

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1774**

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

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Sponsors: Representative Sutton.

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Referred to: Rules, Calendar, and Operations of the House.

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May 31, 2004

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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