

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 140*
Committee Substitute Favorable 4/24/01

Short Title: Racial Justice Act.

(Public)

Sponsors:

Referred to:

February 15, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE FAIR AND RELIABLE IMPOSITION OF
3 CAPITAL SENTENCES, AS RECOMMENDED BY THE LEGISLATIVE
4 RESEARCH COMMISSION.

5 The General Assembly of North Carolina enacts:

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

8 "Article 101.
9 "North Carolina Racial Justice Act.

10 **"§ 15A-2010. North Carolina Racial Justice Act.**

11 No person shall be subject to or given a sentence of death that was sought or
12 obtained on the basis of race.

13 **"§ 15A-2011. Pretrial procedures.**

14 (a) A finding that race was the basis of the decision to seek a death sentence may
15 be established if the court finds that race was a statistically significant factor in
16 decisions to seek the sentence of death in the county, the prosecutorial district, or the
17 State at large, at the time the death sentence was sought.

18 (b) Evidence relevant to establish a finding that race was the basis of the decision
19 to seek a death sentence may include statistical evidence or other evidence, or both, that
20 irrespective of statutory factors, death sentences were sought significantly more
21 frequently:

22 (1) Upon persons of one race than upon persons of another race; or

23 (2) As punishment for capital offenses against persons of one race than as
24 punishment of capital offenses against persons of another race.

25 (c) The defendant shall state with particularity how the evidence supports a claim
26 that racial considerations played a significant part in the decision to seek a death
27 sentence in his or her case. The claim shall be raised by the defendant at the pretrial
28 conference. The court shall schedule a hearing on the claim and shall prescribe a time
29 for the submission of evidence by both parties. If the court finds that race was the basis

1 of the decision to seek the death sentence, the court shall order that a death sentence
2 shall not be sought.

3 (d) The defendant has the burden of proving by clear and convincing evidence
4 that race was the basis of the decision to seek the death penalty. The State may offer
5 evidence in rebuttal of the claims or evidence of the defendant.

6 (e) The pertinent period for establishing that race was a statistically significant
7 factor in the decision to seek or impose a death sentence shall be 10 years preceding the
8 trial.

9 **"§ 15A-2012. Posttrial procedure.**

10 (a) A finding that race was an improper basis upon which a death sentence was
11 obtained may be established if the court finds that race was a significant factor in
12 decisions to exercise peremptory challenges during jury selection.

13 (b) Evidence relevant to establish a finding that race was a significant factor in
14 decisions to exercise peremptory challenges during jury selection may include
15 statistical evidence, or other evidence, or both. Evidence may include sworn testimony
16 of attorneys, prosecutors, and/or law enforcement officers or other members of the
17 criminal justice system."

18 **SECTION 2.** This act is effective when it becomes law and applies
19 retroactively.