

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 991

Short Title: Racial Justice Act.

(Public)

Sponsors: Senator Ballance.

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE FAIR AND RELIABLE IMPOSITION OF
CAPITAL SENTENCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new
Article to read:

"ARTICLE 101.

"North Carolina Racial Justice Act.

"**§ 15A-2010. North Carolina Racial Justice Act.**

No person shall be subject to or given a sentence of death that was sought or obtained
on the basis of race.

"**§ 15A-2011. Pretrial procedures.**

(a) A finding that race was the basis of the decision to seek a death sentence may
be established if the court finds that race was a significant factor in decisions to seek the
sentence of death in the county, the prosecutorial district, or the State-at-large, at the time
the death sentence was sought.

(b) Evidence relevant to establish a finding that race was the basis of the decision
to seek a death sentence may include statistical evidence or other evidence, or both, that
death sentences were sought significantly more frequently:

(1) Upon persons of one race than upon persons of another race than as
punishment of capital offenses against persons of another race; or

(2) As punishment for capital offenses against persons of one race than as punishment of capital offenses against persons of another race.

(c) The defendant shall state with particularity how the evidence supports a claim that racial considerations played a significant part in the decision to seek a death sentence in his or her case. The claim shall be raised by the defendant at the pretrial conference. The court shall schedule a hearing on the claim and shall prescribe a time for the submission of evidence by both parties. If the court finds that race was the basis of the decision to seek the death sentence, the court shall order that a death sentence shall not be sought.

(d) The defendant has the burden of proving by clear and convincing evidence that race was the basis of the decision to seek the death penalty. The State may offer evidence in rebuttal of the claims or evidence of the defendant.

"§ 15A-2012. Posttrial procedure.

(a) A finding that race was an improper basis upon which a death sentence was obtained may be established if the court finds that race was a significant factor in decisions to exercise peremptory challenges during jury selection.

(b) Evidence relevant to establish a finding that race was a significant factor in decisions to exercise peremptory challenges during jury selection may include statistical evidence, or other evidence or both. Evidence may include sworn testimony of attorneys, prosecutors, and/or law enforcement officers or other members of the criminal justice system."

Section 2. This act is effective when it becomes law and applies retroactively.