

February 19, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED (=H 141). *TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.* Identical to H 141, introduced 2/15/01.

Intro. by Ballance, Dannelly, Horton, Shaw of Cumberland.

Ref. to Judiciary II

GS 15A

April 19, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED. Intro. 2/19/01. Senate committee substitute makes the following changes to 2nd edition. This bill defines a mentally retarded person, in part, as someone with an intelligence quotient of 70 or less. The committee substitute requires that the necessary I.Q. test have been administered before the commission of the alleged crime.

April 23, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED. Intro. 2/19/01. Senate amendments make the following changes to 3rd edition. Permit State to appeal as of right to Court of Appeals, if trial court finds defendant is mentally retarded; and defendant to appeal as of right if the trial court finds the defendant is not mentally retarded. Amends title to delete the words *AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.*

July 4, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED. Intro. 2/19/01. House committee substitute makes the following changes to 4th edition. Rewrites bill to (1) modify the definition of "mentally retarded" to specify that it requires significant limitations in adaptive functioning and onset before age 18; (2) specify that intelligence quotient must be determined by scientifically recognized standardized intelligence quotient test; (3) allow motion to determine whether defendant is mentally retarded to be made before trial or after conviction; (4) provide that defendant has burden to demonstrate mental retardation by clear and convincing evidence in a pre-trial hearing and by preponderance of the evidence in a sentencing or postconviction hearing; (5) delete requirement that the intelligence quotient test have been administered prior to the commission of the alleged crime; (6) provide that if court in a pretrial hearing does not find defendant to be mentally retarded and evidence of mental retardation is introduced at sentencing, the court must submit a special issue to the jury as to whether defendant is mentally retarded; and (7) require court to impose a sentence of life imprisonment if jury in preceding circumstance cannot agree unanimously as to whether defendant is mentally retarded. Except for postconviction provisions, makes act effective Oct. 1, 2001, and applicable to trials docketed to begin on or after that date. Provides that postconviction provisions are effective Oct. 1, 2001; apply to trials in progress on that date, including trials in which jury selection has begun; apply to defendants convicted and sentenced to death on or before that date; and expire Oct. 1, 2002.

July 11, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED. Intro. 2/19/01. House amendments make the following changes to 5th edition. Amendment 1A amends new GS 15A-2004 to delete provision allowing court to order a pretrial hearing to determine if a defendant is mentally retarded upon a finding that such a pretrial hearing is in the best interest of justice. Amendment 1B amends new GS 15A-2005 to clarify time limitations on postconviction motions for appropriate relief based upon defendant's mental retardation. For death sentences entered prior to Oct. 1, 2001, motions must be filed on or before Jan. 31, 2002. If defendant's trial was in progress on Oct. 1, 2001, the motion must be filed within 120 days of the imposition of the death sentence. Amendment 2 amends definition of mental retardation to be subaverage general intellectual functioning and significant limitations in adaptive functioning that was manifested and documented before the age of 18. (Amendment 4 deletes requirement that the limitations be documented before 18). Amendment 2 also defines significant limitations in adaptive functioning to mean significant

limitations in two or more of the following: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, and leisure and work skills. Specifies that defendant has burden of proving elements of mental retardation, and specifies that IQ of 70 or below is only some evidence of mental retardation and not sufficient to support a finding of mental retardation without evidence of limitations in adaptive functioning manifested by defendant before the age of 18. Amendment 3 deletes provision of new section 15A-2000(b) which required the imposition of a life sentence if the jury cannot reach a unanimous decision as to defendant's mental retardation.

July 16, 2001

S 173. NO DEATH PENALTY/MENTALLY RETARDED. Intro. 2/19/01. House amendment makes the following changes to 5th edition. Makes technical changes only.

August 7, 2001

SL 2001-346 (S 173). NO DEATH PENALTY/MENTALLY RETARDED. AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH. Summarized in *Daily Bulletin* 2/19/01, 4/19/01, 4/23/01, 7/4/01, 7/11/01, and 7/16/01. Enacted Aug. 4, 2001. Sections 1 and 2 are effective Oct. 1, 2001, and apply to trials docketed to begin on or after that date. Section 3 is effective Oct. 1, 2001, and expires Oct. 1, 2002. Section 4 of this act is effective Aug. 4, 2001.