

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1062  
Committee Substitute Favorable 5/3/93  
Senate Judiciary I Committee Substitute Adopted 7/16/93  
Fourth Edition Engrossed 7/20/93

Short Title: No Death Penalty/Mentally Retarded.

(Public)

Sponsors:

Referred to:

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED  
OF FIRST DEGREE MURDER MAY NOT BE SENTENCED TO DEATH.

The General Assembly of North Carolina enacts:

Section 1. Article 100 of Chapter 15A of the General Statutes is amended by  
adding a new section to read:

**"§ 15A-2004. Mentally retarded defendants; death sentence prohibited.**

(a) The following definitions apply in this section:

(1) Mentally retarded. – Significantly subaverage intellectual functioning,  
existing concurrently with significant impairment in adaptive  
functioning, and manifested before the age of 18.

(2) Significantly subaverage intellectual functioning. – An intelligence  
quotient of 60 or below evidenced by a score of 60 or below on at least  
one individually administered standardized intelligence quotient test  
given to the defendant by a qualified test administrator when the  
defendant was between 6 and 18 years of age.

(b) Notwithstanding any provision of law to the contrary, no defendant who is  
mentally retarded shall be sentenced to death.

(c) Upon motion of the defendant prior to trial, the court shall conduct a hearing  
to determine whether the defendant is mentally retarded. The defendant has the burden  
of production and persuasion to demonstrate mental retardation by a preponderance of

1 the evidence. Tests given the defendant when the defendant was at least six years of  
2 age shall be admissible to determine mental retardation, but no tests given before the  
3 defendant was six years of age shall be admissible. If the court determines the defendant  
4 is mentally retarded, the court shall declare the case noncapital and the State may not  
5 seek the death penalty against the defendant. The determination by the court is a  
6 question of fact.

7 (d) The pretrial determination of the court shall not preclude the defendant from  
8 raising any legal defense during the trial.

9 (e) The provisions of this section do not preclude the sentencing of a mentally  
10 retarded offender to any other sentence authorized by G.S. 14-17 for the crime of  
11 murder in the first degree.

12 (f) Upon motion of the State, the provisions of G.S. 15A-1002, regarding the  
13 State's right to an independent examination on capacity to proceed, shall apply."

14 Sec. 2. This act becomes effective December 1, 1993, and applies to original  
15 trials begun on or after that date.