

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1291

Short Title: NC Racial Justice Act. (Public)

Sponsors: Representatives Womble, Parmon (Primary Sponsors); Adams, Alexander, Bell, Blue, Bordsen, Bryant, Coleman, Cotham, Cunningham, Faison, Farmer-Butterfield, Fisher, Glazier, Hall, T. Harrell, Harrison, Holliman, Insko, Jones, Lucas, Luebke, McAllister, Mobley, Pierce, Ross, Samuelson, Wainwright, Weiss, Wray, and Wright.

Referred to: Judiciary II.

April 3, 2007

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

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 15A of the General Statutes is amended by adding a
6 new Article to read:

"Article 101.

"North Carolina Racial Justice Act.

9 **"§ 15A-2010. North Carolina Racial Justice Act.**

10 No person shall be subject to or given a sentence of death, or shall be executed
11 pursuant to any judgment that was sought or obtained on the basis of race.

12 **"§ 15A-2011. Pretrial procedures.**

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

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

21 (1) Upon persons of one race than upon persons of another race, or as
22 punishment for capital offenses against persons of one race than as
23 punishment of capital offenses against persons of another race; and

24 (2) That the State is unable to justify the racial disparities demonstrated by
25 the defendant by identifying other, legitimate sentencing

1 considerations that when tested statistically, adequately explain the
2 apparent racial disparities.

3 (c) The defendant shall state with particularity how the evidence supports a claim
4 that racial considerations played a significant part in the decision either to seek a death
5 sentence or to impose a death sentence in his or her case. The claim shall be raised by
6 the defendant at the pretrial conference or in postconviction proceedings. The court
7 shall schedule a hearing on the claim and shall prescribe a time for the submission of
8 evidence by both parties. If the court finds that race was the basis of the decision to seek
9 the death sentence, the court shall order that a death sentence shall not be sought, or that
10 the death sentence imposed by the judgment not be carried out.

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

14 **"§ 15A-2012. Posttrial procedure.**

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

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

23 **SECTION 2.** This act is effective when it becomes law and applies
24 retroactively.