

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 885

State Government, Local Government, and Personnel Committee Substitute Adopted  
5/1/97

Short Title: Notice of Execution.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE LAW REGARDING  
THE TIME FOR EXECUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15-194 reads as rewritten:

**"§ 15-194. Time for execution.**

In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b), the sentencing judge need not specify the date and time the execution is to be carried out by the Department of Correction. The warden of the State penitentiary at Raleigh shall immediately schedule a date for the execution of the original death sentence not less than 30 days nor more than 45 days from the date of receiving written notification from the Attorney General of North Carolina or the district attorney who prosecuted the case of any one of the following:

- (1) The United States Supreme Court has filed an opinion upholding the sentence of death following completion of the initial State and federal postconviction proceedings, if any;
- (2) The mandate issued by the Supreme Court of North Carolina on direct appeal pursuant to N.C.R. App. P. 32(b) affirming the capital

- 1 defendant's death sentence and the time for filing a petition for writ of  
2 certiorari to the United States Supreme Court has expired without a  
3 petition being filed;
- 4 (3) The capital defendant, if indigent, failed to timely seek the appointment  
5 of counsel pursuant to G.S. 7A-451(c), or failed to file a timely motion  
6 for appropriate relief as required by G.S. 15A-1415(a);
- 7 (4) The superior court denied the capital defendant's motion for appropriate  
8 relief, but the capital defendant failed to file a timely petition for writ of  
9 certiorari to the Supreme Court of North Carolina pursuant to N.C.R.  
10 App. P. 21(f);
- 11 (5) The Supreme Court of North Carolina denied the capital defendant's  
12 petition for writ of certiorari pursuant to N.C.R. App. P. 21(f), or, if  
13 certiorari was granted, upheld the capital defendant's death sentence, but  
14 the capital defendant failed to file a timely petition for writ of certiorari  
15 to the United States Supreme Court; or
- 16 (6) Following State postconviction proceedings, if any, the capital  
17 defendant failed to file a timely petition for writ of habeas corpus in the  
18 appropriate federal district court, or failed to timely appeal or petition an  
19 adverse habeas corpus decision to the United States Court of Appeals  
20 for the Fourth Circuit or the United States Supreme Court.
- 21 The warden shall send a certified copy of the document fixing the date to the clerk of  
22 superior court of the county in which the case was tried or, if venue was changed, in  
23 which the defendant was indicted. The certified copy shall be recorded in the minutes of  
24 the court. The warden shall also send certified copies to the capital defendant, the capital  
25 defendant's attorney, the district attorney who prosecuted the case, and the Attorney  
26 General of North Carolina."
- 27 Section 2. This act is effective when it becomes law.