

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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1

HOUSE BILL 175

Short Title: Up 1st and 2nd Degree Murder Penalty.

(Public)

Sponsors: Representatives Decker; and Sexton.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE LIFE WITHOUT PAROLE FOR PERSONS WHO ARE
2 CONVICTED OF FIRST DEGREE MURDER AND ARE NOT SENTENCED TO
3 DEATH AND TO INCREASE THE TERM OF IMPRISONMENT FOR PERSONS
4 WHO ARE CONVICTED OF SECOND DEGREE MURDER BY REQUIRING
5 LONGER TERMS FOR PERSONS WITH PRIOR RECORD LEVELS I OR II
6 AND LIFE WITHOUT PAROLE FOR PERSONS WITH PRIOR RECORD
7 LEVELS III, IV, V, OR VI.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 14-17, as amended by Section 1127 of Chapter 539 of the
10 1993 Session Laws, reads as rewritten:

11 **"§ 14-17. Murder in the first and second degree defined; punishment.**

12 A murder which shall be perpetrated by means of poison, lying in wait,
13 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
14 premeditated killing, or which shall be committed in the perpetration or attempted
15 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
16 felony committed or attempted with the use of a deadly weapon shall be deemed to be
17 murder in the first degree, a Class ~~A-A-1~~ felony, and any person who commits such
18 murder shall be punished with death or imprisonment in the State's prison for life
19 without parole as the court shall determine pursuant to G.S. 15A-2000, except that any
20 such person who was under 17 years of age at the time of the murder shall be punished
21 with imprisonment in the State's prison for ~~life~~-life without parole. Provided, however,
22 any person under the age of 17 who commits murder in the first degree while serving a
23 prison sentence imposed for a prior murder or while on escape from a prison sentence
24

1 imposed for a prior murder shall be punished with death or imprisonment in the State's
2 prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.
3 All other kinds of murder, including that which shall be proximately caused by the
4 unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or
5 preparation of opium, or cocaine or other substance described in G.S. 90-90(a)4., when
6 the ingestion of such substance causes the death of the user, shall be deemed murder in
7 the second degree, and any person who commits such murder shall be punished as a
8 Class ~~B~~-A-2 felon."

9 Sec. 2. G.S. 15A-1340.17, as enacted by Section 1 of Chapter 538 of the
10 1993 Session Laws, reads as rewritten:

11 "**§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**

12 (a) Offense Classification; Default Classifications. – The offense classification is
13 as specified in the offense for which the sentence is being imposed. If the offense is a
14 felony for which there is no classification, it is a Class I felony.

15 (b) Fines. – Any judgment that includes a sentence of imprisonment may also
16 include a fine. If a community punishment is authorized, the judgment may consist of a
17 fine only. Additionally, when the defendant is other than an individual, the judgment
18 may consist of a fine only. Unless otherwise provided, the amount of the fine is in the
19 discretion of the court.

20 (c) Punishments for Each Class of Offense and Prior Record Level; Punishment
21 Chart Described. – The authorized punishment for each class of offense and prior record
22 level is as specified in the chart below. Prior record levels are indicated by the Roman
23 numerals placed horizontally on the top of the chart. Classes of offense are indicated by
24 the letters placed vertically on the left side of the chart. Each cell on the chart contains
25 the following components:

- 26 (1) A sentence disposition or dispositions: "C" indicates that a community
27 punishment is authorized; "I" indicates that an intermediate punishment
28 is authorized; and "A" indicates that an active punishment is
29 authorized.
- 30 (2) A presumptive range of minimum durations, if the sentence of
31 imprisonment is neither aggravated or mitigated; any minimum term of
32 imprisonment in that range is permitted unless the court finds pursuant
33 to G.S. 15A-1340.16 that an aggravated or mitigated sentence is
34 appropriate. The presumptive range is the middle of the three ranges
35 in the cell.
- 36 (3) A mitigated range of minimum durations if the court finds pursuant to
37 G.S. 15A-1340.16 that a mitigated sentence of imprisonment is
38 justified; in such a case, any minimum term of imprisonment in the
39 mitigated range is permitted. The mitigated range is the lower of the
40 three ranges in the cell.
- 41 (4) An aggravated range of minimum durations if the court finds pursuant
42 to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is
43 justified; in such a case, any minimum term of imprisonment in the

1 aggravated range is permitted. The aggravated range is the higher of
 2 the three ranges in the cell.

3
 4 **PRIOR RECORD LEVEL**

5
 6 I II III IV V VI
 7 0 Pts 1-4 Pts 5-8 Pts 9-14 Pts 15-18 Pts 19+ Pts

8
 9 **A-A-1 LIFE IMPRISONMENT WITHOUT PAROLE OR DEATH AS**
 10 **ESTABLISHED BY STATUTE**

11
 12 A A A A A A DISPOSITION
 13 243-304 270-338 Aggravated
 14 A-2 194-243 216-270 PRESUMPTIVE
 15 146-194 162-216 Mitigated

16
 17
 18 Life Without Parole as Established by

19 Statute

20
 21
 22 A A A A A A DISPOSITION
 23 135-169 163-204 190-238 216-270 243-304 270-338
 24 Aggravated
 25 B 108-135 130-163 152-190 173-216 194-243 216-270 PRESUMPTIVE
 26 81-108 98-130 114-152 130-173 146-194 162-216
 27 Mitigated

28
 29 A A A A A A DISPOSITION
 30 63-79 86-108 100-125 115-144 130-162 145-181 Aggravated
 31 C 50-63 69-86 80-100 92-115 104-130 116-145 PRESUMPTIVE
 32 38-50 52-69 60-80 69-92 78-104 87-116 Mitigated

33
 34 A A A A A A DISPOSITION
 35 55-69 66-82 89-111 101-126 115-144 126-158 Aggravated
 36 D 44-55 53-66 71-89 81-101 92-115 101-126 PRESUMPTIVE
 37 33-44 40-53 53-71 61-81 69-92 76-101 Mitigated

38
 39 I/A I/AA A A A DISPOSITION
 40 25-31 29-36 34-42 46-58 53-66 59-74 Aggravated
 41 E 20-25 23-29 27-34 37-46 42-53 47-59 PRESUMPTIVE
 42 15-20 17-23 20-27 28-37 32-42 35-47 Mitigated

43
 44 I/A I/AI/A A A A DISPOSITION

1		16-20	19-24	21-26	25-31	34-42	39-49	Aggravated	
2	F	13-16	15-19	17-21	20-25	27-34	31-39		PRESUMPTIVE
3		10-13	11-15	13-17	15-20	20-27	23-31	Mitigated	

5		I/A	I/AI/A	I/A	A	A		DISPOSITION	
6		13-16	15-19	16-20	20-25	21-26	29-36	Aggravated	
7	G	10-13	12-15	13-16	16-20	17-21	23-29		PRESUMPTIVE
8		8-10	9-12	10-13	12-16	13-17	17-23	Mitigated	

10		C/I	I	I/A	I/A	I/A	A		DISPOSITION
11		6-8	8-10	10-12	11-14	15-19	20-25	Aggravated	
12	H	5-6	6-8	8-10	9-11	12-15	16-20		PRESUMPTIVE
13		4-5	4-6	6-8	7-9	9-12	12-16	Mitigated	

15		C	C/II	I/A	I/A	I/A		DISPOSITION	
16		6-8	6-8	6-8	8-10	9-11	10-12	Aggravated	
17	I	4-6	4-6	5-6	6-8	7-9	8-10		PRESUMPTIVE
18		3-4	3-4	4-5	4-6	5-7	6-8	Mitigated	

(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

27	4-5	5-6	6-8	7-9	8-10	9-11	10-12	11-14
28	12-15	13-16	14-17	15-18	16-20	17-21	18-22	19-23
29	20-24	21-26	22-27	23-28	24-29	25-30	26-32	27-33
30	28-34	29-35	30-36	31-38	32-39	33-40	34-41	35-42
31	36-44	37-45	38-46	39-47	40-48	41-50	42-51	43-52
32	44-53	45-54	46-56	47-57	48-58	49-59		

(e) Maximum Sentences Specified for Class ~~B-A-2~~ through Class E Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class ~~B-A-2~~ through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

42	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
43	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
44	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55

1	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
2	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
3	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
4	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
5	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
6	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
7	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
8	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
9	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
10	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
11	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
12	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
13	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
14	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
15	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
16	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
17	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
18	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
19	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
20	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
21	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
22	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
23	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
24	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
25	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
26	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
27	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
28	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
29	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
30	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
31	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
32	287-354	288-355	289-356	290-357	291-359	292-360	293-361	2957362
33								[295-362]
34	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
35	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
36	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
37	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
38	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
39	335-411	336-413	337-414	338-415	339-416"			

40 Sec. 3. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the
41 1993 Session Laws, reads as rewritten:

42 "**§ 15A-1370.1. Applicability of Article 85.**

43 This Article is applicable to all prisoners serving sentences of imprisonment for
44 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of

1 ~~life imprisonment.~~ imprisonment, except for prisoners serving sentences of life
2 imprisonment without parole."

3 Sec. 4. G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of the
4 1993 Session Laws, reads as rewritten:

5 "(a1) A prisoner serving a term of life imprisonment for an offense other than first
6 or second degree murder is eligible for parole after serving 25 years. A prisoner serving
7 a term of life imprisonment for first or second degree murder shall be imprisoned for the
8 remainder of the prisoner's natural life. This subsection applies to offenses committed
9 on and after January 1, 1995."

10 Sec. 5. G.S. 15A-1372(a), as amended by Section 23 of Chapter 538 of the
11 1993 Session Laws, reads as rewritten:

12 "(a) Term of Parole. – The term of parole for any person released from
13 imprisonment may be no greater than:

- 14 (1) One year for a conviction for impaired driving under G.S. 20-138.1; or
- 15 (2) Three years for a sentence of life ~~imprisonment.~~ imprisonment for
16 which parole is allowed."

17 Sec. 6. G.S. 15A-2002, as amended by Section 29 of Chapter 538 of the 1993
18 Session Laws, reads as rewritten:

19 **"§ 15A-2002. Capital offenses; jury verdict and sentence.**

20 If the recommendation of the jury is that the defendant be sentenced to death, the
21 judge shall impose a sentence of death in accordance with the provisions of Chapter 15,
22 Article 19 of the General Statutes. If the recommendation of the jury is that the
23 defendant be imprisoned for life in the State's prison, the judge shall impose a sentence
24 of imprisonment for life without parole in the State's prison.

25 ~~The judge shall instruct the jury, in words substantially equivalent to those of this~~
26 ~~section, that a sentence of life imprisonment means a sentence of life with eligibility for~~
27 ~~parole consideration after 25 years."~~

28 Sec. 7. G.S. 143B-266(a), as amended by Section 42 of Chapter 538 of the
29 1993 Session Laws, reads as rewritten:

30 "(a) There is hereby created a Post-Release Supervision and Parole Commission
31 of the Department of Correction with the authority to grant paroles, including both
32 regular and temporary paroles, to persons held by virtue of any final order or judgment
33 of any court of this State as provided in Chapter 148 of the General Statutes and laws of
34 the State of North Carolina, except that for persons sentenced under Article 81B of
35 Chapter 15A of the General Statutes, only those sentenced to life imprisonment for an
36 offense other than first or second degree murder are eligible for parole. The
37 Commission shall also have authority to revoke, terminate, and suspend paroles of such
38 persons (including persons placed on parole on or before the effective date of the
39 Executive Organization Act of 1973) and to assist the Governor in exercising his
40 authority in granting reprieves, commutations, and pardons, and shall perform such
41 other services as may be required by the Governor in exercising his powers of executive
42 clemency. The Commission shall also have authority to revoke and terminate persons
43 on post-release supervision, as provided in Article 84A of Chapter 15A of the General
44 Statutes."

1 Sec. 8. This act becomes effective January 1, 1995, and applies to offenses
2 committed on or after that date.