

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 362

Short Title: No Death Penalty/Mentally Retarded.

(Public)

Sponsors: Representatives Fitch; Blue, Boyd-McIntyre, Buchanan, Cummings, Cunningham, Gardner, H. Hunter, Linney, McAllister, Michaux, Miner, Oldham, Preston, Shubert, Thompson, Wainwright, Womble, and Wright.

Referred to: Judiciary II.

March 7, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED
OF FIRST DEGREE MURDER SHALL 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 impairment in adaptive functioning, and manifested before the age of 18.

(2) Significantly subaverage intellectual functioning. – An intelligence quotient of 70 or below on an individually administered intelligence quotient test.

(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

1 production and persuasion to demonstrate mental retardation by a preponderance of the
2 evidence. If the court determines the defendant is mentally retarded, the court shall
3 declare the case noncapital and the State may not seek the death penalty against the
4 defendant.

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

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

10 Sec. 2. This act becomes effective December 1, 1995, and applies to trials
11 begun on or after that date.