HB 2596 -- DEATH PENALTY

SPONSOR: Ellington

This bill specifies that the Supreme Court must consider whether
race was a significant factor in the decision to seek the death
penalty against a defendant or in other decisions to seek or impose
the death penalty in the state or county or judicial circuit in
which the defendant was prosecuted or tried at the time the
sentence was sought or imposed.

The bill states that no person shall be sentenced to death or
executed under any judgment that was sought or obtained on the
basis of race.

The bill allows a defendant to file a motion before the first or
second stage of a first degree murder trial in which the death
penalty was not waived upon the ground the racial considerations
played a significant part in the decision to seek the death
penalty. A person who was sentenced to death on or after August
28, 2016, may file the motion as a post-conviction motion, and the
procedures that apply to other motions to set aside death sentences
apply. A person who was sentenced to death prior to August 28,
2016, may file the motion by August 28, 2017.

The defendant has the burden of proof. The state may offer
rebuttal evidence.

A finding that race was a significant factor in the decision to
seek or impose the death penalty is established if the court finds
that race was a significant factor in decisions to seek or impose
the death penalty in the state or the county or judicial circuit in
which the defendant was prosecuted or tried. Evidence may include
evidence that the death penalty was sought or imposed
disproportionately upon persons of one race than upon persons of
another race, based on the percentage of the state's population by
race, or race was a significant factor in peremptory challenges
during jury selection.

If the court finds that race was a significant factor in the
decision to seek or impose the death penalty, the court must order
the death sentence not be sought or that the sentence be vacated
and the defendant be resentenced to life without parole.

This bill is similar to SB 758 (2016).