

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 529\***

Short Title: Suspend Executions for Two Years. (Public)

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Sponsors: Representatives Hackney, Luebke, Cunningham, Earle (Primary Sponsors); Adams, Alexander, B. Allen, Bell, Bordsen, Carney, Church, Coleman, Culp, Farmer-Butterfield, Fisher, Glazier, Harrison, Hunter, Insko, Jeffus, Jones, Lucas, Martin, McAllister, Michaux, Miller, Parmon, Pierce, Rapp, Rayfield, Ross, Tucker, Underhill, Wainwright, Weiss, Wilkins, Womble, Wright, and Yongue.

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Referred to: Rules, Calendar, and Operations of the House.

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March 9, 2005

A BILL TO BE ENTITLED

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2 AN ACT TO SUSPEND EXECUTIONS FOR TWO YEARS WHILE CONDUCTING  
3 A TWO-YEAR STUDY ON ISSUES RELATING TO THE DEATH SENTENCE.

4 Whereas, factors that may affect the fair and impartial administration of the  
5 death penalty include the following:

- 6 (1) The adequacy of counsel for those on death row in all stages of capital  
7 cases and a risk of executing the innocent due to problems with  
8 counsel appointed prior to the enactment of current guidelines and  
9 qualifications.  
10 (2) The potential effect of the locale of a crime on the probability that a  
11 prosecutor decides to try a homicide as a capital case.  
12 (3) Proportionality in the use of the death penalty, including the  
13 relationship between death sentences and individual culpability for the  
14 crimes.  
15 (4) Possible prosecutorial misconduct.  
16 (5) Possible discrimination in death penalty sentencing based on either the  
17 victim's race or the defendant's race as well as possible discrimination  
18 with regard to other aspects of capital case processing; and

19 Whereas, the Final Report to the 2001 General Assembly by the Legislative  
20 Research Commission's Study on Capital Punishment – Mentally Retarded and Race  
21 Basis included a recommendation that there be a suspension of executions while matters  
22 relating to the imposition of the death penalty are further studied; Now, therefore,  
23 The General Assembly of North Carolina enacts:

1           **SECTION 1.** The Secretary of Correction shall not set a date for any  
2 execution sooner than two years from the effective date of this act. During that  
3 two-year period, the study authorized by Section 2 of this act shall be undertaken and  
4 the results reported to the General Assembly.

5           **SECTION 2.** The General Assembly or its designees shall conduct a  
6 two-year study to examine issues regarding the imposition of a death sentence under  
7 North Carolina law, including:

- 8           (1) The adequacy of counsel in all stages of capital cases, and the  
9           sufficiency of guidelines for the appointment and performance of such  
10           counsel appointed prior to the enactment of current guidelines and  
11           qualifications.
- 12           (2) The process for judicial review of the merits of constitutional claims in  
13           State postconviction and federal habeas corpus proceedings.
- 14           (3) Any disproportionate racial impact from any aspect of capital case  
15           processing.
- 16           (4) Whether there is discrimination in capital sentencing on the basis of  
17           the victim's or the defendant's race.
- 18           (5) Prosecutorial misconduct as a factor in the imposition of the death  
19           penalty.
- 20           (6) The presence of innocent persons on death row.
- 21           (7) Any other appropriate or relevant subject.

22           **SECTION 3.** Notwithstanding the suspension of executions in Section 1  
23 above, nothing in this act shall prevent the prosecution of capital cases at trial or appeal,  
24 nor the imposition of a sentence of death during the period of suspension of executions.

25           **SECTION 4.** This act is effective when it becomes law and applies only to  
26 cases in which a death sentence was imposed prior to January 1, 2005.