

March 11, 1999

**S 334. NO DEATH PENALTY/MENTALLY RETARDED.** *TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH.* Adds new GS 15A-2004 to provide that defendant who is mentally retarded may not be sentenced to death. Defines "mentally retarded" as significantly subaverage intellectual functioning, existing concurrently with impairment in adaptive functioning, and manifested before age of 18. Defines "significantly subaverage intellectual functioning" as intelligence quotient of 70 or below on individually administered standardized intelligence quotient. If defendant proves his or her mental retardation by preponderance of evidence at pretrial hearing, court must declare case noncapital and state may not seek death penalty. Applicable to trials begun on or after Dec. 1, 1999.

**Intro. by Ballance.**

Ref. to Judiciary II

GS 15A