

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 172*

Short Title: Death Penalty Moratorium. (Public)

Sponsors: Senators Ballance, Dannelly, Shaw of Cumberland; Jordan, Kinnaird, Lucas, and Martin of Guilford.

Referred to: Judiciary II.

February 19, 2001

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH A MORATORIUM ON CARRYING OUT THE DEATH
PENALTY, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, a moratorium is established with regard to carrying out any death penalty imposed by a court of this State. No person who has been or is sentenced to death by a court of this State shall be executed until the moratorium ends as provided by this act.

SECTION 2. The moratorium on carrying out the death penalty shall end only upon action by the General Assembly addressing the fair and impartial administration of the death penalty in accordance with due process, and limiting, to the degree practicable, the risk that innocent persons may be executed.

SECTION 3. Action by the General Assembly pursuant to Section 2 of this act shall be supported by a study conducted during the period of the moratorium. The study shall include the examination of all 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) Whether mentally retarded persons should be executed.

1 (6) Prosecutorial misconduct as a factor in the imposition of the death
2 penalty.

3 (7) The presence of innocent persons on death row.

4 **SECTION 4.** The study required by Section 3 of this act shall be conducted
5 as provided for by the General Assembly, and the report of the study shall be made to
6 the President Pro Tempore of the Senate, the Speaker of the House of Representatives,
7 the Governor, and the Attorney General no later than February 1, 2003.

8 **SECTION 5.** This act is effective when it becomes law.