

- 1 (6) The willful, deliberate, and premeditated killing of a State or local law
2 enforcement officer, or any law enforcement officer of another state or
3 the United States, employee of the Department of Correction, jailer,
4 fireman, judge or justice, former judge or justice, prosecutor or former
5 prosecutor, juror or former juror, or witness or former witness against
6 the defendant, while engaged in the performance of his or her official
7 duties or because of the exercise of his or her official duties.
- 8 (7) The willful, deliberate, and premeditated killing of more than one
9 person as a part of the same act or transaction or more than one person
10 within a three-year period.
- 11 (8) The willful, deliberate, and premeditated killing of any person in the
12 commission of, or attempted commission of, the trafficking of a
13 controlled substance, in violation of Chapter 90 of the General
14 Statutes, when such killing is for the purpose of furthering the
15 commission, or attempted commission, of such offense.
- 16 (9) The willful, deliberate, and premeditated killing of any person by
17 another pursuant to the direction or order of one who is engaged in a
18 continuing criminal enterprise, as defined in G.S. 90-95.1.
- 19 (10) The willful, deliberate, and premeditated killing of a pregnant woman
20 by one who knows that the woman is pregnant and has the intent to
21 cause the involuntary termination of the woman's pregnancy without a
22 live birth.
- 23 (11) The willful, deliberate, and premeditated killing of a person under the
24 age of 14 by a person age 21 or older.
- 25 (12) The willful, deliberate, and premeditated killing of any person by
26 another in the commission of, or attempted commission of, an act of
27 terrorism as defined in 18 U.S.C. § 2331(5).
- 28 (13) The willful, deliberate, and premeditated killing of any person
29 committed by a person who had been previously convicted of another
30 capital felony or had been previously adjudicated delinquent in a
31 juvenile proceeding for committing an offense that would be a capital
32 felony if committed by an adult.
- 33 (14) The willful, deliberate, and premeditated killing of any person
34 committed by a person who had been previously convicted of a felony
35 involving the use or threat of violence to the person or had been
36 previously adjudicated delinquent in a juvenile proceeding for
37 committing an offense that would be a Class A, B1, B2, C, D, or E
38 felony involving the use or threat of violence to the person if the
39 offense had been committed by an adult.
- 40 (15) The willful, deliberate, and premeditated killing of any person where
41 the murder is especially heinous, atrocious, or cruel.
- 42 (16) The willful, deliberate, and premeditated killing of any person where
43 the defendant knowingly created a great risk of death to more than one

1 person by means of a weapon or device which would normally be
2 hazardous to the lives of more than one person.

3 (17) The willful, deliberate, and premeditated killing of any person where
4 the murder for which the defendant stands convicted was part of a
5 course of conduct in which the defendant engaged and which included
6 the commission by the defendant of other crimes of violence against
7 another person or persons.

8 (b) An offense under this section shall be deemed to be a Class A felony, and any
9 person who commits capital murder shall be punished with death or imprisonment in the
10 State's prison for life without parole, as the court shall determine pursuant to
11 G.S. 15A-2000, except as provided in subsection (c) of this section.

12 (c) Any person who commits an offense in violation of this section who was
13 under 18 years of age at the time of the capital murder shall be punished with
14 imprisonment in the State's prison for life without parole."

15 **SECTION 3.** Article 6 of Chapter 14 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 14-17.3. First degree murder; punishment.**

18 (a) Murder, other than capital murder, by means of a nuclear, biological, or
19 chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in
20 wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and
21 premeditated killing, or which shall be committed in the perpetration or attempted
22 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
23 felony committed or attempted with the use of a deadly weapon, except as provided in
24 G.S. 14-17.2, shall be deemed murder in the first degree.

25 (b) An offense under this section shall be a Class A felony, and any person who
26 commits first degree murder shall be punished with imprisonment in the State's prison
27 for life without parole."

28 **SECTION 4.** Article 6 of Chapter 14 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 14-17.4. Second degree murder; punishment.**

31 Any murder other than capital murder or first degree murder, including that which
32 shall be proximately caused by the unlawful distribution of opium or any synthetic or
33 natural salt, compound, derivative, or preparation of opium, or cocaine or other
34 substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of
35 such substance causes the death of the user, shall be deemed murder in the second
36 degree, and any person who commits such murder shall be punished as a Class B2
37 felon."

38 **SECTION 5.** G.S. 15A-2000(e) reads as rewritten:

39 "(e) Aggravating Circumstances. – Aggravating circumstances which may be
40 considered shall be limited to the following factors enumerated in this subsection. The
41 penalty of death shall not be imposed unless the State shall prove beyond a reasonable
42 doubt at least one of the following:

43 (1) There is a probability based upon evidence of the prior history of the
44 defendant or of the circumstances surrounding the commission of the

1 offense of which he is accused that he would commit criminal acts of
2 violence that would constitute a continuing serious threat to society.

3 (2) The defendant's conduct in committing the offense was outrageously
4 or wantonly vile, horrible, or inhuman, in that it involved torture,
5 depravity of mind, or aggravated battery to the victim.

6 (1) ~~The capital felony was committed by a person lawfully incarcerated.~~

7 (2) ~~The defendant had been previously convicted of another capital felony~~
8 ~~or had been previously adjudicated delinquent in a juvenile proceeding~~
9 ~~for committing an offense that would be a capital felony if committed~~
10 ~~by an adult.~~

11 (3) ~~The defendant had been previously convicted of a felony involving the~~
12 ~~use or threat of violence to the person or had been previously~~
13 ~~adjudicated delinquent in a juvenile proceeding for committing an~~
14 ~~offense that would be a Class A, B1, B2, C, D, or E felony involving~~
15 ~~the use or threat of violence to the person if the offense had been~~
16 ~~committed by an adult.~~

17 (4) ~~The capital felony was committed for the purpose of avoiding or~~
18 ~~preventing a lawful arrest or effecting an escape from custody.~~

19 (5) ~~The capital felony was committed while the defendant was engaged, or~~
20 ~~was an aider or abettor, in the commission of, or an attempt to commit,~~
21 ~~or flight after committing or attempting to commit, any homicide,~~
22 ~~robbery, rape or a sex offense, arson, burglary, kidnapping, or aircraft~~
23 ~~piracy or the unlawful throwing, placing, or discharging of a~~
24 ~~destructive device or bomb.~~

25 (6) ~~The capital felony was committed for pecuniary gain.~~

26 (7) ~~The capital felony was committed to disrupt or hinder the lawful~~
27 ~~exercise of any governmental function or the enforcement of laws.~~

28 (8) ~~The capital felony was committed against a law enforcement officer,~~
29 ~~employee of the Department of Correction, jailer, fireman, judge or~~
30 ~~justice, former judge or justice, prosecutor or former prosecutor, juror~~
31 ~~or former juror, or witness or former witness against the defendant,~~
32 ~~while engaged in the performance of his official duties or because of~~
33 ~~the exercise of his official duty.~~

34 (9) ~~The capital felony was especially heinous, atrocious, or cruel.~~

35 (10) ~~The defendant knowingly created a great risk of death to more than~~
36 ~~one person by means of a weapon or device which would normally be~~
37 ~~hazardous to the lives of more than one person.~~

38 (11) ~~The murder for which the defendant stands convicted was part of a~~
39 ~~course of conduct in which the defendant engaged and which included~~
40 ~~the commission by the defendant of other crimes of violence against~~
41 ~~another person or persons."~~

42 **SECTION 6.** G.S. 15A-2005(h) reads as rewritten:

1 "(h) The provisions of this section do not preclude the sentencing of a mentally
2 retarded offender to any other sentence authorized by ~~G.S. 14-17-14-17.2~~ for the crime
3 of ~~murder in the first degree.~~ capital murder."

4 **SECTION 7.** This act becomes effective December 1, 2007, and applies to
5 offenses committed on or after that date. Prosecutions for offenses committed before
6 the effective date of this act are not abated or affected by this act, and the statutes that
7 would be applicable but for this act remain applicable to those prosecutions. If any
8 provision of this act or its application is held invalid, the invalidity does not affect other
9 provisions or applications of this act that can be given effect without the invalid
10 provisions or application, and to this end the provisions of this act are severable.