

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 249

Short Title: Death Pen./Disproportionate Use.

(Public)

Sponsors: Senators Simpson; Carpenter and Hardin.

Referred to: Judiciary I.

February 22, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE NORTH CAROLINA SUPREME COURT MAY NOT CONSIDER IN ITS REVIEW OF A DEATH PENALTY CASE WHETHER THE SENTENCE IMPOSED IS DISPROPORTIONATE TO THE PENALTY IMPOSED IN SIMILAR CASES.

The General Assembly of North Carolina enacts:

Section 1. G. S. 15A-2000(d) reads as rewritten:

"(d) Review of Judgment and Sentence.

(1) The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of North Carolina pursuant to procedures established by the Rules of Appellate Procedure. In its review, the Supreme Court shall consider the punishment imposed as well as any errors assigned on appeal.

(2) The sentence of death shall be overturned and a sentence of life imprisonment imposed in lieu thereof by the Supreme Court upon a finding that the record does not support the jury's findings of any aggravating circumstance or circumstances upon which the sentencing court based its sentence of death, or upon a finding that the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, or upon a finding that the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant factor. The Supreme Court may suspend consideration of death penalty cases until such time as

1 the court determines it is prepared to make the comparisons required
2 under the provisions of this section.

3 (3) If the sentence of death and the judgment of the trial court are
4 reversed on appeal for error in the post-verdict sentencing proceeding,
5 the Supreme Court shall order that a new sentencing hearing be
6 conducted in conformity with the procedures of this Article."

7 Sec. 2. This act shall become effective October 1, 1989, and shall apply to
8 defendants convicted of capital crimes occurring on or after that date.