

ADOPTED



CHANGES TITLE

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 461\*

AMENDMENT NO. 1  
(to be filled in by  
Principal Clerk)

S461-ASA-8 [v.4]

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Comm. Sub. [YES]  
Amends Title [YES]  
Second Edition

Date 5-13, 2009

Senator Berger of Rockingham

1 moves to amend the bill on page 1, line 3  
2 by rewriting the line to read:  
3 "SENTENCES, TO ENSURE THAT ASSISTANCE RENDERED BY ANY HEALTH CARE  
4 PROFESSIONAL IN THE PROCESS OF A LAWFUL EXECUTION BY THE STATE DOES  
5 NOT RESULT IN DISCIPLINARY OR CORRECTIVE ACTION BY ANY STATE  
6 AUTHORIZED BOARD OR AUTHORITY, TO EXCLUDE THE ADMINISTRATION OF  
7 CONTROLLED SUBSTANCES USED IN AN EXECUTION FROM THE PRACTICE OF  
8 MEDICINE, TO REMOVE THE REQUIREMENT THAT THE GOVERNOR AND  
9 COUNCIL OF STATE APPROVE THE NECESSARY APPLIANCES AND QUALIFIED  
10 PERSONNEL FOR THE INFLICTION OF THE PUNISHMENT OF DEATH, AND TO  
11 PROHIBIT THE SECRETARY OF CORRECTION FROM SCHEDULING MORE THAN  
12 ONE EXECUTION WITHIN A 30 DAY PERIOD."  
13

14 And on page 2, line 33, by rewriting the line to read:  
15 "SECTION 2. Article 19 of Chapter 15 of the General Statutes is amended by  
16 adding a new section to read:

17 **'§ 15-188.1. Health care professional assistance.**

18 (a) Any assistance rendered with an execution under this Article by any licensed health  
19 care professional, including, but not limited to, physicians, nurses, and pharmacists shall not be  
20 cause for any disciplinary or corrective measures by any board, commission, or other authority  
21 created by the State or governed by State law which oversees or regulates the practice of health  
22 care professionals, including, but not limited to, the North Carolina Medical Board, the North  
23 Carolina Board of Nursing, and the North Carolina Board of Pharmacy.

24 (b) The infliction of the punishment of death by administration of the required lethal  
25 substances under this Article shall not be construed to be the practice of medicine.'

26 SECTION 3. G.S. 15-188 reads as rewritten:

27 **'§ 15-188. Manner and place of execution.**

28 In accordance with G.S. 15-187, the mode of executing a death sentence must in every case  
29 be by administering to the convict or felon a lethal quantity of an ultrashort-acting barbiturate  
30 in combination with a chemical paralytic agent until the convict or felon is dead; and when any  
31 person, convict or felon shall be sentenced by any court of the State having competent  
32 jurisdiction to be so executed, the punishment shall only be inflicted within a permanent death  
33 chamber which the superintendent of the State penitentiary is hereby authorized and directed to



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1 provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The  
2 superintendent of the State penitentiary shall also cause to be provided, in conformity with this  
3 ~~Article and approved by the Governor and Council of State, Article,~~ the necessary appliances  
4 for the infliction of the punishment of death and qualified personnel to set up and prepare the  
5 injection, administer the preinjections, insert the IV catheter, and to perform other tasks  
6 required for this procedure in accordance with the requirements of this Article.'

7 **SECTION 4.** G.S. 15-194 reads as rewritten:

8 **'§ 15-194. Time for execution.**

9 In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b), the  
10 sentencing judge need not specify the date and time the execution is to be carried out by the  
11 Department of Correction. The Secretary of Correction shall immediately schedule a date for  
12 the execution of the original death sentence not less than 30 days nor more than 60 days from  
13 the date of receiving written notification from the Attorney General of North Carolina or the  
14 district attorney who prosecuted the case of any one of the following:

- 15 (1) The United States Supreme Court has filed an opinion upholding the  
16 sentence of death following completion of the initial State and federal  
17 postconviction proceedings, if any;
- 18 (2) The mandate issued by the Supreme Court of North Carolina on direct  
19 appeal pursuant to N.C.R. App. P. 32(b) affirming the capital defendant's  
20 death sentence and the time for filing a petition for writ of certiorari to the  
21 United States Supreme Court has expired without a petition being filed;
- 22 (3) The capital defendant, if indigent, failed to timely seek the appointment of  
23 counsel pursuant to G.S. 7A-451(c), or failed to file a timely motion for  
24 appropriate relief as required by G.S. 15A-1415(a);
- 25 (4) The superior court denied the capital defendant's motion for appropriate  
26 relief, but the capital defendant failed to file a timely petition for writ of  
27 certiorari to the Supreme Court of North Carolina pursuant to N.C.R. App.  
28 P. 21(f);
- 29 (5) The Supreme Court of North Carolina denied the capital defendant's petition  
30 for writ of certiorari pursuant to N.C.R. App. P. 21(f), or, if certiorari was  
31 granted, upheld the capital defendant's death sentence, but the capital  
32 defendant failed to file a timely petition for writ of certiorari to the United  
33 States Supreme Court; or
- 34 (6) Following State postconviction proceedings, if any, the capital defendant  
35 failed to file a timely petition for writ of habeas corpus in the appropriate  
36 federal district court, or failed to timely appeal or petition an adverse habeas  
37 corpus decision to the United States Court of Appeals for the Fourth Circuit  
38 or the United States Supreme Court.

39 The Secretary shall not schedule the date for the execution to occur within 30 days of any other  
40 scheduled execution. The Secretary shall send a certified copy of the document fixing the date  
41 to the clerk of superior court of the county in which the case was tried or, if venue was  
42 changed, in which the defendant was indicted. The certified copy shall be recorded in the  
43 minutes of the court. The Secretary shall also send certified copies to the capital defendant, the

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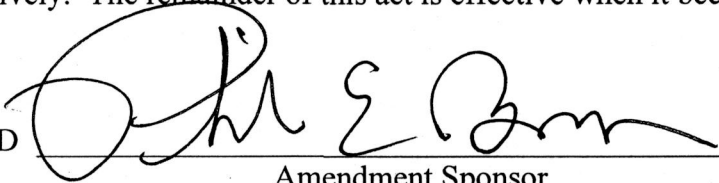
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1 capital defendant's attorney, the district attorney who prosecuted the case, and the Attorney  
2 General of North Carolina.  
3 **SECTION 5.** Section 1 of this act is effective when it becomes law and applies  
4 retroactively. The remainder of this act is effective when it becomes law."

SIGNED



Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED 36-10 FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

5-13-09

*Janet Pruitt*

**ADOPTED**