

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE DRH10301-LH-222 (05/12)**

Short Title: Investigate Death Penalty Issues/Funds. (Public)

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Sponsors: Representative Sutton.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE SELECT COMMISSION TO INVESTIGATE DEATH PENALTY ISSUES AND TO APPROPRIATE FUNDS FOR THE COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Commission Established. – The Select Commission To Investigate Death Penalty Issues is established to study and evaluate the issues regarding the imposition of the death penalty as a punishment for first degree murder. This investigation shall be a continuing one and the evaluation ongoing.

**SECTION 1.(b)** Powers and Duties. – The Commission shall evaluate the death penalty as a sentence imposed for the commission of first degree murder and its relationship to the stated purposes of the criminal justice system. In its study, the Commission shall consider all of the following:

- (1) The adequacy of counsel in all stages of capital cases and the sufficiency of guidelines for the appointment and performance of such counsel.
- (2) The process for judicial review of the merits of constitutional claims in State postconviction and federal habeas corpus proceedings.
- (3) Any disproportionate racial impact from any aspect of capital case processing.
- (4) Whether there is discrimination in capital sentencing on the basis of the victim's or the defendant's race.
- (5) Prosecutorial misconduct as a factor in the imposition of the death penalty.
- (6) The presence of innocent persons on death row.
- (7) The costs of the death penalty system.
- (8) Any other appropriate or relevant subject.

1           **SECTION 1.(c)** Membership. – The Commission shall consist of 31  
2 members as follows:

- 3           (1) The Chief Justice of the North Carolina Supreme Court shall appoint a  
4 sitting or former Justice or judge of the General Court of Justice, who  
5 shall serve as Chairman of the Commission.
- 6           (2) The Chief Judge of the North Carolina Court of Appeals shall appoint  
7 a sitting or former judge on the Court of Appeals, serving as his  
8 designee.
- 9           (3) The Secretary of Correction or his designee.
- 10          (4) The Secretary of Crime Control and Public Safety or his designee.
- 11          (5) The President of the Conference of Superior Court Judges or his  
12 designee.
- 13          (6) The President of the North Carolina Sheriffs' Association or his  
14 designee.
- 15          (7) The President of the North Carolina Association of Chiefs of Police or  
16 his designee.
- 17          (8) The President of the North Carolina State Bar or his designee.
- 18          (9) Two members of the public at large, who are not currently licensed to  
19 practice law in North Carolina, to be appointed by the Governor.
- 20          (10) One member to be appointed by the Lieutenant Governor.
- 21          (11) Three members of the House of Representatives, to be appointed by  
22 the Speaker of the House.
- 23          (12) Three members of the Senate, to be appointed by the President Pro  
24 Tempore of the Senate.
- 25          (13) The President Pro Tempore of the Senate shall appoint the  
26 representative of the Office of Indigent Defense Services that is  
27 recommended by the Executive Director of that office.
- 28          (14) The Speaker of the House of Representatives shall appoint the  
29 representative of the North Carolina Association of Public Defenders  
30 that is recommended by the President of that organization.
- 31          (15) One superior court judge, to be appointed by the President Pro  
32 Tempore of the Senate.
- 33          (16) One superior court judge to be appointed by the Speaker of the House  
34 of Representatives.
- 35          (17) The Chief Justice of the North Carolina Supreme Court shall appoint  
36 the criminal defense attorney that is recommended by the President of  
37 the North Carolina Academy of Trial Lawyers.
- 38          (18) The President of the Conference of District Attorneys or his designee.
- 39          (19) The Lieutenant Governor shall appoint the member of the North  
40 Carolina Victim Assistance Network that is recommended by the  
41 President of that organization.
- 42          (20) A public defender who has defended at least two first degree murder  
43 cases, to be appointed by the Chair of the Commission.

1 (21) A rehabilitated former prison inmate or a person who was formerly on  
2 death row and has been released because his innocence was  
3 determined at a later time, to be appointed by the Governor.

4 (22) A district attorney who has prosecuted at least two first degree murder  
5 cases, appointed by the Conference of District Attorneys.

6 (23) The Governor shall appoint the two members of the academic  
7 community, with backgrounds in criminal justice, that are  
8 recommended by the President of The University of North Carolina.

9 (24) The Attorney General, or a member of his staff, to be appointed by the  
10 Attorney General.

11 (25) The Governor shall appoint the member of the North Carolina Bar  
12 Association that is recommended by the President of that organization.

13 **SECTION 1(d).** Terms of Members. – Members shall be appointed to serve  
14 terms of two years, unless they resign or are removed. Members serving by virtue of  
15 elective or appointive office or as designees of such officeholders may serve only so  
16 long as the officeholders hold those respective offices. Members appointed by the  
17 Speaker of the House of Representatives and the President Pro Tempore of the Senate  
18 may be removed by the appointing authority without cause. Vacancies occurring before  
19 the expiration of a term shall be filled in the manner provided for the members first  
20 appointed. A member of the Commission may be removed only for disability, neglect of  
21 duty, incompetence, or malfeasance in office.

22 **SECTION 1.(e)** Meetings; Quorum. – The Commission shall have its initial  
23 meeting no later than September 1, 2004, at the call of the Chair. The Commission shall  
24 meet a minimum of six regular meetings each year. The Commission may also hold  
25 special meetings at the call of the Chairman, or by any four members of the  
26 Commission, upon such notice and in such manner as may be fixed by the rules of the  
27 Commission. A majority of the members of the Commission shall constitute a quorum.

28 **SECTION 1.(f)** Commission Reimbursement. – The Commission members  
29 shall receive no salary as a result of serving on the Commission but shall receive  
30 necessary subsistence and travel expenses in accordance with the provisions of  
31 G.S. 120-3.1, G.S. 138-5, and G.S. 138-6, as applicable.

32 **SECTION 1.(g)** Public Hearings. – The Commission may hold public  
33 meetings across the State to solicit public input with respect to the issues regarding the  
34 death penalty.

35 **SECTION 1.(h)** Authority. – The Commission may obtain information and  
36 data from all State officers, agents, agencies and departments, while in discharge of its  
37 duties, pursuant to the provisions of G.S. 120-19, as if it were a committee of the  
38 General Assembly. The Commission shall also have the authority to call witnesses,  
39 compel testimony relevant to any matter properly before the Commission, and subpoena  
40 records and documents. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall  
41 apply to the proceedings of the Commission as if it were a joint committee of the  
42 General Assembly. Any cost of providing information to the Commission not covered  
43 by G.S. 120-19.3 may be reimbursed by the Commission from funds allocated to it for  
44 its continuing study.

1           **SECTION 1.(i)** Commission; Reports. – The Commission shall report to the  
2 General Assembly and the Governor the results of its study and recommendations. A  
3 written report shall be submitted annually to the General Assembly at its convening.

4           **SECTION 1.(j)** Commission; Staff; Meeting Place. – The Commission may  
5 contract for clerical or professional staff or for any other services it may require in the  
6 course of its ongoing study. The Commission may, with the approval of the Legislative  
7 Services Commission, meet in the State Legislative Building or the Legislative Office  
8 Building.

9           **SECTION 2.** There is appropriated from the General Fund to the General  
10 Assembly the sum of one hundred thousand dollars (\$100,000) for the 2004-2005 fiscal  
11 year to be allocated to the Select Commission to Investigate Death Penalty Issues to  
12 implement this act.

13           **SECTION 3.** This act is effective when it becomes law. All initial  
14 appointments shall be made within one calendar month from the effective date of this  
15 act.