GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

Η 1 **HOUSE BILL 790**

Short Title: Amend MAR Procedure. (Public) Representatives Earle; and Cunningham. **Sponsors:**

Referred to: Judiciary II. March 15, 2007 1 A BILL TO BE ENTITLED 2 AN ACT TO AMEND THE PROCEDURE FOR MOTIONS FOR APPROPRIATE 3 RELIEF IN CAPITAL CASES AS RECOMMENDED BY THE HOUSE INTERIM 4 STUDY COMMITTEE ON CAPITAL PUNISHMENT. 5 The General Assembly of North Carolina enacts: 6 **SECTION 1.** G.S. 15A-1420(b1) reads as rewritten: 7 "(b1) Filing Motion With Clerk; Review of Motion by Judge. The proceeding shall be commenced by filing with the clerk of 8 (1) 9 superior court of the district wherein the defendant was indicted a 10 motion, with service on the district attorney in noncapital cases, and 11 service on both the district attorney and Attorney General in capital 12 cases. 13 The clerk, upon receipt of the motion, shall place the motion on the (2) 14 criminal docket. 15 In noncapital cases, The the clerk shall promptly bring the a. motion, or a copy of the motion, to the attention of the resident 16 judge or any judge holding court in the county or district. 17 In capital cases, the clerk shall bring the motion, or a copy of 18 b. 19 the motion, to the attention of the senior resident superior court 20 judge or his designee within five days of the filing of the 21 motion. The senior resident superior court judge is authorized to 22 assign the motion to any superior court judge, in accordance 23

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- with G.S. 15A-1413(a). The assigned superior court judge shall hold all hearings and make all rulings in the case, unless the senior resident superior court judge reassigns the motion to another superior court judge.
- In capital cases, not withstanding any other provision of law, <u>c.</u> the judge assigned to the motion shall be empowered to issue any orders or rulings in the matter while out of term, session, or

1		county, and may hold a hearing in the superior court district
2		during any regular session of the court, or a special session of
3		the court, ordered pursuant to G.S. 7A-46.
4	<u>(3)</u>	In noncapital cases, the judge shall review the motion and enter an
5		order whether the defendant should be allowed to proceed without the
6		payment of costs, with respect to the appointment of counsel, and
7		directing the State, if necessary, to file an answer.
8	<u>(4)</u>	In capital cases, the judge assigned pursuant to subdivision (2) of this
9		subsection shall review the motion and enter an order within 20 days
10		of the filing of the motion that directing directs the State to file its
11		answer within 60 days of the date of the order. If a hearing is
12		necessary, the judge shall calendar the case for hearing without
13		unnecessary delay. delay, and enter its order no later than 180 days
14		following the hearing."
15	SECT	ION 2. This act becomes effective December 1, 2007, and applies to
16	motions for appro	opriate relief filed on or after that date.