

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 931

Short Title: Capital Case/Judge Oversee Discovery. (Public)

Sponsors: Senators Rand; Cunningham, Dalton, and Soles.

Referred to: Judiciary I.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A JUDGE TO CONDUCT OVERSIGHT OF THE
DISCOVERY PROCESS IN A CAPITAL CASE TO ENSURE COMPLIANCE
WITH CONSTITUTIONAL AND STATUTORY LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a
new section to read:

"§ 15A-911. Judicial oversight of discovery – capital cases.

(a) Application of Section. – This section applies to cases in which the defendant
is charged with first degree murder and the State is seeking the death penalty.

(b) Review of State's Evidence. – Upon timely motion of the State and at least 10
days before the beginning of a capital trial, a superior court judge shall conduct an in
camera recorded hearing with the State to determine whether the State has complied
with the provisions of this Article and any constitutional obligations to provide
discovery to the defendant. At the hearing the State shall provide the judge with a copy
of all material in the possession of the prosecutor, other than the State's work product,
that the State has not provided to the defendant. After reviewing the materials, if the
judge finds that part or all of the information is discoverable under this Article or the
United States Constitution or North Carolina Constitution, the judge shall order the
State to provide part or all of the information to the defendant within time limitations set
by the judge. Information that the judge determines is not discoverable shall be sealed
and placed in the court file for appellate review."

SECTION 2. This act becomes effective December 1, 2001.