoner serving a term of life imprisonment other than for first degree
7 murder is eligible for parole after serving 25 years. A prisoner serving a term of life
8 imprisonment for first degree murder shall be imprisoned for the remainder of his
9 natural life. This subsection applies to offenses committed on and after January 1,
10 1995."

11 Sec. 7. G.S. 15A-1372(a), as amended by Section 23 of Chapter 538 of the
12 1993 Session Laws, reads as rewritten:

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

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

16 (2) Three years for a sentence of life ~~imprisonment.~~ imprisonment other
17 than for first degree murder."

18 Sec. 8. G.S. 15A-2002 reads as rewritten:

19 **"§ 15A-2002. (Effective until January 1, 1995) Capital offenses; jury verdict and**
20 **sentence.**

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

26 Sec. 9. G.S. 15A-2002, as amended by Section 29 of Chapter 538 of the 1993
27 Session Laws, reads as rewritten:

28 **"§ 15A-2002. Capital offenses; jury verdict and sentence.**

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

34 ~~The judge shall instruct the jury, in words substantially equivalent to those of this~~
35 ~~section, that a sentence of life imprisonment means a sentence of life with eligibility for~~
36 ~~parole consideration after 25 years."~~

37 Sec. 10. G.S. 143B-266(a), as amended by Section 42 of Chapter 538 of the
38 1993 Session Laws, reads as rewritten:

39 "(a) There is hereby created a Post-Release Supervision and Parole Commission
40 of the Department of Correction with the authority to grant paroles, including both
41 regular and temporary paroles, to persons held by virtue of any final order or judgment
42 of any court of this State as provided in Chapter 148 of the General Statutes and laws of
43 the State of North Carolina, except that for persons sentenced under Article 81B of
44 Chapter 15A of the General Statutes, only those sentenced to life imprisonment are

1 eligible for parole. This section shall not apply to persons sentenced to life
2 imprisonment without parole for a conviction of first degree murder. The Commission
3 shall also have authority to revoke, terminate, and suspend paroles of such persons
4 (including persons placed on parole on or before the effective date of the Executive
5 Organization Act of 1973) and to assist the Governor in exercising his authority in
6 granting reprieves, commutations, and pardons, and shall perform such other services as
7 may be required by the Governor in exercising his powers of executive clemency. The
8 Commission shall also have authority to revoke and terminate persons on post-release
9 supervision, as provided in Article 84A of Chapter 15A of the General Statutes."

10 Sec. 11. Sections 1, 2, 3, 5, 8, and 10 of this act are effective upon ratification
11 and apply only to offenses occurring on or after the effective date. Sections 4, 6, 7, and
12 9 of this act become effective January 1, 1995, and apply to offenses occurring on or
13 after that effective date. Prosecution for, or sentences based on, offenses occurring
14 before the effective date of this act are not abated or affected by the repeal or
15 amendment in this act of any statute, and the statutes that would be applicable to those
16 prosecutions or sentences but for the provisions of this act remain applicable to those
17 prosecutions or sentences.