

April 9, 2009

H 1326. AMEND SECOND DEGREE MURDER. Filed 04/08/09. *AN ACT TO AMEND THE CRIMINAL OFFENSE OF SECOND DEGREE MURDER, TO AMEND THE AGGRAVATING CIRCUMSTANCES THAT MAY BE CONSIDERED FOR CAPITAL CASES, AND TO PROVIDE THAT A CASE MAY BE TRIED AS A CAPITAL CASE ONLY IF THE COURT DETERMINES AT A HEARING CONDUCTED PURSUANT TO RULE 24 OF THE GENERAL RULES OF PRACTICE FOR SUPERIOR AND DISTRICT COURTS THAT THERE IS SUBSTANTIAL EVIDENCE OF THE DEFENDANT'S GUILT AND OF AN AGGRAVATING CIRCUMSTANCE, AND TO PROVIDE THAT NO CAPITAL CASE SHALL GO TO TRIAL EARLIER THAN NINE MONTHS FROM ITS DETERMINATION AS A CAPITAL CASE.*

Amends GS 14-17 by redefining murder committed in the course of an actual or attempted arson, rape or sexual offense, robbery, kidnapping, burglary or other felony committed or attempted with the use of a deadly weapon as a Class B1 felony, rather than as the current Class A felony. Amends GS 15A-2000(e) by limiting the aggravating circumstances that may be considered in deciding whether a defendant convicted of a capital felony shall be sentenced to death to the following: (a) previous conviction of another capital felony or previous adjudication as a delinquent in a juvenile proceeding for committing an offense that would be a capital felony if committed by an adult, (b) commission of the capital felony in the course of an actual or attempted act of political terrorism, (c) knowing and intentional commission of the capital felony against a law enforcement officer, other specified law enforcement and public safety employees and specified members of the court system, (d) conviction of a murder in which the defendant intentionally killed more than one person, and (e) a murder during which the defendant intentionally tortured the victim. Amends GS 15A-2004 by adding new subsection (e) requiring the Superior Court to conduct a hearing on or before the date of the pretrial conference in a capital case to determine whether there is substantial evidence of the defendant's guilt of first-degree murder and substantial evidence to support an aggravating circumstance as set forth in GS 15A-2000(e). Where the court does not find substantial evidence, it is to declare the case noncapital. Also requires that first-degree murder trials not begin earlier than 9 months after the case is determined to be a capital case.

Intro. by Glazier.

GS 14, 15A