

1 conference. The court shall schedule a hearing on the claim and shall prescribe a time
2 for the submission of evidence by both parties. If the court finds that race was the basis
3 of the decision to seek the death sentence, the court shall order that a death sentence
4 shall not be sought.

5 (d) The defendant has the burden of proving by clear and convincing evidence
6 that race was the basis of the decision to seek the death penalty. The State may offer
7 evidence in rebuttal of the claims or evidence of the defendant.

8 **"§ 15A-2012. Posttrial procedure.**

9 (a) A finding that race was an improper basis upon which a death sentence was
10 obtained may be established if the court finds that race was a significant factor in
11 decisions to exercise peremptory challenges during jury selection.

12 (b) Evidence relevant to establish a finding that race was a significant factor in
13 decisions to exercise peremptory challenges during jury selection may include
14 statistical evidence, or other evidence, or both. Evidence may include sworn testimony
15 of attorneys, prosecutors, and/or law enforcement officers or other members of the
16 criminal justice system."

17 **SECTION 2.** This act is effective when it becomes law and applies
18 retroactively.