

Article 19.

Execution.

§ 15-187. Death by administration of lethal drugs.

Death by electrocution under sentence of law and death by the administration of lethal gas under sentence of law are abolished. Any person convicted of a criminal offense and sentenced to death shall be executed in accordance with G.S. 15-188 and the remainder of this Article. The warden of Central Prison may obtain and employ the drugs necessary to carry out the provisions of this Article, regardless of contrary provisions in Chapter 90 of the General Statutes. (1909, ch. 443, s. 1; C.S., s. 4657; 1935, c. 294, s. 1; 1983, c. 678, ss. 1, 4; 1998-212, s. 17.22(a); 2015-198, s. 5.)

§ 15-188. Manner and place of execution.

In accordance with G.S. 15-187, the mode of executing a death sentence must in every case be by administering to the convict or felon an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until the person is dead, and that procedure shall be determined by the Secretary of the Department of Adult Correction, who shall ensure compliance with the federal and State constitutions; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, the punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this Article, the necessary appliances for the infliction of the punishment of death and qualified personnel to set up and prepare the injection, administer the preinjections, insert the IV catheter, and to perform other tasks required for this procedure in accordance with the requirements of this Article. (1909, c. 443, s. 2; C.S., s. 4658; 1935, c. 294, s. 2; 1983, c. 678, s. 2; 1998-212, s. 17.22(b); 2012-136, s. 1; 2013-154, s. 3(a); 2021-180, s. 19C.9(n).)

§ 15-188.1. Health care professional assistance.

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

(b) The infliction of the punishment of death by administration of the required lethal substances under this Article shall not be construed to be the practice of medicine. (2013-154, s. 1(a).)

§ 15-189. Sentence of death; prisoner taken to penitentiary.

Upon the sentence of death being pronounced against any person in the State of North Carolina convicted of a crime punishable by death, it shall be the duty of the judge pronouncing such death sentence to make the same in writing, which shall be filed in the record of the case against the convicted person. The clerk of the superior court in which the death sentence is pronounced shall prepare a certified copy of the judgment or sentence of death, which shall include a copy of any notice or entries of appeal made in the case; if no entries or notice of appeal have been made or

given in the case, a statement to the effect shall be included in the certificate of the clerk; it shall also be the duty of the district attorney, assistant district attorney, or attorney prosecuting on behalf of the State in the absence of the district attorney, to prepare and sign a certificate stating in substance that the attorney prosecuted the case on behalf of the State and that notice or entries of appeal have or have not been made or given in the case, and further that the attorney has examined a copy of the judgment or sentence of death certified by the clerk, including the copy of the notice or entries of appeal or statement to the effect that no appeal has been given, and to the best of the attorney's knowledge the same is correct; the certificate of the district attorney, or other prosecuting officer above named, shall be attached to the certified copy of the sentence of death, as prepared and certified by the clerk, and both certificates shall be transmitted by the clerk of the superior court in which the sentence of death is pronounced to the warden of the State penitentiary at Raleigh, North Carolina; at the same time and in the same manner, a duplicate original of the certificates shall be prepared by the clerk of the superior court and the district attorney, or other prosecuting officer above named, and the duplicate original or certificates shall be transmitted to the Attorney General of North Carolina. If notice of appeal is given or entries of appeal are made after the expiration of the term of superior court in which the sentence of death is pronounced, the certificates shall be prepared by the clerk of the superior court in which the sentence is pronounced and by the district attorney, or other prosecuting officer above named, prosecuting on behalf of the State, in the same manner and shall be transmitted as soon as possible to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina. The above certificates so prepared by the clerk of the superior court in which the sentence of death is pronounced and by the district attorney, or other prosecuting officer above named, shall be transmitted by the clerk of the superior court of the county where the sentence is pronounced to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina, not more than 20 or less than 10 days before the time fixed in the judgment of the court for the execution of the sentence; and in all cases where there is no appeal, the sentence of death shall not be carried out by the warden of the State penitentiary or by any of his deputies or agents until the certificates prepared and transmitted by the clerk of the superior court of the county where the sentence of death is pronounced, and by the district attorney, or the prosecuting officer above named, have been received in the office of the warden of the State penitentiary at Raleigh, North Carolina. In all cases where there is no appeal from the sentence of death and in all cases where the sentence is pronounced against a prisoner convicted of the crime of rape it shall be the duty of the sheriff, together with at least one deputy, to convey to the penitentiary, at Raleigh, North Carolina, the condemned felon or convict forthwith upon the adjournment of the court in which the felon was tried, and deliver the convict or felon to the warden of the penitentiary. (1909, c. 443, s. 3; C.S., s. 4659; 1951, c. 899, s. 1; 1973, c. 47, s. 2; 2022-47, s. 16(b).)

§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.

(a) Correction custody personnel or some other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the correctional custody personnel or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided

by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and a licensed physician, or a medical professional other than a physician, to monitor the injection of the required lethal substances and certify the fact of the execution. If a licensed physician is not present at the execution, then a licensed physician shall be present on the premises and available to examine the body after the execution and pronounce the person dead. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The identities, including the names, residential addresses, residential telephone numbers, and social security numbers, of witnesses or persons designated to carry out the execution shall be confidential and exempted from Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may order disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice.

For purposes of this section, a "medical professional other than a physician" means a physician assistant, nurse practitioner, registered nurse, emergency medical technician, or emergency medical technician-paramedic who is licensed or credentialed by the licensing board, agency, or organization responsible for licensing or credentialing that profession.

(b) The warden shall report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of the persons required by subsection (a) of this section to be named and designated by the warden to execute death sentences under this Article. The report shall confirm that the required persons are properly trained and ready to serve as an execution team. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule. (1909, c. 443, s. 4; C.S., s. 4660; 1925, c. 123; 1935, c. 294, s. 3; 1983, c. 678, s. 3; 1997-70, s. 1; 2004-124, s. 17.6A; 2004-199, s. 52; 2004-203, s. 22; 2013-154, s. 4; 2015-198, s. 1; 2016-77, s. 8(a).)

§ 15-191. Pending sentences unaffected.

Nothing in G.S. 15-187, 15-188, and 15-190 shall be construed to alter in any manner the execution of the sentence of death imposed on account of any crime or crimes committed before July 1, 1935. (1935, c. 294, s. 4.)

§ 15-192. Certificate filed with clerk.

The warden, together with the licensed physician who was present on the premises to pronounce death as required by G.S. 15-190, shall certify the fact of the execution of the condemned person, convict or felon to the clerk of the superior court in which the sentence was pronounced, and the clerk shall file the certificate with the record of the case and enter the same upon the records thereof. (1909, c. 443, s. 5; C.S., s. 4661; 2015-198, s. 2; 2022-47, s. 16(c).)

§ 15-193. Notice of reprieve or new trial.

Should the condemned person, convict or felon be granted a reprieve by the Governor or obtain a writ of error, or a new trial be granted by the Supreme Court of the State of North Carolina, or should the execution of the sentence be stayed by any competent judicial tribunal or proceeding, notice of such reprieve, new trial, appeal, writ of error or stay of execution shall be served upon the

warden or deputy warden of the penitentiary by the sheriff of Wake County, in case such condemned person is confined in the penitentiary, or upon any sheriff having the custody of any such condemned person, also upon the condemned person himself. (1909, c. 443, s. 6; C.S., s. 4662.)

§ 15-194. Time for execution.

(a) In sentencing a capital defendant to a death sentence pursuant to G.S. 15A-2000(b), the sentencing judge need not specify the date and time the execution is to be carried out by the Division of Prisons of the Department of Adult Correction. The Attorney General of North Carolina shall provide written notification to the Secretary of the Department of Adult Correction of the occurrence of any of the following not more than 90 days from that occurrence:

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

The Secretary of the Department of Adult Correction shall immediately schedule a date for the execution of the original death sentence not less than 15 days or more than 120 days from the date of receiving written notification from the Attorney General under this section.

The Secretary shall send a certified copy of the document fixing the date to the clerk of superior court of the county in which the case was tried or, if venue was changed, in which the defendant was indicted. The certified copy shall be recorded in the minutes of the court. The Secretary shall also send certified copies to the capital defendant, the capital defendant's attorney, the district attorney who prosecuted the case, and the Attorney General of North Carolina.

(b) The Attorney General shall submit a written report to the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2014, and thereafter on October 1 of each year, on the status of all pending postconviction capital cases. Alternatively, the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety may direct that the reports required under this subsection be made on other dates consistent with the Committee's schedule. (1909, c.

443, s. 6; C.S., s. 4663; 1925, c. 55; 1951, c. 244, ss. 1, 2; 1973, c. 47, s. 2; 1981, c. 900; 1995 (Reg. Sess., 1996), c. 719, s. 5; 1997-289, s. 1; 1999-358, s. 2; 2011-145, s. 19.1(h), (i); 2013-154, s. 2; 2017-186, s. 2(mm); 2021-180, s. 19C.9(n), (p).)

§ 15-195. Prisoner taken to place of trial when new trial granted.

Should a new trial be granted the condemned person, convict or felon against whom sentence of death has been pronounced, after he has been conveyed to the penitentiary, he shall be conveyed back to the place of trial by such correctional custody personnel as the warden of the penitentiary shall direct, their expenses to be paid as is now provided by law for the conveyance of convicts to the penitentiary. (1909, c. 443, s. 7; C.S., s. 4664; 2016-77, s. 8(b).)

§ 15-196: Repealed by Session Laws 1989, c. 353, s. 3.