

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 63

Short Title: Public Executions/County Hanging.

(Public)

Sponsors: Senator Ballance.

Referred to: Corrections/Punishment.

February 10, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A CONVICT OR FELON SENTENCED TO DEATH SHALL BE EXECUTED IN PUBLIC BY ELECTROCUTION, BY HANGING, OR BY THE ADMINISTRATION OF LETHAL GAS OR DRUGS IN THE COUNTY SEAT WHERE THE CAPITAL CRIME OCCURRED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-187 reads as rewritten:

"§ 15-187. Death by electrocution, hanging, or the administration of lethal gas or drugs.

~~Death by electrocution under sentence of law is hereby abolished and death by the administration of lethal gas substituted therefor.~~ Death by electrocution, by hanging, or by the administration of lethal gas or drugs under sentence of law is established, except that if any person sentenced to death so chooses, ~~he~~ the person may at least five days prior to ~~his~~ the person's execution date, elect in writing to be executed by the administration of a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent."

Sec. 2. G.S. 15-188 reads as rewritten:

"§ 15-188. Manner and place of execution. ~~public execution.~~

~~Except as otherwise provided in G.S. 15-187, the~~ The mode of executing a death sentence must in every case be by causing the convict or felon to ~~inhale lethal gas of sufficient quantity to cause death, and the administration of such lethal gas must be continued until such convict or felon is dead;~~ die by one of the methods provided in G.S. 15-187 and when any person, convict or felon ~~shall be~~ is sentenced by any court of the State having competent jurisdiction ~~to be so executed, such punishment shall only be~~

1 inflicted within a permanent death chamber which the superintendent of the State  
2 penitentiary is hereby authorized and directed to provide within the walls of the North  
3 Carolina penitentiary at Raleigh, North Carolina. to be executed, the punishment shall  
4 be carried out in public by the superintendent of the State penitentiary in the county seat  
5 of the county where the convict or felon committed the crime for which the convict or  
6 felon is to be punished by death. If a convict or felon is sentenced to death for crimes  
7 committed in more than one county, then the convict or felon shall be executed in public  
8 at the county seat of the county where the convict or felon was sentenced to death. The  
9 superintendent of the State penitentiary shall ~~also cause to be provided,~~ provide in  
10 conformity with this Article and approved by the Governor and Council of State, the  
11 necessary appliances for the infliction of the punishment of death in accordance with the  
12 requirements of this Article."

13 Sec. 3. G.S. 15-189 reads as rewritten:

14 "**§ 15-189. Sentence of death; prisoner taken to ~~penitentiary.~~ penitentiary; prisoner**  
15 **taken to county seat for execution.**

16 (a) Upon the sentence of death being pronounced against any person in the State  
17 of North Carolina convicted of a crime punishable by death, it shall be the duty of the  
18 judge pronouncing ~~such the~~ death sentence to make the same in writing, which shall be  
19 filed in the papers in the case against such convicted person. The clerk of the superior  
20 court in which ~~such the~~ death sentence is pronounced shall prepare a certified copy of  
21 ~~said the~~ judgment or sentence of death, including ~~therewith~~ a copy of any notice or  
22 entries of appeal made in ~~such the~~ case; if no entries or notice of appeal have been made  
23 or given in ~~such the~~ case, a statement to the effect shall be included in the certificate of  
24 the ~~clerk; it clerk.~~ It shall also be the duty of the district attorney, assistant district  
25 attorney, or attorney prosecuting in behalf of the State in the absence of the district  
26 attorney, to prepare and sign a certificate stating in substance that ~~he prosecuted said he~~  
27 or she prosecuted the case in behalf of the State and that notice or entries of appeal have  
28 or have not been made or given in ~~said the~~ case, and further that ~~he he or she~~ has  
29 examined a copy of ~~said the~~ judgment or sentence of death certified by the clerk,  
30 including the copy of the notice or entries of appeal or statement to the effect that no  
31 appeal has been given, and to the best of ~~his his or her~~ knowledge the ~~same is correct; the~~  
32 certificate of said certificate is correct. The certificate of the district attorney, or other  
33 prosecuting officer above named, shall be attached to the certified copy of ~~said the~~  
34 sentence of death, as prepared and certified by the clerk, and both certificates shall be  
35 transmitted by the clerk of the superior court in which ~~said the~~ sentence of death is  
36 pronounced to the warden of the State penitentiary at Raleigh, North ~~Carolina; at~~  
37 Carolina. At the same time and in the same manner, a duplicate original of ~~said the~~  
38 certificates shall be prepared by the clerk of the superior court and the district attorney,  
39 or other prosecuting officer above named, and the ~~said the~~ duplicate original or ~~said the~~  
40 certificates shall be transmitted to the Attorney General of North Carolina. If notice of  
41 appeal is given or entries of appeal are made after the expiration of the term of superior  
42 court in which ~~said the~~ sentence of death is pronounced, ~~said the~~ certificates shall be  
43 prepared by the clerk of the superior court in which ~~said the~~ sentence is pronounced and  
44 by the district attorney, or other prosecuting ~~officer above named,~~ officer, prosecuting in

1 behalf of the State, in the same manner and shall be transmitted as soon as possible to  
 2 the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney  
 3 General of North Carolina. ~~The above certificates so prepared by the clerk of the superior~~  
 4 ~~court in which such sentence of death is pronounced and by the district attorney, or other~~  
 5 ~~prosecuting officer above named.~~ These certificates shall be transmitted by the clerk of the  
 6 superior court in which such the sentence is pronounced to the warden of the State  
 7 penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina,  
 8 not more than 20 or less than 10 days before the time fixed in the judgment of the court  
 9 for the execution of the sentence; and in sentence. In all cases where there is no appeal,  
 10 said the sentence of death shall not be carried out by the warden of the State penitentiary  
 11 or by any of his deputies or agents until said certificates so prepared and transmitted by the  
 12 clerk of the superior court in which said sentence of death is pronounced, and by the district  
 13 attorney, or the prosecuting officer above named, these certificates have been received in  
 14 the office of the warden of the State penitentiary at Raleigh, North Carolina.

15 (b) In all cases where there is no appeal from the sentence of ~~death death,~~ and in  
 16 all cases where the sentence is pronounced against a prisoner convicted of the crime of  
 17 rape it shall be the duty of the sheriff, together with at least one deputy, to convey to the  
 18 penitentiary, at Raleigh, North Carolina, such condemned felon or convict forthwith  
 19 upon the adjournment of the court in which the felon was tried, and deliver the convict  
 20 or felon to the warden of the penitentiary. it shall be the duty of the sheriff of the county  
 21 in which the sentence of death shall be carried out to hold the convict or felon in  
 22 custody until the time for the execution of the convict or felon, except that the sheriff,  
 23 together with at least one deputy, may convey the convict or felon to the State  
 24 penitentiary for safekeeping upon the approval of the warden of the State penitentiary.  
 25 If the sheriff holding the convict or felon in custody upon the adjournment of the court  
 26 in which the convict or felon was tried is not the sheriff of the county in which the  
 27 sentence of death will be carried out then the sheriff shall convey the convict or felon to  
 28 the county where the sentence of death will be carried out and place the convict or felon  
 29 into the custody of the sheriff of that county."

30 Sec. 4. G.S. 15-190 reads as rewritten:

31 "**§ 15-190. Person or persons to be designated by warden to execute sentence;**  
 32 **supervision of execution; who shall be present.**

33 Some guard ~~or guards~~ or other reliable person ~~or persons~~ to be named and designated  
 34 by the warden ~~from time to time~~ shall cause the person, convict or felon against whom  
 35 the death sentence has been ~~so~~ pronounced to be executed as provided by this Article  
 36 ~~and all amendments thereto.~~ Article. The execution shall be under the general supervision  
 37 and control of the warden of the penitentiary, who shall from time to time, in writing, name  
 38 and designate the guard ~~or guards~~ or other reliable person ~~or persons~~ who shall cause the  
 39 person, penitentiary, who shall in writing designate the guard or other reliable person  
 40 who shall cause the convict or felon against whom the death sentence has been  
 41 pronounced to be executed as provided by this Article and all amendments thereto. Article.  
 42 The sheriff of the county that is the site of the execution shall provide assistance to the  
 43 warden or the warden's agent at the warden's written request. At such the execution  
 44 there shall be present the warden ~~or deputy warden~~ or some person designated by the

1 ~~warden in his stead; warden; the surgeon or physician of the penitentiary and six respectable~~  
2 ~~citizens, the counsel and any relatives of such person, convict or felon and a minister or~~  
3 ~~ministers of the gospel may be present if they so desire, and the board of directors of the~~  
4 ~~penitentiary may provide for and pay the fee for each execution not to exceed thirty-five dollars~~  
5 ~~(\$35.00)-penitentiary; and the county sheriff or a deputy designated by the sheriff. The~~  
6 ~~counsel, and any relatives of the convict or felon, and a minister may be present. The~~  
7 ~~general public may attend. The board of directors of the penitentiary may provide for~~  
8 ~~and pay the fee for each execution. The fee shall not exceed thirty-five dollars~~  
9 ~~(\$35.00)."~~

10 Sec. 5. G.S. 15-192 reads as rewritten:

11 **"§ 15-192. Certificate filed with clerk.**

12 The warden, together with the surgeon or physician of the penitentiary, shall certify  
13 the fact of the execution of the ~~condemned person,—~~convict or felon to the clerk of the  
14 superior court in which ~~such the~~ sentence was ~~pronounced, and the pronounced.~~ The clerk  
15 shall file ~~such the~~ certificate with the papers of the ~~case and enter the same upon the records~~  
16 ~~thereof.~~ case. If the county where the sentence was pronounced is not the county where  
17 the execution was held, then the certification also shall be filed with the clerk of  
18 superior court in the county where the execution was held."

19 Sec. 6. G.S. 15-193 reads as rewritten:

20 **"§ 15-193. Notice of reprieve or new trial.**

21 Should the ~~condemned person,—~~convict or felon be granted a reprieve by the  
22 Governor or obtain a writ of error, or a new trial be granted by the Supreme Court of  
23 the State of North Carolina, or should the execution of the sentence be stayed by any  
24 competent judicial tribunal or proceeding, notice of ~~such the~~ reprieve, new trial, appeal,  
25 writ of error or stay of execution shall be served upon the warden or deputy warden of  
26 the penitentiary by the sheriff of Wake County, ~~in case such condemned person if the~~  
27 convict or felon is confined in the penitentiary, or upon any the sheriff having the  
28 custody of any such condemned person, the convict or felon and upon the condemned  
29 person himself. convict or felon."

30 Sec. 7. G.S. 15-194 reads as rewritten:

31 **"§ 15-194. ~~Time for~~ Time and place of execution.**

32 ~~Whenever~~ When the Supreme Court has filed an opinion upholding the sentence of  
33 death, ~~or~~ a stay of execution granted by any competent judicial tribunal or proceeding  
34 has expired or been terminated, or a reprieve by the Governor has expired or been  
35 terminated, a hearing shall be held in a superior court anywhere within the district  
36 where the case was tried to fix a new date for the execution of the original sentence. The  
37 district attorney shall promptly calendar ~~such the~~ hearing. The ~~condemned person convict~~  
38 or felon shall be present at the hearing unless the ~~condemned person convict or felon~~ has  
39 an attorney appearing at the hearing. The judge shall set the date of execution for ~~not no~~  
40 less than 60 days ~~nor and not~~ not more than 90 days from the date of the hearing. The judge  
41 shall set the site of the execution to be at the county seat of the county where the capital  
42 crime was committed. If the convict or felon was sentenced to death for crimes  
43 committed in more than one county, then the judge shall set the site of the execution to  
44 be at the county seat of the county where the convict or felon was sentenced to death.

1 The hearing may be conducted, whether or not in session, by any regular or special  
2 superior court judge resident in the district or assigned to hold court in this district  
3 wherever the case is docketed. The order fixing the date and place of the execution shall  
4 be recorded in the minutes of the court, and the clerk of the superior court shall  
5 immediately send a certified copy to the warden of the State penitentiary, at Raleigh.  
6 The clerk shall also send certified copies to the ~~condemned person,~~ convict or felon, the  
7 ~~condemned person's~~ the convict or felon's attorney, and the district attorney who  
8 prosecuted the case."

9 Sec. 8. G.S. 15-195 reads as rewritten:

10 **"§ 15-195. Prisoner taken to place of trial when new trial granted.**

11 Should a new trial be granted the ~~condemned person,~~ convict or felon against whom  
12 sentence of death has been pronounced, after ~~he~~ the convict or felon has been conveyed  
13 to the penitentiary, ~~he~~ he or she shall be conveyed back to the place of trial by such  
14 guard or guards as the warden of the penitentiary shall direct, their expenses to be paid  
15 as is now provided by law for the conveyance of convicts to the penitentiary."

16 Sec. 9. This act becomes effective January 1, 1995, and applies to sentences  
17 of death pronounced on or after that date.