

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 173\*

Short Title: No Death Penalty/Mentally Retarded.

(Public)

Sponsors: Senators Ballance, Dannelly, Horton, Shaw of Cumberland; Harris,  
Jordan, Kinnaird, Lucas, and Martin of Guilford.

Referred to: Judiciary I.

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED  
OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH, AS  
RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 100 of Chapter 15A of the General Statutes is amended  
by adding a new section to read:

**"§ 15A-2004. Mentally retarded defendants; death sentence prohibited.**

(a) The following definitions apply in this section:

(1) Mentally retarded. – Significantly subaverage intellectual functioning,  
existing concurrently with impairment in adaptive functioning, and  
manifested before the age of 18.

(2) Significantly subaverage intellectual functioning. – An intelligence  
quotient of 70 or below on an individually administered standardized  
intelligence quotient test.

(b) Notwithstanding any provision of law to the contrary, no defendant who is  
mentally retarded shall be sentenced to death.

(c) Upon motion of the defendant prior to trial, the court shall conduct a hearing  
to determine whether the defendant is mentally retarded. The defendant has the burden  
of production and persuasion to demonstrate mental retardation by a preponderance of  
the evidence. If the court determines the defendant is mentally retarded, the court shall  
declare the case noncapital, and the State may not seek the death penalty against the  
defendant.

(d) The pretrial determination of the court shall not preclude the defendant from  
raising any legal defense during the trial.

1       (e)   The provisions of this section do not preclude the sentencing of a mentally  
2 retarded offender to any other sentence authorized by G.S. 14-17 for the crime of  
3 murder in the first degree."

4               **SECTION 2.** This act becomes effective December 1, 2001, and applies to  
5 trials begun on or after that date.