

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 931  
Judiciary I Committee Substitute Adopted 4/23/01

Short Title: Capital Case/Judge Oversee Discovery.

(Public)

Sponsors:

Referred to:

April 5, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE A JUDGE TO CONDUCT OVERSIGHT OF THE  
3 DISCOVERY PROCESS IN A CAPITAL CASE TO ENSURE COMPLIANCE  
4 WITH CONSTITUTIONAL AND STATUTORY LAW.

5 The General Assembly of North Carolina enacts:

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

8 "**§ 15A-911. Judicial oversight of discovery – capital cases.**

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

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

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