

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1682**

Short Title: North Carolina No Place for Torture Act. (Public)

Sponsors: Representatives Jones, Luebke, Coleman, Harrison (Primary Sponsors);  
Alexander, Blust, Brown, Glazier, Insko, Ross, Wainwright, and Womble.

Referred to: Judiciary I, if favorable, Appropriations.

April 19, 2007

A BILL TO BE ENTITLED  
AN ACT TO PUNISH TORTURE, KIDNAPPING, AND THE ENFORCED  
DISAPPEARANCE OF PERSONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 8 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-34.9. Torture, kidnapping, and enforced disappearances.**

(a) Whoever commits torture, kidnapping, or the enforced disappearance of persons or attempts to commit torture, kidnapping, or the enforced disappearance of persons shall be punished as a Class C felon.

(b) Whoever conspires to commit any of the acts prohibited in subsection (a) of this section or conspires to attempt to commit any of the acts prohibited in subsection (a) of this section, whether the act or attempt takes place inside or outside the State of North Carolina, shall be punished as a Class D felon if any part of the conspiracy is performed or formulated within the State of North Carolina. If death results to any person from conduct prohibited by this section, it shall be punished as a Class B felony.

(c) Jurisdiction. – There is jurisdiction over the conduct prohibited in subsection (a) if the alleged offender:

(1) Committed the offense in the State of North Carolina;

(2) Committed an act in furtherance of the conspiracy within the State of North Carolina even though other conduct occurred outside of the State of North Carolina or part of the conspiracy was formulated outside of the State of North Carolina; or

(3) Entered into the conspiracy within the State of North Carolina even though part of the conspiracy was formulated outside of the State of North Carolina or conduct in furtherance of the conspiracy was performed outside of the State of North Carolina.

(d) For the purposes of this section:

- 1           (1)    "Conspiracy" is as defined by common law and the law of North  
2                    Carolina.
- 3           (2)    "Enforced disappearance of persons" means the arrest, detention, or  
4                    abduction of persons by, or with the authorization, support, or  
5                    acquiescence of, a State or a political organization, followed by a  
6                    refusal to acknowledge that deprivation of freedom or give information  
7                    on the fate or whereabouts of those persons, with the intention of  
8                    removing them from the protection of the law for a prolonged period  
9                    of time.
- 10          (3)    "Kidnapping" is defined by G.S. 14-39.
- 11          (4)    "Official capacity" means acting at the instruction of, on behalf of, or  
12                    with the authority of a governmental body.
- 13          (5)    "Public official" means any person elected by the public, appointed or  
14                    hired by a governmental body, or acting for or on the behalf of a  
15                    governmental body.
- 16          (6)    "Torture" means any act by which severe pain or suffering, whether  
17                    physical or mental, is intentionally inflicted on a person for purposes  
18                    such as obtaining from him or a third person information or a  
19                    confession, punishing him for an act he or a third person has  
20                    committed or is suspected of having committed, or intimidating or  
21                    coercing him or a third person, or for any reason based on  
22                    discrimination of any kind, when such pain or suffering is inflicted by  
23                    or at the instigation of or with the consent or acquiescence of a public  
24                    official or other person acting in an official capacity. It does not  
25                    include pain or suffering arising only from, inherent in, or incidental to  
26                    lawful sanctions."

27           **SECTION 2.** G.S. 15A-622(h) reads as rewritten:

28           "(h) A written petition for convening of grand jury under this section may be filed  
29 by the district attorney, the district attorney's designated assistant, or a special  
30 prosecutor requested pursuant to G.S. 114-11.6, with the approval of a committee of at  
31 least three members of the North Carolina Conference of District Attorneys, and with  
32 the concurrence of the Attorney General, with the Clerk of the North Carolina Supreme  
33 Court. The Chief Justice shall appoint a panel of three judges to determine whether to  
34 order the grand jury convened. A grand jury under this section may be convened if the  
35 three-judge panel determines that:

- 36           (1) The petition alleges the commission of or a conspiracy to commit a  
37 violation of G.S. ~~14-34.9, 90-95(h) or G.S. 90-95(h)~~, or 90-95.1, any  
38 part of which violation or conspiracy occurred in the county where the  
39 grand jury sits, and that persons named in the petition have knowledge  
40 related to the identity of the perpetrators of those crimes but will not  
41 divulge that knowledge voluntarily or that such persons request that  
42 they be allowed to testify before the grand jury; and
- 43           (2) The affidavit sets forth facts that establish probable cause to believe  
44 that the crimes specified in the petition have been committed and

1 reasonable grounds to suspect that the persons named in the petition  
2 have knowledge related to the identity of the perpetrators of those  
3 crimes.

4 The affidavit shall be based upon personal knowledge or, if the source of the  
5 information and basis for the belief are stated, upon information and belief. The panel's  
6 order convening the grand jury as an investigative grand jury shall direct the grand jury  
7 to investigate the crimes and persons named in the petition, and shall be filed with the  
8 Clerk of the North Carolina Supreme Court. A grand jury so convened retains all  
9 powers, duties, and responsibilities of a grand jury under this Article. The contents of  
10 the petition and the affidavit shall not be disclosed. Upon receiving a petition under this  
11 subsection, the Chief Justice shall appoint a panel to determine whether the grand jury  
12 should be convened as an investigative grand jury.

13 A grand jury authorized by this subsection may be convened from an existing grand  
14 jury or grand juries authorized by subsection (b) of this section or may be convened as  
15 an additional grand jury to an existing grand jury or grand juries. Notwithstanding  
16 subsection (b) of this section, grand jurors impaneled pursuant to this subsection shall  
17 serve for a period of 12 months, and, if an additional grand jury is convened, 18 persons  
18 shall be selected to constitute that grand jury. At any time for cause shown, the  
19 presiding superior court judge may excuse a juror temporarily or permanently, and in  
20 the latter event the court may impanel another person in place of the juror excused."

21 **SECTION 3.** This act becomes effective July 1, 2007.