## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

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## HOUSE DRH70120-LH-16A\* (01/09)

(Public)

Short Title: Suspend Executions for Two Years.

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Sponsors:	Representatives Hackney, Luebke, Cunningham, and Earle (Primary Sponsors).
Referred to:	
A BILL TO BE ENTITLED	
AN ACT TO SUSPEND EXECUTIONS FOR TWO YEARS WHILE CONDUCTING	
A TWO-YEAR STUDY ON ISSUES RELATING TO THE DEATH SENTENCE.	
	Thereas, factors that may affect the fair and impartial administration of the
death penalty include the following:	
(1	The adequacy of counsel for those on death row in all stages of capital cases and a risk of executing the innocent due to problems with counsel appointed prior to the enactment of current guidelines and
	qualifications.
(2	1
(3	· · · · · · · · · · · · · · · · · · ·
(4	Possible prosecutorial misconduct.
(5	Possible discrimination in death penalty sentencing based on either the victim's race or the defendant's race as well as possible discrimination with regard to other aspects of capital case processing; and
W	Thereas, the Final Report to the 2001 General Assembly by the Legislative
Research Commission's Study on Capital Punishment – Mentally Retarded and Race	

Basis included a recommendation that there be a suspension of executions while matters

execution sooner than two years from the effective date of this act. During that

**SECTION 1.** The Secretary of Correction shall not set a date for any

relating to the imposition of the death penalty are further studied; Now, therefore,

The General Assembly of North Carolina enacts:

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two-year period, the study authorized by Section 2 of this act shall be undertaken and 1 2 the results reported to the General Assembly. 3 **SECTION 2.** The General Assembly or its designees shall conduct a 4 two-year study to examine issues regarding the imposition of a death sentence under 5 North Carolina law, including: 6 (1) The adequacy of counsel in all stages of capital cases, and the 7 sufficiency of guidelines for the appointment and performance of such 8 counsel appointed prior to the enactment of current guidelines and 9 qualifications. 10 (2) The process for judicial review of the merits of constitutional claims in State postconviction and federal habeas corpus proceedings. 11 12 (3) Any disproportionate racial impact from any aspect of capital case 13 processing. 14 (4) Whether there is discrimination in capital sentencing on the basis of 15 the victim's or the defendant's race. 16 (5) Prosecutorial misconduct as a factor in the imposition of the death 17 penalty. 18 The presence of innocent persons on death row. (6) 19 (7) Any other appropriate or relevant subject. **SECTION 3.** Notwithstanding the suspension of executions in Section 1 20 21 above, nothing in this act shall prevent the prosecution of capital cases at trial or appeal, nor the imposition of a sentence of death during the period of suspension of executions. 22 23

**SECTION 4.** This act is effective when it becomes law and applies only to cases in which a death sentence was imposed prior to January 1, 2005.

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