

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 420

Short Title: Felony Murder Rule/Drug Deaths.

(Public)

Sponsors: Senators Daughtry and Simpson.

Referred to: Judiciary II.

April 1, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT FIRST DEGREE MURDER UNDER THE FELONY
2 MURDER RULE INCLUDES DEATHS OCCURRING DURING FELONY
3 DRUG OFFENSES AND DEATH PROXIMATELY CAUSED BY OVERDOSE.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 14-17 reads as rewritten:

7 "**§ 14-17. Murder in the first and second degree defined; punishment.**

8 A murder which shall be perpetrated by means of poison, lying in wait,
9 imprisonment, starving, torture, or by any other kind of willful, deliberate, and
10 premeditated killing, or which shall be committed in the perpetration or attempted
11 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, sale or
12 delivery of or trafficking in a controlled substance prohibited by G.S. 90-95, or other
13 felony committed or attempted with the use of a deadly ~~weapon~~-weapon, or a death
14 which shall be proximately caused by the unlawful sale or delivery of or trafficking in a
15 controlled substance prohibited by G.S. 90-95 when the ingestion of such substance
16 caused the death of the user, shall be deemed to be murder in the first degree, and any
17 person who commits such murder shall be punished with death or imprisonment in the
18 State's prison for life as the court shall determine pursuant to G.S. 15A-2000, except
19 that any such person who was under 17 years of age at the time of the murder shall be
20 punished with imprisonment in the State's prison for life. Provided, however, any
21 person under the age of 17 who commits murder in the first degree while serving a
22 prison sentence imposed for a prior murder or while on escape from a prison sentence
23 imposed for a prior murder shall be punished with death or imprisonment in the State's
24 prison for life as the court shall determine pursuant to G.S. 15A-2000. All other kinds

1 of murder, including that which shall be proximately caused by the unlawful distribution of
2 opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or
3 cocaine or other substance described in G.S. 90-90(a)4, when the ingestion of such substance
4 causes the death of the user, murder shall be deemed murder in the second degree, and any
5 person who commits such murder shall be punished as a Class C felon."

6 Sec. 2. G.S. 15A-2000(e) reads as rewritten:

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

- 9 (1) The capital felony was committed by a person lawfully incarcerated.
- 10 (2) The defendant had been previously convicted of another capital felony.
- 11 (3) The defendant had been previously convicted of a felony involving the
12 use or threat of violence to the person.
- 13 (4) The capital felony was committed for the purpose of avoiding or
14 preventing a lawful arrest or effecting an escape from custody.
- 15 (5) The capital felony was committed while the defendant was engaged, or
16 was an aider or abettor, in the commission of, or an attempt to commit,
17 or flight after committing or attempting to commit, any homicide,
18 robbery, rape or a sex offense, arson, burglary, kidnapping, felonious
19 sale or delivery of or trafficking in a controlled substance prohibited
20 by G.S. 90-95, or aircraft piracy or the unlawful throwing, placing, or
21 discharging of a destructive device or bomb.
- 22 (6) The capital felony was committed for pecuniary gain.
- 23 (7) The capital felony was committed to disrupt or hinder the lawful
24 exercise of any governmental function or the enforcement of laws.
- 25 (8) The capital felony was committed against a law-enforcement officer,
26 employee of the Department of Correction, jailer, fireman, judge or
27 justice, former judge or justice, prosecutor or former prosecutor, juror
28 or former juror, or witness or former witness against the defendant,
29 while engaged in the performance of his official duties or because of
30 the exercise of his official duty.
- 31 (9) The capital felony was especially heinous, atrocious, or ~~cruel~~ cruel, or
32 involved a death which was proximately caused by the unlawful sale
33 or delivery of or trafficking in a controlled substance prohibited by
34 G.S. 90-95 when the ingestion of such substance caused the death of
35 the user.
- 36 (10) The defendant knowingly created a great risk of death to more than
37 one person by means of a weapon or device which would normally be
38 hazardous to the lives of more than one person.
- 39 (11) The murder for which the defendant stands convicted was part of a
40 course of conduct in which the defendant engaged and which included
41 the commission by the defendant of other crimes of violence against
42 another person or persons."

43 Sec. 3. This act becomes effective October 1, 1991, and applies to offenses
44 occurring on or after that date.