

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 765

Short Title: Redefine Murder.

(Public)

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Sponsors: Senator Horton (By Request).

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Referred to: Judiciary I.

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April 2, 2001

A BILL TO BE ENTITLED

AN ACT TO REDEFINE FIRST AND SECOND DEGREE MURDERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-17 reads as rewritten:

**"§ 14-17. Murder in the first and second degree defined; punishment.**

(a) A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed ~~in~~ against any law enforcement officer during the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.

(b) All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a ~~Class B2 felon.~~ follows:

(1) As a Class B1 felon upon a finding beyond a reasonable doubt of the existence of any of the following:

- 1           a. The murder was committed by a person lawfully incarcerated.  
2           b. The defendant had been previously convicted of a felony  
3           involving the use or threat of violence to the person or had been  
4           previously adjudicated delinquent in a juvenile proceeding for  
5           committing an offense that would be a Class A, B1, B2, C, D,  
6           or E felony involving the use or threat of violence to the person  
7           if the offense had been committed by an adult.  
8           c. The homicide was committed for the purpose of avoiding or  
9           preventing a lawful arrest or effecting an escape from custody.  
10          d. The homicide was committed while the defendant was engaged,  
11          or was an aider or abettor, in the commission of, or an attempt  
12          to commit, or flight after committing or attempting to commit,  
13          any homicide, robbery, rape or sex offense, arson, burglary,  
14          kidnapping, or aircraft piracy or the unlawful throwing, placing,  
15          or discharging of a destructive device or bomb.  
16          e. The homicide was committed for pecuniary gain.  
17          f. The homicide was committed to disrupt or hinder the lawful  
18          exercise of any governmental function or the enforcement of  
19          laws.  
20          g. The homicide was especially heinous, atrocious, or cruel.  
21          h. The defendant knowingly created a great risk of death to more  
22          than one person by means of a weapon or device which would  
23          normally be hazardous to the lives of more than one person.  
24          i. The homicide was part of a course of conduct in which the  
25          defendant engaged and which included the commission by the  
26          defendant of other crimes of violence against another person or  
27          persons.

28          (2) All others as a Class B2 felon."

29          **SECTION 2.** G.S. 15A-2000(e) reads as rewritten:

30          "(e) Aggravating Circumstances. – Aggravating circumstances which may be  
31 considered shall be limited to the following:

- 32          ~~(1) The capital felony was committed by a person lawfully incarcerated.~~  
33          (2) The defendant had been previously convicted of another capital felony  
34          or had been previously adjudicated delinquent in a juvenile proceeding  
35          for committing an offense that would be a capital felony if committed  
36          by an adult.  
37          ~~(3) The defendant had been previously convicted of a felony involving the~~  
38          ~~use or threat of violence to the person or had been previously~~  
39          ~~adjudicated delinquent in a juvenile proceeding for committing an~~  
40          ~~offense that would be a Class A, B1, B2, C, D, or E felony involving~~  
41          ~~the use or threat of violence to the person if the offense had been~~  
42          ~~committed by an adult.~~  
43          (4) The capital felony was committed for the purpose of avoiding or  
44          preventing a lawful arrest or effecting an escape from custody.

- 1           (5)    ~~The capital felony was committed while the defendant was engaged, or~~  
2           ~~was an aider or abettor, in the commission of, or an attempt to commit,~~  
3           ~~or flight after committing or attempting to commit, any homicide,~~  
4           ~~robbery, rape or a sex offense, arson, burglary, kidnapping, or aircraft~~  
5           ~~piracy or the unlawful throwing, placing, or discharging of a~~  
6           ~~destructive device or bomb.~~
- 7           (6)    ~~The capital felony was committed for pecuniary gain.~~
- 8           (7)    ~~The capital felony was committed to disrupt or hinder the lawful~~  
9           ~~exercise of any governmental function or the enforcement of laws.~~
- 10          (8)    The capital felony was committed against a law-enforcement officer,  
11          employee of the Department of Correction, jailer, fireman, judge or  
12          justice, former judge or justice, prosecutor or former prosecutor, juror  
13          or former juror, or witness or former witness against the defendant,  
14          while engaged in the performance of his official duties or because of  
15          the exercise of his official duty.
- 16          (9)    The capital felony was especially heinous, atrocious, or cruel.
- 17          (10)   ~~The defendant knowingly created a great risk of death to more than~~  
18          ~~one person by means of a weapon or device which would normally be~~  
19          ~~hazardous to the lives of more than one person.~~
- 20          (11)   The murder for which the defendant stands convicted was part of a  
21          course of conduct in which the defendant engaged and which included  
22          the commission by the defendant of ~~other~~ crimes of violence against  
23          another person ~~or persons~~. resulting in the death of the person."

24          **SECTION 3.** This act becomes effective December 1, 2001, and applies to  
25          offenses committed on or after that date.