

PEACE AND JUSTICE COMMITTEE
Rev. Lynn Michie, Chair
April 27, 2010

- 1. THAT the Peace and Justice Committee of the Presbytery of Western North Carolina endorses the SB309: Capital Procedure/Severe Mental Disability Resolution (Peace and Justice Attachment 1); and,**

REQUESTS that the Presbytery of Western North Carolina adopt the following Resolution:

In light of the information on SB309 Capital Procedure/Severe Mental Disability, an act to amend the capital trial, sentencing and post-conviction procedures for persons with severe mental disability so that the State and the defendant may present evidence regarding serious mental disability to a Superior Court Judge before the jury trial begins;

And consistent with the January 26, 2002 Resolution from this Presbytery regarding a moratorium on executions,

Now therefore be it resolved that the Presbytery of Western North Carolina:

- 1) Does, by adopting this Resolution, express its moral support for the adoption of the described SB309.
- 2) Directs that copies of this Resolution be sent to Governor Perdue and to the State Senators and Members of the State House representing the Counties included in the Presbytery of WNC;
- 3) Commits itself to pray to Almighty God for guidance for the Legislature and the Church in this matter of concern to our Church, State, and Nation.

FOR INFORMATION:

2. Your Peace and Justice Committee has been very supportive of the Israel/Palestine Mission Network authorized by the PCUSA. James Aydelotte, a member of that Mission Network is very willing to give a program on "Peace in the Holy Land?" for any church (times negotiable). Just call him at 828-664-9030 or send an email to jamara03@bellsouth.net This is a vital issue towards a more peaceful world.
3. THAT the written report submitted by the Rev. Terry Alexander regarding the work of the PC (USA) Mission Responsibility Through Investment Committee (MRTI) be received and recorded in the minutes of this meeting. (Peace and Justice Attachment 2)
4. THAT the Peace and Justice Committee endorses the Overture on Divestment from Caterpillar, Inc. that was referred to the Bills and Overture Committee at this meeting of the Presbytery by the Session of Newland Presbyterian Church.

SB 309: CAPITAL PROCEDURE / SEVERE MENTAL DISABILITY

North Carolina prohibits people with mental retardation from being executed. We should provide the same protection to people suffering from a severe mental disability:

- A person with a severe mental disability suffers from cognitive limitations as severe as persons with mental retardation.
- Both Courts and the Legislature have capped the possible punishment for persons with mental retardation at life in prison without parole.
- The same protection should apply to persons with severe mental disability.
- A 2002 Gallup poll showed 75% of Americans oppose the execution of people with severe mental illness.

SB 309 protects people who suffer from the most severe mental disabilities:

In order to qualify for protection under SB309, the disability:

- 1) Must be severe
- 2) Must be present at the time of the crime
- 3) Must “significantly impair” cognitive or volitional functioning at the time of the crime

SB 309 enhances public safety and preserves court resources:

- This bill allows a severely mentally disabled defendant to be convicted and sentenced to life without the possibility of parole.
- Instead of presenting evidence of a defendant’s mental illness at the end of a lengthy capital trial, this issue is presented to a Superior Court Judge before the trial begins, which saves significant court resources.
- In approximately 75% of the mental retardation cases since 2001, District Attorneys, defense attorneys and judges have agreed to resolve the case through a plea, which saves tens of thousands of dollars in each case.

For more information, please contact one of the groups supporting this legislation:

Disability Rights NC: Kristin Parks, Kris.Parks@DisabilityRightsNC.org (919) 451-2324

Mental Health Association – NC: John Tote, john-tote@mha-nc.org (919) 971-9102

NAMI- NC: Deby Dihoff, Ddihoff@naminc.org (919) 788-0801

NC Psychological Association: Sally Cameron, ncpasally@mindspring.com (919)872-1005

NC Psychiatric Association: Robin Huffman, rhuffman@ncpsychiatry.org (919) 859-3370

The ARC of NC: Jleggett@ARCnc.org (919) 782-4632

National Association of Social Workers – NC: Jack Register, naswadvocacy@naswnc.org (919) 828-9650

S309 CAPITAL PROCEDURE / SEVERE MENTAL DISABILITY
AN ACT TO AMEND THE CAPITAL TRIAL, SENTENCING AND POST-CONVICTION
PROCEDURES FOR PERSONS WITH SEVERE MENTAL DISABILITIES

Peace and Justice

Attachment 1

BACKGROUND

In recent years, concerns have grown nationally about the way the criminal justice system identifies and punishes persons with severe mental disability. Groups such as the National Alliance on Mental Illness, the American Psychiatric Association, the American Psychological Association, and the American Bar Association have all adopted proposals to prohibit the execution of persons who are significantly impaired by a severe mental disability. People with severe mental disability comprise a small portion of society, and the prevalence of violence associated with them is minimal. However, when they become involved in the criminal justice system, they face significant challenges and obstacles they would not otherwise face but for their disability.

For these reasons, mental health advocates in North Carolina have recommended changes in how persons with severe mental disability proceed through the criminal justice system. S309 has been introduced in both the Senate and the House (H137). S309 does not excuse defendants from punishment, but instead requires additional procedural safeguards to ensure the criminal process is just and fair for defendants with limitations and vulnerabilities caused by a severe mental disability, and it caps their punishment at life without the possibility of parole. S309 mirrors N.C.G.S. § 15A-2005, which prohibits the execution of mentally retarded defendants and provides a more effective and cost efficient way for courts to identify criminal defendants who are mentally retarded by focusing on that critical issue before the trial begins. Since the enactment of N.C.G.S. § 15A-2005 in 2001, the additional procedures have saved hundreds of thousands of dollars in trials across the state where mental retardation is an issue in a capital murder case. The protections available for people with mental retardation should also be available for those with the same kinds of severe disabilities.

CURRENT TRIAL PROCEDURE

Currently, when a defendant is charged capitally, there is a two part trial. The first part of the trial is the guilt / innocence phase, in which evidence is presented to a jury on whether a defendant committed the crime, and if so, whether there are any defenses which preclude a conviction for first degree murder. If a defendant is found guilty of first degree murder, there is a second phase of the trial, which is called the sentencing phase. In this phase, the State presents aggravating factors in support of the death penalty, and the defendant presents mitigating factors he hopes will sway the jury in favor of a life sentence. The United States Supreme Court requires the appointment of a psychiatrist and other experts for a defendant charged with capital murder where sanity at the time of the offense is an issue during the mitigation phase of the trial.

PROPOSED CHANGES TO PROCEDURE

Peace and Justice Attachment 1

Under S309, the State and the defendant may present evidence regarding serious mental disability to a Superior Court Judge before the jury trial begins. If the Judge determines a defendant was severely mentally disabled at the time of the crime, the case is declared non-capital, and the defendant becomes ineligible for the death penalty. S309 does not prohibit a defendant from presenting evidence of serious mental illness at other stages of the trial if the judge does not initially find the defendant is seriously mentally disabled. SB309 allows the defendant to be criminally responsible, but caps his punishment at life without the possibility of parole. These protections will also apply to persons already on death row when the legislation goes into effect.

REASONS S309 IS NECESSARY

The proposed change in procedure is more effective and cost efficient for many reasons. First, S309 will save money. By determining a defendant suffers from a severe mental disability at an earlier stage of the trial, the excessive cost of the trial and appeal process may be significantly reduced, saving the State hundreds of thousands of dollars in each case. In addition, S309 will save time and resources in an already overburdened court system.

Second, S309 adds an important layer of protection for people with severe mental disability who are often unable to assist their attorney or participate meaningfully in their defense. For example, defendants with severe mental disability can be unable or unwilling to cooperate with their attorneys in the preparation of their case. A mentally disabled defendant may insist on representing himself or may waive important rights because of the effects of his illness. If a defendant is taking psychotropic drugs during trial, he may give the jury the impression he is not remorseful or does not care, when in reality, the effects of his medication are to blame for his demeanor. If serious mental illness is left untreated, a defendant may be belligerent, confusing or frightening to a jury. S309 adds protections for defendants who face such challenges in the criminal justice system due to their disability.

Finally, S309 is consistent with public opinion. A Gallup poll taken in 2002 showed that 75% of Americans oppose the death penalty for people with severe mental illness. A recent North Carolina poll showed that 52% of North Carolinians oppose the death penalty for people with severe mental illness.

S309 is an essential addition to our criminal justice statutes because it will save the State hundreds of thousands of dollars a year, will save time and resources in our court system, and will provide a small but important layer of protection for people who are unable to fairly and adequately participate in their trials.

If you have questions about this proposed legislation, please contact Kris Parks at (919) 451-2324, or Kris.Parks@DisabilityRightsNC.org.

Peace and Justice Attachment 2

Mission Responsibility Through Investing

MRTI is the acronym for Mission Responsibility Through Investing, a committee of the Presbyterian General Assembly created in 1971. More than that, it's a way for the wider church to act as faithful stewards.

The Presbyterian Church (U.S.A.) believes that church investment, as well as personal investment, are more than practical questions. We believe that the Lordship of Jesus Christ is at the heart of all that we do and therefore, directs all aspects of our lives, including how we earn, use and invest our money.

Church investment is "an instrument of mission and includes theological, social and economic considerations." (183rd General Assembly, United Presbyterian Church USA, 1971)

MRTI implements the General Assembly's policies on socially responsible investing (also called faith-based investing) by engaging corporations in which the church owns stock. This is accomplished through correspondence, dialogues, voting shareholder proxies and recommending similar action to others, and occasionally filing shareholder resolutions.

Priorities are selected each year upon referral from the General Assembly and in consultation with ecumenical partners. The Mission Work Plan of the General Assembly Mission Council also guides the work of MRTI. Consistent with its mandate to promote the mission goals of the General Assembly, MRTI adopts an annual Priority Issues Work Plan.

MRTI enjoys the full participation of the Board of Pensions and the Presbyterian Church (U.S.A) Foundation. Their assets, including those of the Foundation's family of New Covenant mutual funds, are managed according to General Assembly guidelines.

MRTI's 12 members include representatives chosen by the relevant investing and finance agencies and the related bodies and units responsible for mission policy and program (Terry Alexander serves on this committee as an elected member of Advocacy Committee for Women's Concerns) in the implementation of the General Assembly policies and decisions.

The Justice Work this committee has done for our denomination over the past 39 years is invaluable. The Lordship of Jesus Christ is the guiding principal for this work as we seek to promote peace and justice in our world.

Learn more at www.pcusa.org/mrti