

REVIEW OF PROPOSED LEGISLATION PURSUANT TO N.C.G.S. 164-43

REPORT #1

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

REPORT ON PROPOSED LEGISLATION PURSUANT TO G.S. 164-43

This report by the Sentencing Commission includes all bills introduced or amended through March 7, 2025. The report is submitted in conformance with the following requirements of G.S. 164-43:

(e) Upon adoption of a system for the classification of offenses formulated pursuant to G.S. 164-41, the Commission or its successor shall review all proposed legislation which creates a new criminal offense, changes the classification of an offense, or changes the range of punishment for a particular classification, and shall make recommendations to the General Assembly.

(f) In the case of a new criminal offense, the Commission or its successor shall determine whether the proposal places the offense in the correct classification, based upon the considerations and principles set out in G.S. 164-41. If the proposal does not assign the offense to a classification, it shall be the duty of the Commission or its successor to recommend the proper classification placement.

(g) In the case of proposed changes in the classification of an offense or changes in the range of punishment for a classification, the Commission or its successor shall determine whether such a proposed change is consistent with the considerations and principles set out in G.S. 164-41 and shall report its findings to the General Assembly.

(h) The Commission or its successor shall meet within 10 days after the last day for filing general bills in the General Assembly for the purpose of reviewing bills as described in subsections (e), (f) and (g). The Commission or its successor shall include in its report on a bill an analysis based on an application of the correctional population simulation model to the provisions of the bill.

A summary is included for each bill (or each relevant section of a bill) which either creates a new crime, changes the classification of an existing crime, or prescribes a new range of punishments. The summary provides the bill number, the short title, and a brief description. At the bottom of the summary is an analysis and a finding of whether the bill appears consistent with the Commission's classification criteria (see following page for a description of the criteria) or with the felony punishment chart. Following the summary is an analysis of the projected impact of the bill when one has been requested and published by the General Assembly. The impact estimates assume an effective date of December 1, 2025.

These summaries may not reflect the most recent bill amendments or committee substitutes. The date on which each individual summary was reviewed is shown on the bottom left hand corner of each summary page. Changes made after this date are not reflected in this report.

The bills included in this report were reviewed by the Sentencing Commission on March 7, 2025.

The fact that the Commission found a bill to be either consistent or inconsistent with the structured sentencing offense classification criteria does not imply either support for or opposition to the bill. In this report, the Commission has taken no position on the merits of any bill other than those specifically proposed by the Commission.

THE OFFENSE CLASSIFICATION CRITERIA

The Sentencing Commission was required by G.S. 164-41 to ".... classify criminal offenses into felony and misdemeanor categories on the basis of their severity." The Commission developed classification criteria to guide the classification process and to ensure that there was a systematic and rational basis for the classifications. The Commission decided that the severity of an offense should be directly related to the harm to the victim that normally results or tends to result from the criminal conduct.

The Commission defined three general types of harms: 1) harms to person (including both physical and mental injury); 2) harms to property; and 3) harms to society (violations of public order and welfare, violations of judicial or governmental operations, and/or violations of public morality). Through considerable discussion and debate, the Commission grouped these harms into a ten-level hierarchy which served as the basis for the Commission's classifications (refer to the classification criteria on the following page). Once the classification criteria were established, the Commission reviewed the individual elements of all felonies in North Carolina and assigned each felony to a specific offense class based on how closely the elements of the crime matched the classification criteria. The Commission did not apply the classification criteria to homicide and controlled substances offenses.

The purpose of establishing the classification criteria was to create a rational and consistent philosophical basis for classifying offenses; to assure proportionality in severity; and to provide a guidepost for classifying new crimes in the future.

Under the classification criteria, the most serious offense classes (A through F) primarily involve personal injury, the risk of personal injury, serious societal injury, or widespread societal injury. The lower offense levels (G through I) primarily involve property loss or less serious societal injury. The degree of harm is divided into three levels; injury to person, property, or society; significant injury to person, property, or society; and serious injury to person, property, or society.

The Commission also assigned misdemeanor offenses to four classes: class A1, class 1, class 2, or class 3. The Commission did not create classification criteria for misdemeanors but relied on the maximum sentences previously set by the General Assembly. Generally, crimes which had previously been punishable by over six months were made class 1 misdemeanors, those previously punishable by more than 30 days and up to six months were made class 2 misdemeanors, and those previously punishable by 30 days or less were made class 3 misdemeanors. Assaultive misdemeanors were made Class A1 misdemeanors.

In 2012 the Commission adopted a separate set of classification criteria to be used for reviewing the proposed classification of homicide offenses. These criteria resemble the Commission's harm-based offense classification criteria but rely upon factors other than harm to evaluate the severity of a homicide offense.

FELONY OFFENSE CLASSIFICATION CRITERIA*

CLASS	CRITERIA
A	<ul style="list-style-type: none">• Reserved for First Degree Murder <p><i>[Reasonably tends to result or does result in:]</i></p>
B	<ul style="list-style-type: none">• Serious debilitating long-term personal injury
C	<ul style="list-style-type: none">• Serious long-term personal injury• Serious long-term or widespread societal injury
D	<ul style="list-style-type: none">• Serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling
E	<ul style="list-style-type: none">• Serious personal injury
F	<ul style="list-style-type: none">• Significant personal injury• Serious societal injury
G	<ul style="list-style-type: none">• Serious property loss Loss from the person or the person's dwelling
H	<ul style="list-style-type: none">• Serious property loss: Loss from any structure designed to house or secure any activity or property Loss occasioned by the taking or removing of property Loss occasioned by breach of trust, formal or informal• Personal injury• Significant societal injury
I	<ul style="list-style-type: none">• Serious property loss: All other felonious property loss• Societal injury
M	<ul style="list-style-type: none">• All other misdemeanors

* Personal injury includes both physical and mental injury.

Societal injury includes violations of public morality, judicial or government operations, and/or public order and welfare.

Note: The criteria were not used in the classification of the homicide offenses or drug offenses.

HOMICIDE OFFENSE CLASSIFICATION CRITERIA

CLASS	CRITERIA
(FELONY)	
A	<ul style="list-style-type: none">Intentional killing with premeditation and deliberation or a legally recognized substitute for premeditation and deliberation.
B	<ul style="list-style-type: none">Intentional killing with malice.
D	<ul style="list-style-type: none">Intentional killing with a partial legal excuse.
E	<ul style="list-style-type: none">Unintentional killing by criminal or culpable negligence with aggravating circumstances.
F	<ul style="list-style-type: none">Unintentional killing by criminal or culpable negligence.
H	<ul style="list-style-type: none">Unintentional killing by motor vehicle involving a serious traffic violation.
(MISDEMEANOR)	
A1	<ul style="list-style-type: none">Unintentional killing by motor vehicle involving a traffic violation.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
REPORT #1 ON PROPOSED LEGISLATION – SUMMARY OF FINDINGS
March 7, 2025

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
HB 5	N.C. Constitutional Carry Act [Ed.1]	G.S. 14-415.35(b)	H	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	1
HB 28	Gun Violence Prevention Act [Ed. 1]	G.S. 14-415.1A(c)(1)	C	Inconsistent	This offense would be consistent with a Class C felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1.	5
		G.S. 14-415.1A(c)(2)	D	Inconsistent	This offense would be consistent with a Class F felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1.	7
		G.S. 14-415.1A(c)(3)	F	Inconsistent	This offense would be consistent with a Class F felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1.	9
		G.S. 14-415.1	F	Consistent	Would also be consistent with a Class H felony.	10
HB 34	Establish Larceny of Mail Offense [Ed. 2]	G.S. 14-72(c1)	One Class Higher	Inconsistent		18
HB 42	Burglary & B&E/Sentence Enhancement [Ed. 2]	G.S. 14-52(b)	One Class Higher	Inconsistent		21
		G.S. 14-52(b)	One Class Higher	Inconsistent		22
		G.S. 14-53(b)	One Class Higher	Inconsistent		23

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-54(a) and (b1)	One Class Higher	Inconsistent		24
		G.S. 14-54(a1) and (b1)	One Class Higher	Inconsistent		25
HB 52	Protect Those Who Serve & Protect Act of 2025 [Ed. 3]	G.S. 14-34.7A(b)(1)	I	Consistent		29
		G.S. 14-34.7A(b)(2)	I	Consistent		31
		G.S. 14-38(b)(1)	I	Consistent		32
		G.S. 14-38(b)(3)	I	Consistent		33
		G.S. 14-34.2	E	Inconsistent	Would be consistent with a Class F felony.	34
		G.S. 14-34.5(a)	C	Consistent		35
		G.S. 14-34.5(a)	C	Consistent		36
		G.S. 14-34.7(a)	E	Consistent		37
		G.S. 14-34.7(c)	H	Consistent		38
		G.S. 14-69.3(b)	E	Consistent		39
		G.S. 14-69.3(c)	F	Inconsistent	Would be consistent with a Class E felony.	40
HB 61	Assaults on First Responders [Ed. 1]	G.S. 14-34.5	B1	Inconsistent	Would be consistent with a Class C felony.	48

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
HB 83	Revise Laws Governing Minors [Ed. 1]	G.S. 14-190.7	G	Inconsistent	Would be consistent with a Class H felony.	51
		G.S. 14-190.8	F	Consistent		52
		G.S. 14-190.15(a)	H	Consistent		53
		G.S. 14-190.15(b)	H	Consistent		54
		G.S. 14-190.9(a6)	H	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	55
HB 108	The Sober Operator Act of 2025 [Ed. 1]	G.S. 18B-302(c)(2)	F	Consistent	Would also be consistent with a Class E felony.	60
HB 109	Strangulation/Increase Punishment [Ed. 1]	G.S. 14-32.4(a)	E	Consistent	Would also be consistent with a Class C felony.	61
		G.S. 14-32.4(b)	G	Inconsistent		63
		G.S. 14-32.4(c)	H	Consistent		64
HB 123	Criminal Falsification of Medical Records [Ed. 1]	G.S. 90-413(a)(1)	H	Consistent		65
		G.S. 90-413(a)(2)	I	Consistent		66
HB 182	Revise Laws on Domestic & Child Abuse [Ed. 1]	G.S. 14-318.4(a4)	B2	Consistent		69
HB 202	Defense Against Porch Pirates Act [Ed. 1]	G.S. 14-72.10(b)(1) and (c)(2)	G	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	73

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-72.10(b)(1) and (c)(3)	E	Inconsistent		74
		G.S. 14-72.10(b)(1) and (c)(3)	E	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	75
		G.S. 14-72.10(b)(1) and (c)(4)	D	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	76
		G.S. 14-72.10(b)(1) and (c)(4)	D	Inconsistent		77
		G.S. 14-72.10(b)(2) and (c)(2)	G	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	78
		G.S. 14-72.10(b)(2) and (c)(3)	E	Inconsistent		79
		G.S. 14-72.10(b)(2) and (c)(3)	E	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	80
		G.S. 14-72.10(b)(2) and (c)(4)	D	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	81
		G.S. 14-72.10(b)(2) and (c)(4)	D	Inconsistent		82
HB 214	Faithful Article V Commissioner Act [Ed. 1]	G.S. 120-272.100(h)	I	Consistent		83
HB 230	Create Crime for Habitual Domestic Violence [Ed. 1]	G.S. 14-32.6	H	Inconsistent		84

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-32.6	One Class Higher	Inconsistent		86
HB 235	Fraudulent Deeds [Ed. 1]	G.S. 14-122(b)	G	Inconsistent	Would be consistent with a Class F felony.	88
		G.S. 14-122(b)	C	Inconsistent	Would be consistent with a Class F felony.	89
		G.S. 14-118.6A(d)	G	Inconsistent	Would be consistent with a Class H felony.	90
HB 246	Liam's Law [Ed. 1]	G.S. 20-140(a) and (h)	I	Inconsistent		93
		G.S. 20-140(b) and (h)	I	Inconsistent		94
		G.S. 20-140(f) and (h)	I	Inconsistent		95
		G.S. 20-141.3(a) and (c1)	F	Consistent		96
		G.S. 20-141.3(b) and (c1)	F	Consistent		97
		G.S. 20-141.3(c) and (c1)	F	Consistent		98
		G.S. 20-141.3(a) and (c2)	B2	Consistent		99
		G.S. 20-141.3(b) and (c2)	B2	Consistent		100
		G.S. 20-141.3(c) and (c2)	B2	Inconsistent		101
		G.S. 20-166(a)(2)	D	Inconsistent	Would be consistent with a Class E felony.	102

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
HB 251	Disaster Response Funding/Nondiscrimination [Ed. 1]	G.S. 166A-19.4	I	Inconsistent		108
HB 261	Sentence Enhancement/Immigration -Related Crimes [Ed. 1]	G.S. 15A- 1340.16H(a)	One class higher	Inconsistent		110
		G.S. 15A- 1340.16H(b)	Two classes higher	Inconsistent		111
		G.S. 15A- 1340.16I(b)	One class higher	Inconsistent		112
		G.S. 15A- 1340.24(b)	I	Inconsistent		113
HB 307	Various Criminal Law Revisions [Ed. 1]	G.S. 14-318.7(b)	H	Consistent		117
		G.S. 14-318.7(c)	E	Inconsistent	Would be consistent with a Class F felony.	118
		G.S. 14-318.7(d)	D	Inconsistent	Would be consistent with a Class E felony.	119
		G.S. 14-318.7(e)	C	Consistent		121
		G.S. 14-318.7(f)	B1	Consistent		123
HB 308	Criminal Law Changes [Ed. 1]	G.S. 14-32.4(a)	E	Consistent	Would also be consistent with a Class C felony.	124
		G.S. 14-32.4(a2)	H	Consistent		126
		G.S. 14-32.4(b)	G	Inconsistent		127
HB 315	Gift Card Theft & Unlawful Business Entry [Ed. 1]	G.S. 14-54(b1)	I	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	128

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-72.12	H	Consistent		129
		G.S. 14-86.6(a)(4) and (a2)(1)	H	Consistent		130
		G.S. 14-86.6(a)(4) and (a2)(2)	G	Inconsistent		131
		G.S. 14-86.6(a)(4) and (a2)(3)	F	Consistent		132
		G.S. 14-86.6(a)(4) and (a2)(4)	C	Consistent		133
		G.S. 14-86.6(a)(5) and (a2)(1)	H	Consistent		134
		G.S. 14-86.6(a)(5) and (a2)(2)	G	Inconsistent	Would be consistent with a Class F felony.	135
		G.S. 14-86.6(a)(5) and (a2)(3)	F	Consistent		136
		G.S. 14-86.6(a)(5) and (a2)(4)	C	Consistent		137
		G.S. 14-86.6(a)(6) and (a2)(1)	H	Consistent		138
		G.S. 14-86.6(a)(6) and (a2)(2)	G	Inconsistent	Would be consistent with a Class F felony.	139
		G.S. 14-86.6(a)(6) and (a2)(3)	F	Consistent		140
		G.S. 14-86.6(a)(6) and (a2)(4)	C	Consistent		141
SB 50	Freedom to Carry NC [Ed. 1]	G.S. 14-415.35(b)	H	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	1

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
SB 161	The Jenesis Firearm Accountability Act [Ed. 1]	G.S. 14-409.13(d)	Same Offense Classification as Offender	Inconsistent		142
SB 164	Theft of Temporary Housing During Emergency [Ed. 1]	G.S. 14-288.6(b1)	F	Consistent		143
SB 244	January 6 Riot/Attempt Overthrow of Gov't [Ed. 1]	G.S. 14-288.2(c3)	F	Consistent		145
		G.S. 14-288.2(e2)	F	Consistent		146
SB 245	The Rakim Shackelford Embalming Fluid Act [Ed. 1]	G.S. 90-210.29C	I	N/A	The Offense Classification Criteria were not used in the classification of drug offenses; however, this offense would be similar to drug offenses classified as Class H felonies.	147
		G.S. 90-113.107(b1) and (c)(1)	I	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	148
		G.S. 90-113.107(b1) and (c)(2)	G	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	149
		G.S. 90-113.107(b1) and (c)(3)	F	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	150
		G.S. 90-113.107(b1) and (c)(4)	D	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	151
		G.S. 90-113.107(b2) and (c)(1)	I	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	152

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 90-113.107(b2) and (c)(2)	G	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	153
		G.S. 90-113.107(b2) and (c)(3)	F	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	154
		G.S. 90-113.107(b2) and (c)(4)	D	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	155

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 5 – N.C. Constitutional Carry Act [Ed.1]/SB 50 – Freedom to Carry NC [Ed. 1]

STATUTE

§ 14-415.35. Carrying concealed handguns.

DESCRIPTION

Subsection (b):

A person who

1. carries a concealed handgun and
2. meets any of the criteria listed in G.S. 14-415.35(b).

PROPOSED OFFENSE CLASS

Class H felony, second and subsequent offenses.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property, or loss occasioned by breach of trust, formal or informal, personal injury, or significant societal injury as Class H felonies

Proposed G.S. 14-415.35(b) provides that it shall be unlawful for a person to carry a concealed handgun when they meet any one of a list of certain criteria. That list includes but is not limited to: persons under indictment for a felony; persons adjudicated guilty of a felony unless that offense pertains to antitrust violations, unfair trade practices, or restraints of trade, or his firearms rights have been restored; fugitives from justice; drug addicts; persons dishonorably discharged from the military; and persons convicted of impaired driving offenses within last three years. A first violation of this provision is a Class 2 misdemeanor.

The Sentencing Commission reviewed a substantially similar provision in April 2017 in HB 201, March 2019 in HB 61, April 2019 in HB 498, March 2021 in HB 197, and March 2023 in HB 189, and found each inconsistent with the Offense Classification Criteria for a Class H felony because the Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

- 1 A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 5 – N.C. Constitutional Carry Act [Ed. 1]/SB 50 FREEDOM TO CARRY NC [Ed. 2]

PREPARED: MARCH 19, 2025

Estimated Prison Population Impact¹

SECTION 1. This section enacts G.S. 14-415.35, Carrying concealed handguns. Subsection (a) authorizes any person who is a citizen of the United States and is at least 18 years old to carry a concealed handgun in this State unless provided otherwise by law. Any person who violates subsection (a) (carrying a concealed handgun and under 18) is guilty of a Class 3 misdemeanor.

Impact: Since the proposed section creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this proposed change on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2024, 18% of Class 3 misdemeanor convictions resulted in active sentences, with an average sentence length of 8 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Subsection (b) makes it unlawful for a person who meets any of the specific criteria listed in the subsection to carry a concealed handgun. Any person who violates subsection (b) (carrying a concealed handgun when prohibited) is guilty of a Class 2 misdemeanor for a first offense and a Class H felony for a second or subsequent offense.

Class 2 Impact for First Offense: Since the proposed subsection (b) creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this proposed change on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2024, 25% of Class 2 misdemeanor convictions resulted in active sentences, with an average sentence length of 20 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Class H Impact for Second or Subsequent Offense: Since the proposed subsection (b) creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense and have a prior conviction for the same offense. In FY 2024, 36% of Class H convictions

¹ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

resulted in active sentences, with an average estimated time served of 10 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	2	2	2	2
20	6	10	10	10	10

SECTION 4. This section amends G.S. 14-269, Carrying concealed weapons, subsection (a1), to exclude handguns lawfully carried pursuant to Article 54B and Article 54C of Chapter 14 of the General Statutes. Violation of subsection (a1) is a Class 2 misdemeanor for the first offense and a Class H felony for a second or subsequent offense.

Class 2 Impact for First Offense: There were 1,625 Class 2 convictions for violations of subsection (a1) in FY 2024. It is not known how many of these convictions were for carrying a concealed handgun pursuant to Article 54B or Article 54C and would no longer be subject to conviction under the amended statute. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, the amendment to the current statute would not be expected to have an impact on the prison population. Potential savings could occur depending on the number of convictions involved; however, the impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Class H Impact for Second or Subsequent Offense: There were 89 Class H convictions for violations of subsection (a1) in FY 2024. It is not known how many of these convictions were for carrying a concealed handgun pursuant to Article 54B or Article 54C and would no longer be subject to conviction under the amended statute. Potential savings could occur depending on the number of convictions involved; however, the impact on the prison population cannot be determined.

SECTION 6. This section amends G.S. 14-269.3, Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed, in two ways. First, it limits application to any person consuming alcohol, or at any time while the person has remaining in the person's body any alcohol or in the person's blood a controlled substance previously consumed (currently prohibits anyone). Second, it deletes the specific exemptions listed in subsection (b). Violation is a Class 1 misdemeanor.

Impact: The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-269.3. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Therefore, the Sentencing Commission does not have any historical data from which to estimate the impact of this proposed change on the prison population. It is not known how many convictions may result from the proposed amendments of the current statute. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected

to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

SECTION 7. This section amends G.S. 14-269.4, Weapons on certain State property and in courthouses by expanding the exemption from a person who had a valid permit to any person carrying a concealed handgun. Violation is a Class 1 misdemeanor.

Impact: There were 4 convictions for G.S. 14-269.4 in FY 2024. By expanding the exemption from a person who had a valid permit to any person carrying a concealed handgun, it is not known how many of these convictions would no longer be subject to conviction under the amended statute. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, additional convictions that result from the proposed broadening of the current statute would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

SECTION 8. This section amends G.S. 14-277.2, Weapons at parades, etc., prohibited by expanding the exemption from a person who had a valid permit to any person carrying a concealed handgun. Violation is a Class 1 misdemeanor.

Impact: The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-277.2. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Therefore, the Sentencing Commission does not have any historical data from which to estimate the impact of this proposed change on the prison population. It is not known how many convictions would no longer be subject to conviction under the amended statute. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2024 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 28 – Gun Violence Prevention Act [Ed. 1]

STATUTE

§ 14-415.1A. Possession of certain weapons by felon during the commission or attempted commission of a felony.

DESCRIPTION

Subdivision (c)(1):

A person who

1. is prohibited pursuant to G.S. 14-415.1 (Possession of firearms, etc., by felon prohibited) from possessing a firearm or a weapon of mass death and destruction
2. to possess a firearm or weapon of mass death and destruction
3. during the commission or attempted commission of a felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes, and
4. the person discharges the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony.

PROPOSED OFFENSE CLASS

Class C felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

Possession of firearms, etc., by felon prohibited is a Class G felony. (G.S. 14-415.1) *(This bill would reclassify this offense from a Class G felony to a Class F felony.)*

Discharging certain barreled weapons or a firearm into occupied property is a Class E felony. (G.S. 14-34.1(a))

Discharging certain barreled weapons or a firearm into occupied property (occupied dwelling/occupied conveyance in operation) is a Class D felony. (G.S. 14-34.1(b))

Discharging certain barreled weapons or a firearm into occupied property (results in serious bodily injury) is a Class C felony. (G.S. 14-34.1(c))

Discharge firearm within enclosure to incite fear is a Class F felony. (G.S. 14-34.10)

A person who is convicted of a felony and uses, displays, or threatens to use or display a firearm or deadly weapon during the commission of the felony may be subject to a minimum sentence enhancement.

- Class A through E felony, 72 months.
- Class F or G felony, 36 months.
- Class H or I felony, 12 months. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class C felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 28 – Gun Violence Prevention Act [Ed. 1] (cont'd)
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STATUTE

§ 14-415.1A. Possession of certain weapons by felon during the commission or attempted commission of a felony.

DESCRIPTION

Subdivision (c)(2):

A person who

1. is prohibited pursuant to G.S. 14-415.1 (Possession of firearms, etc., by felon prohibited) from possessing a firearm or a weapon of mass death and destruction
2. to possess a firearm or weapon of mass death and destruction
3. during the commission or attempted commission of a felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes, and
4. the person brandishes the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

G.S. 14-415.1A(a) would define “brandish” as to display all or part of the firearm or weapon of mass death and destruction or otherwise make the presence of the firearm or weapon of mass death and destruction known to another person.

Possession of firearms, etc., by felon prohibited, is a Class G felony. (G.S. 14-415.1) *(This bill would reclassify this offense from a Class G felony to a Class F felony.)*

Riot; inciting to riot; punishments (willfully engaging in a riot and brandishing a dangerous weapon or using a dangerous substance during a riot), is a Class H felony. (G.S. 14-288.2(c))

Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction, is a Class F felony. (G.S. 14-288.8)

A person who is convicted of a felony and uses, displays, or threatens to use or display a firearm or deadly weapon during the commission of the felony may be subject to a minimum sentence enhancement.

- Class A through E felony, 72 months.
- Class F or G felony, 36 months.
- Class H or I felony, 12 months. (G.S. 15A-1340.16A)

A finding that a bill is either consistent or inconsistent with the Sentencing Commission’s Offense Classification Criteria does not imply either support for or opposition to the bill itself.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as a Class F felony.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 28 – Gun Violence Prevention Act [Ed. 1] (cont'd)

STATUTE

§ 14-415.1A. Possession of certain weapons by felon during the commission or attempted commission of a felony.

DESCRIPTION

Subdivision (c)(3):

A person who

1. is prohibited pursuant to G.S. 14-415.1 (Possession of firearms, etc., by felon prohibited) from possessing a firearm or a weapon of mass death and destruction
2. to possess a firearm or weapon of mass death and destruction
3. during the commission or attempted commission of a felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes and
4. did not brandish or discharge the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

G.S. 14-415.1A(a) would define “brandish” as to display all or part of the firearm or weapon of mass death and destruction or otherwise make the presence of the firearm or weapon of mass death and destruction known to another person.

Possession of firearms, etc., by felon prohibited, is a Class G felony. (G.S. 14-415.1) (*This bill would reclassify this offense from a Class G felony to a Class F felony.*)

Manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of weapon of mass death and destruction, is a Class F felony. (G.S. 14-288.8)

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony if it were not limited to persons prohibited from possessing a firearm or a weapon of mass death and destruction by G.S. 14-415.1. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as a Class F felony.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 28 – Gun Violence Prevention Act [Ed. 1] (cont'd)
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STATUTE

§ 14-415.1. Possession of firearms, etc., by felon prohibited.

DESCRIPTION

A person who

1. has been convicted of a felony to
2. purchase, own, possess, or have in his custody, care, or control
3. any firearm or any weapon of mass death and destruction as defined in G.S. 14-288.8(c).

OFFENSE CLASS

CURRENT: Class G felony.

PROPOSED: Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

This offense would also be consistent with the Offense Classification Criteria for a Class H felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 28 - GUN VIOLENCE PREVENTION ACT [Ed. 1]

PREPARED: FEBRUARY 25, 2025

Estimated Prison Population Impact²

SECTION 1. This section enacts G.S. 14-415.1A, possession of certain weapons by felon during the commission or attempted commission of a felony, creating three new felony offenses.

Subsection (a) sets out definitions that apply to the statute.

Subsection (b) makes it unlawful for any person who is prohibited pursuant to G.S. 14-415.1 (Possession of firearms, etc., by felon prohibited) from possessing a firearm or a weapon of mass death and destruction to possess a firearm or weapon of mass death and destruction during the commission or attempted commission of a felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes.

Subsection (c) provides the penalties for a violation of subsection (b):

- (1) A Class C felony if a person discharges the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony.
- (2) A Class D felony if a person brandishes the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony.
- (3) A Class F felony for any other violation of subsection (b) of this section.

Subsection (d) provides that a violation of G.S. 14-415.1A is a separate offense from the underlying felony offense, and G.S. 14-415.1, and shall not merge with any other offense.

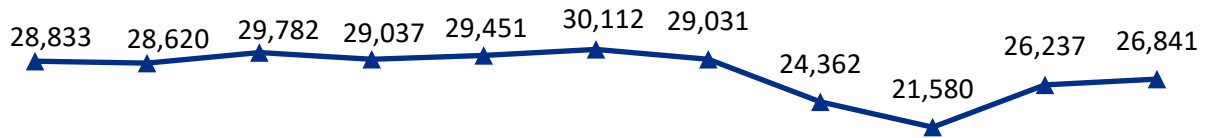
Eligible Population

No data are available to indicate the total number of people who have been convicted of a felony and are prohibited from possessing a firearm or a weapon of mass death and destruction under G.S. 14-415.1. Figure 1 shows the number of felony convictions for each of the past 10 years. The unit of analysis is convictions disposed of in a sentencing episode. A sentencing episode is identified from court records as the sentence imposed for the most serious conviction on a given day of court.

In Figure 1 below, offenders may be represented in more than 1 fiscal year or even within the same fiscal year if convicted on more than one date during the time period. Nevertheless, the number of offenders with felony convictions who are prohibited pursuant to G.S. 14-415.1 from possessing a firearm or a weapon of mass death and destruction is substantial.

² A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

Figure 1: Felony Convictions



FY 2013 FY 2014 FY 2015 FY 2016 FY 2017 FY 2018 FY 2019 FY 2020 FY 2021 FY 2022 FY 2023

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2014 - FY 2023 Structured Sentencing Simulation Data

Since the proposed bill creates three new felony offenses (Class C, Class D, and Class F), the Sentencing Commission does not have any historical data for these offenses from which to estimate their impact on the prison population. It is not known how many offenders might be convicted and sentenced for these new offenses. However, two separate analyses are provided below to assist in estimating the potential prison bed impact of the proposed bill. The first analysis shows the impact of the proposed legislation using thresholds based on FY 2023 convictions. The second analysis uses an eligible pool of FY 2023 convictions where offenders were convicted of both Possession of Firearm by a Felon and a Chapter 14 or Article 5 of Chapter 90 felony offense on the same day to estimate the impact of the proposed bill.

Threshold Analysis

Subsection (d) of the proposed bill provides that a violation of G.S. 14-415.1A is a separate offense from the underlying felony offense, and G.S. 14-415.1, and shall not merge with any other offense. Because of this provision, it is important to note that each of the following threshold analyses do not take into account any time offenders might serve for underlying offenses.

Class C

Under Structured Sentencing, all Class C offenders are required to receive an active sentence.³ In FY 2023, the average estimated time served for an offender convicted of a Class C offense was 78 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

³ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

Class D

Under Structured Sentencing, all Class D offenders are required to receive an active sentence.⁴ In FY 2023, the average estimated time served for an offender convicted of a Class D offense was 58 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

Class F

In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

Eligible Pool Analysis

Table 1 shows how many convictions occurred for Chapter 14 and Article 5 of Chapter 90 felony offenses in FY 2023 where the offender had two or more prior record points (which is a proxy indicator for prior felony convictions; i.e., a single prior Class H or Class I felony conviction is counted as two prior record points), as well as those that also had convictions for Possession of a Firearm by a Felon (G.S. 14-415.1) on the same day (i.e., co-occurring).⁵

⁴ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

⁵ An assumption has been made that Possession of a Firearm by a Felon convictions that were sentenced on the same day as Chapter 14 and Article 5 of Chapter 90 convictions indicate a firearm or deadly weapon were part of the same transaction.

The eligible pool (shaded) represents the number of convictions in FY 2023 that met the criteria and might have qualified for the new offenses under the proposed bill.⁶ Each conviction in that column met the three primary criteria for the proposed bill: the offender was (1) already a felon (had at least 2 prior record points), (2) in possession of a firearm (convicted of Possession of Firearm by a Felon), and (3) committed or attempted to commit a Chapter 14 or Article 5 of Chapter 90 felony offense (convicted of at least 1 Chapter 14 or Article 5 of Chapter 90 offense). It is not known whether the offender discharged, brandished, or simply possessed the firearm.

Overall, there were 18,258 felony sentences imposed in FY 2023 that included either a Chapter 14 felony conviction or an Article 5 of Chapter 90 felony conviction where offenders had at least 2 prior record points (see Table 1). Of these 18,258 felony sentences imposed, 1,668 also had a Possession of a Firearm by a Felon conviction. These 1,668 cases represent the eligible pool of convictions in FY 2023 that could be impacted by the proposed bill.⁵

Table 1: FY 2023 Eligible Pool of Chapter 14 and Article 5 of Chapter 90 Convictions for Offenders with at least 2 Prior Record Points and a Co-Occurring Possession of Firearm by a Felon Conviction

Most Serious Offense Class	Chap. 14 Felony Convictions		Article 5 of Chap. 90 Felony Convictions		Total Convictions	
	#	# with Co-Occurring PFBF Conviction	#	# with Co-Occurring PFBF Conviction	#	Eligible Pool
A	21	5	0	0	21	5
B1	139	11	0	0	139	11
B2	108	26	0	0	108	26
C	440	158	46	8	486	166
D	541	103	8	0	549	103
E	1,059	191	118	30	1,177	221
F	1,153	107	493	72	1,646	179
G	1,158	507	796	440	1,954	947
H	5,690	4	1,413	6	7,103	10
I	1,191	0	3,884	0	5,075	0
Total	11,500⁷	1,112⁸	6,758	556	18,258	1,668

Note: The acronym PFBF stands for Possession of a Firearm by a Felon (G.S. 14-415.1).

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

Eligible Pool Impact

This section presents the estimated impact of the proposed bill assuming the court runs the new offenses concurrently to the underlying felony offenses. As a result, the impact is only estimated for

⁶ It is possible that some of the Chapter 14 and Article 5 of Chapter 90 convictions that do not have a co-occurring Possession of a Firearm by a Felon conviction could have had that charge dismissed, especially if the Chapter 14 or Article 5 of Chapter 90 offense was a higher class. In addition, there were 1,523 additional Possession of Firearm by Felon convictions in FY 2023 that did not have co-occurring Chapter 14 or Article 5 of Chapter 90 felony convictions that could have had Chapter 14 or Article 5 of Chapter 90 charges dismissed. These issues could be examined with more time.

⁷ 1,341 of the 11,500 Chapter 14 felony convictions shown in Table 1 also had Article 5 of Chapter 90 felony convictions; however, the convictions did not include a Possession of a Firearm by Felon conviction.

⁸ 235 of the 1,112 Chapter 14 felony convictions with co-occurring Possession of Firearm by Felon convictions shown in Table 1 also had Article 5 of Chapter 90 felony convictions.

situations where the new offenses are more serious than the underlying felony offense. This section does not estimate the impact of the court running the new offenses consecutively to the underlying felony offenses, which would result in the need for additional prison beds beyond what is indicated below.

Class C

The proposed subsection (c)(1) creates a new Class C felony offense if a person, who is prohibited pursuant to G.S. 14-415.1 from possessing a firearm or a weapon of mass death and destruction, discharges a firearm or weapon of mass death and destruction during the commission or attempted commission of the felony. It is not known how many of the Class D through Class I convictions in the eligible pool would meet these criteria and would also be convicted of the Class C felony under the proposed bill. Impact on the prison population will occur if a Class C conviction is added to any Class D through Class I convictions under the proposed statute because of the higher rate of active sentences and longer average estimated time served. The following table shows the estimated annual impact if, for example, 25%, 50%, and the entire eligible pool added Class C convictions under the proposed subsection (c)(1).⁹ The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions. In addition, there will be some impact on post-release supervision caseloads for any Class F through Class I convictions since Class C requires an additional three months of supervision.

	% of Convictions	# Convictions	Estimated Prison Bed Impact				
			Year 1	Year 2	Year 3	Year 4	Year 5
Class D	25 50 100	26 52 103	Due to the sentence lengths involved, impact will occur outside the 5-year projection period.				
Class E	25 50 100	55 111 221	24 49 97	43 86 172	89 179 356	144 291 580	201 403 805
Class F	25 50 100	45 90 179	21 43 86	51 103 205	94 189 375	140 281 557	186 372 740
Class G	25 50 100	237 474 947	143 286 570	324 648 1,292	565 1,131 2,258	805 1,612 3,218	1,048 2,097 4,188
Class H	Threshold Example	4 20	3 14	7 31	11 51	15 72	19 91
Class I	Threshold Example	10 20	9 18	18 36	28 56	38 77	48 97

Class D

The proposed subsection (c)(2) creates a new Class D felony offense if a person, who is prohibited pursuant to G.S. 14-415.1 from possessing a firearm or a weapon of mass death and destruction,

⁹ The eligible pool contains only 10 Class H convictions and 0 Class I convictions that met the criteria for eligibility in the pool. Due to these low numbers, the threshold and a 20-conviction example are provided.

brandishes a firearm or weapon of mass death and destruction during the commission or attempted commission of the felony. It is not known how many of the Class E through Class I convictions in the eligible pool would meet these criteria and would also be convicted of the Class D felony under the proposed bill. Impact on the prison population will occur if a Class D conviction is added to any Class E through Class I convictions under the proposed statute because of the higher rate of active sentences and longer average estimated time served. The following table shows the estimated annual impact if, for example, 25%, 50%, and the entire eligible pool added Class D convictions under the proposed subsection (c)(2).¹⁰ The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions. In addition, there will be some impact on post-release supervision caseloads for any Class F through Class I convictions since Class D requires an additional three months of supervision.

	% Convictions	# Convictions	Estimated Prison Bed Impact				
			Year 1	Year 2	Year 3	Year 4	Year 5
Class E	25	55	24	43	89	144	201
	50	111	49	86	179	291	403
	100	221	97	172	356	580	805
Class F	25	45	21	51	94	140	186
	50	90	43	103	189	281	372
	100	179	86	205	375	557	740
Class G	25	237	143	324	565	805	1,048
	50	474	286	648	1,131	1,612	2,097
	100	947	570	1,292	2,258	3,218	4,188
Class H	Threshold	4	3	7	11	15	19
	Example	20	14	31	51	72	91
Class I	Threshold	10	9	18	28	38	48
	Example	20	18	36	56	77	97

Class F

The proposed subsection (c)(3) creates a new Class F felony offense if a person, who is prohibited pursuant to G.S. 14-415.1 from possessing a firearm or a weapon of mass death and destruction, commits any other violation of subsection (b) during the commission or attempted commission of the felony. It is not known how many of the Class G through Class I convictions in the eligible pool would meet these criteria and would also be convicted of the Class F felony under the proposed bill. Impact on the prison population will occur if a Class F conviction is added to any Class G through Class I convictions under the proposed statute because of the higher rate of active sentences and longer average estimated time served. The following table shows the estimated annual impact if, for example, 25%, 50%, and the entire eligible pool added Class F convictions under the proposed subsection (c)(3).¹¹ The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

¹⁰ The eligible pool contains only 10 Class H convictions and 0 Class I convictions that met the criteria for eligibility in the pool. Due to these low numbers, the threshold and a 20-conviction example are provided.

¹¹ The eligible pool contains only 10 Class H convictions and 0 Class I convictions that met the criteria for eligibility in the pool. Due to these low numbers, the threshold and a 20-conviction example are provided.

	% Convictions	# Convictions	Estimated Prison Bed Impact				
			Year 1	Year 2	Year 3	Year 4	Year 5
Class G	25	237	29	52	67	67	68
	50	474	59	106	136	136	138
	100	947	115	210	269	269	273
Class H	Threshold	4	1	2	2	2	2
	Example	20	5	9	10	10	9
Class I	Threshold	10	4	6	7	7	7
	Example	20	9	14	15	15	15

SECTION 2. This section reclassifies G.S. 14-415.1, Possession of firearms, etc., by felon prohibited, from a Class G felony to a Class F felony.

In FY 2023, there were 2,383 Class G felony convictions under G.S. 14-415.1 where Class G possession of a firearm by a felon was the most serious convicted offense. Impact on the prison population will occur if Class G convictions become Class F convictions under the proposed statute because of the higher rate of active sentences (53% for Class F compared to 40% for Class G) and longer average estimated time served (18 months for Class F compared to 14 months for Class G). The following table shows the estimated annual impact if the 2,383 convictions under G.S. 14-415.1 convictions in FY 2023 were reclassified from Class G to Class F. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
2,383	291	530	678	680	687

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 34 – Establish Larceny of Mail Offense [Ed. 2]

STATUTE

§ 14-72. Larceny of property; receiving stolen goods or possessing stolen goods.

DESCRIPTION

Subsection (c1):

A person who

1. a. takes personal property of another, or
b. receives or possesses stolen goods while knowing or having reasonable grounds to believe the goods are stolen and
2. the larceny was
 - a. for a value of more than \$1,000,
 - b. from the person, or
 - c. committed pursuant to burglary, breaking out of a dwelling, breaking or entering a building, breaking or entering a building that is a place of worship, or burglary with explosives, and
3. the larceny or receiving or possession of stolen goods is of mail.

OFFENSE CLASS

CURRENT: Class H felony.

PROPOSED: Sentenced at one class level higher than the principal offense for which the person was convicted.

ANALYSIS

For the purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another by any method of delivery, including through a common carrier, commercial delivery service, or private delivery.

This bill would also create a one class enhancement for misdemeanor larceny (less than \$1,000) when the larceny or receiving or possession of stolen goods is of mail, which currently is a Class 1 misdemeanor. (G.S. 14-72(a))

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 34 - ESTABLISH LARCENY OF MAIL OFFENSE [Ed. 2]

PREPARED: FEBRUARY 27, 2025

Estimated Prison Population Impact¹²

This bill amends G.S. 14-72, Larceny of property; receiving stolen goods or possessing stolen goods, by adding subsection (c1). Subsection (c1) requires the person to be sentenced one class higher than the principal offense for which the person was convicted where the larceny or receiving or possession of stolen goods is of mail. The subsection defines mail.

Larceny of goods and receiving or possessing stolen goods where the value of the goods is more than \$1,000 is a Class H felony.

In FY 2023 there were 879 convictions under G.S. 14-72 where the value of goods is more than \$1,000; however, no data are available to indicate how many of these convictions involved the larceny of mail and would qualify for enhancement under the proposed bill.

Impact on the prison population will occur if Class H convictions are sentenced in Class G under the proposed bill because of the higher rate of active sentences (40% for Class G compared to 35% for Class H) and longer average estimated time served (14 months for Class G compared to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year that would have the one class enhancement applied (Class H to Class G). The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	2	4	4	4	4

Larceny of goods and receiving or possessing stolen goods where the value of the goods is \$1,000 or less is a Class 1 misdemeanor.

In FY 2023 there were 9,108 convictions under G.S. 14-72 where the value of goods is \$1,000 or less; however, no data are available to indicate how many of these convictions involved the larceny of mail and would qualify for enhancement under the proposed bill.

Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90

¹² A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

days). Therefore, Class 1 misdemeanor convictions for this offense that would be sentenced as Class A1 misdemeanors under this proposed bill would not be expected to have an impact on the prison population. The impact of the enhanced misdemeanor sentences on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Federal Offense

This conduct is also currently punishable as a federal offense (Theft or receipt of stolen mail matter generally. 18 U.S. Code § 1708). Punishment includes a fine and/or imprisonment for up to five years. It is not known how many of the offenses in the proposed bill would be prosecuted and convicted at the federal level.

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 42 – Burglary & B&E/Sentence Enhancement [Ed. 2]

STATUTE

§ 14-52. Punishment for burglary.

DESCRIPTION

Subsection (b):

A person who

1. possessed a firearm or other deadly weapon about his or her person
2. during the commission of a first degree burglary (under G.S. 14-51(a)):
 - a. a person who shall break and enter
 - b. the dwelling house or room used as a sleeping apartment of another
 - c. with the intent to commit any felony or larceny therein and
 - d. a person is in the actual occupation of any part of said dwelling house or sleeping apartment at the time of the commission of such crime.

PUNISHMENT RANGE

CURRENT: Class D felony.

PROPOSED: In addition to any other sentence enhancement required by law, the person shall be sentenced at a felony class level one class higher than the principal felony for which the person was convicted.

ANALYSIS

It is an aggravating factor if the defendant was armed with or used a deadly weapon at the time of the crime. (G.S. 15A-1340.16(d)(10))

It is a sentence enhancement if the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony. The minimum sentence is increased a set number of months based on the class of the felony. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)

BILL NUMBER/SHORT TITLE:	HB 42 – Burglary & B&E/Sentence Enhancement [Ed. 2] (cont'd)
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STATUTE

§ 14-52. Punishment for burglary.

DESCRIPTION

Subsection (b):

A person who

1. possessed a firearm or other deadly weapon about his or her person
2. during the commission of an offense for second degree burglary (under G.S. 14-51(b)):
 - a. a person who shall break and enter
 - b. the dwelling house or room used as a sleeping apartment of another
 - c. with the intent to commit any felony or larceny therein and
 - d. the property was not actually occupied as such at the time of the commission of the crime.

PUNISHMENT RANGE

CURRENT: Class G felony.

PROPOSED: In addition to any other sentence enhancement required by law, the person shall be sentenced at a felony class level one class higher than the principal felony for which the person was convicted.

ANALYSIS

It is an aggravating factor if the defendant was armed with or used a deadly weapon at the time of the crime. (G.S. 15A-1340.16(d)(10))

It is a sentence enhancement if the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony. The minimum sentence is increased a set number of months based on the class of the felony. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)

BILL NUMBER/SHORT TITLE: HB 42 – Burglary & B&E/Sentence Enhancement [Ed. 2] (cont'd)
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STATUTE

§ 14-53. Breaking out of dwelling house burglary.

DESCRIPTION

Subsection (b):

A person who

1. possessed a firearm or other deadly weapon about his or her person and
2. entered the dwelling house of another
3. a. with intent to commit any felony or larceny therein, or
b. being in such dwelling house, committed any felony or larceny therein, and
4. broke out of such dwelling house.

PUNISHMENT RANGE

CURRENT: Class D felony.

PROPOSED: In addition to any other sentence enhancement required by law, the person shall be sentenced at a felony class level one class higher than the principal felony for which the person was convicted.

ANALYSIS

It is an aggravating factor if the defendant was armed with or used a deadly weapon at the time of the crime. (G.S. 15A-1340.16(d)(10))

It is a sentence enhancement if the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony. The minimum sentence is increased a set number of months based on the class of the felony. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)

BILL NUMBER/SHORT TITLE: HB 42 – Burglary & B&E/Sentence Enhancement [Ed. 2] (cont'd)
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STATUTE

§ 14-54. Breaking or entering buildings generally.

DESCRIPTION

Subsections (a) and (b1):

A person who

1. possessed a firearm or other deadly weapon about his or her person and
2. breaks or enters any building
3. with intent to commit any felony or larceny therein.

PUNISHMENT RANGE

CURRENT: Class H felony.

PROPOSED: In addition to any other sentence enhancement required by law, the person shall be sentenced at a class level one class higher than the principal offense for which the person was convicted.

ANALYSIS

It is an aggravating factor if the defendant was armed with or used a deadly weapon at the time of the crime. (G.S. 15A-1340.16(d)(10))

This proposal would apply the same one class enhancement to the Class 1 misdemeanor offense if the person wrongfully breaks or enters any building while possessing a firearm or other deadly weapon about his or her person. (G.S. 14-54(b))

It is a sentence enhancement if the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony. The minimum sentence is increased a set number of months based on the class of the felony. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 42 – Burglary & B&E/Sentence Enhancement [Ed. 2] (cont'd)
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STATUTE

§ 14-54. Breaking or entering buildings generally.

DESCRIPTION

Subsections (a1) and (b1):

A person who

1. possessed a firearm or other deadly weapon about his or her person and
2. breaks or enters any building
3. with intent to terrorize or injure an occupant of the building.

PUNISHMENT RANGE

CURRENT: Class H felony.

PROPOSED: In addition to any other sentence enhancement required by law, the person shall be sentenced at a class level one class higher than the principal offense for which the person was convicted.

ANALYSIS

It is an aggravating factor if the defendant was armed with or used a deadly weapon at the time of the crime. (G.S. 15A-1340.16(d)(10))

This proposal would apply the same one class enhancement to the Class 1 misdemeanor offense if the person wrongfully breaks or enters any building while possessing a firearm or other deadly weapon about his or her person. (G.S. 14-54(b))

It is a sentence enhancement if the defendant used, displayed, or threatened to use or display a firearm or deadly weapon during the commission of the felony. The minimum sentence is increased a set number of months based on the class of the felony. (G.S. 15A-1340.16A)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 42 - BURGLARY & B&E/SENTENCE ENHANCEMENT [Ed. 1]

PREPARED: FEBRUARY 18, 2025

Estimated Prison Population Impact¹³

Section 1. and Section 2.

Section 1 of the bill reorganizes the common law definition of G.S. 14-51, first and second degree burglary, such that each offense is described in separate subsections (a) and (b). Section 2 moves the punishment for first and second degree burglary in G.S. 14-52 into a subsection (a) and creates a new subsection (b) establishing an enhancement. However, the essential elements of the base offenses would remain unchanged, as would the underlying felony punishments. Currently, burglary in the first degree in G.S. 14-51(a) is a Class D felony, burglary in the second degree is a Class G felony.

In Section 2, the bill creates G.S. 14-52(b), a sentencing enhancement punishing the person, in addition to any other sentence enhancement required by law, a felony class level one class higher than the principal felony for which the person was convicted when the person possessed a firearm or other deadly weapon about his or her person during the commission of first degree or second degree burglary under G.S. 14-51.

It is not known how many offenders would qualify for the enhancement under the proposed bill. Table 1 provides the number of FY 2023 felony convictions (burglary) in the potential pool by offense class and includes information about the sentence imposed for these convictions.

Table 1: Potential Pool of Burglary Felony Convictions

Offense Class	Number of Convictions	% Active	Average Estimated Time Served for Active Sentences (Months)
D (G.S. 14-51(a))	33	100	53
G (G.S. 14-51(b))	81	58	17

Note: This table is limited to convictions under the Structured Sentencing Act. For resource projections, NCSPAC estimates the active rate for Class D at 100% since a non-active sentence is only available for these offense classes as an exception to sentencing under the felony punishment chart.

Source: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

The impact of the proposed sentence enhancement on the prison population cannot be determined because it is not known how many convictions in the potential pool would receive the sentence enhancement under the proposed bill. The impact could be substantial but would depend on the number and offense class of convictions to which the sentence enhancement is applied. As shown in Table 1, active rates and estimated time served increase as offense seriousness increases. Impact on the

¹³ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

prison population would occur as a result of higher active rates and longer sentence lengths imposed for convictions to which the one class sentence enhancement is applied. For example,

- **Class D (G.S. 14-51(a)) Enhanced to Class C:** Under Structured Sentencing, all Class D and Class C offenders are required to receive an active sentence.¹⁴ Impact will occur if any of the Class D burglary convictions become Class C convictions due to the longer average estimated time served (78 months for a Class C felony). Based on these differences in sentence lengths, impact will occur outside the 5-year projection period (after 6 years). Offenders will 'stack up' in prison as a result of the longer sentence lengths.
- **Class G (G.S. 14-51(b)) Enhanced to Class F:** Impact will occur if Class G burglary convictions become Class F convictions under the proposed enhancement because of the higher rate of active sentences [fewer cells with the option of an Intermediate Punishment (or non-active sentence)] and the longer average estimated time served (18 months for a Class F felony).

Section 3.

Section 3 creates subsection (b) under G.S. 14-53, breaking out of dwelling house burglary, establishing a sentencing enhancement. The enhancement would punish the person, in addition to any other sentence enhancement required by law, a felony class level one class higher than the principal felony for which the person was convicted, when the person possessed a firearm or other deadly weapon about his or her person during the commission of breaking out of dwelling house burglary, as described in G.S. 14-53(a). Under G.S. 14-53(a), this bill makes no change to the existing punishment class for the underlying offense of breaking out of dwelling house burglary, currently a Class D felony.

The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-53. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Therefore, it is not known how many offenders would qualify for the enhancement under the proposed bill. Impact on the prison population would occur as a result of higher active rates and longer sentence lengths imposed for convictions to which the one class sentence enhancement is applied.

Section 4.

Establishes a new sentencing enhancement for G.S. 14-54, breaking or entering buildings generally. Under the section, there are three existing offenses:

- Under subsection (a), it is a Class H felony when a person breaks or enters any building with the intent to commit any felony or larceny therein.
- Under subsection (a1), it is a Class H felony when a person breaks or enters any building with the intent to terrorize or injure an occupant of the building.
- Under subsection (b), it is a Class 1 misdemeanor, when a person who wrongfully breaks or enters any building.

In the new subsection (b1), if a person commits any of the offenses described in subsections (a), (a1), and (b) while possessing a firearm or other deadly weapon about his or her person during the commission of the offense, in addition to any other sentence enhancement required by law, the person shall be sentenced at a class level one class higher than the principal offense for which the person was convicted.

¹⁴ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

It is not known how many offenders would qualify for the enhancement under the proposed bill. Table 2 provides the number of FY 2023 felony convictions (breaking or entering buildings) in the potential pool by offense class and includes information about the sentence imposed for these convictions.

Table 2: Potential Pool of Breaking or Entering Buildings Felony Convictions

Offense Class	Number of Convictions	% Active	Average Estimated Time Served for Active Sentences (Months)
H (G.S. 14-54(a))	1,214	42	12
H (G.S. 14-54(a1))	124	32	8

Note: This table is limited to convictions under the Structured Sentencing Act.

Source: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

The impact of the proposed sentence enhancement on the prison population cannot be determined because it is not known how many felony convictions in the potential pool would receive the sentence enhancement under the proposed bill. The impact could be substantial but would depend on the number and offense class of convictions to which the sentence enhancement is applied. As shown in Table 2, active rates and estimated time served increase as offense seriousness increases. Impact on the prison population would occur as a result of higher active rates and longer sentence lengths imposed for convictions to which the one class sentence enhancement is applied. For example,

- **Class H (G.S. 14-51(b) or G.S. 14-54(a1)) Enhanced to Class G:** Impact will occur if Class H breaking or entering buildings convictions become Class G convictions under the proposed enhancement because of the higher rate of active sentences (53% for Class G) and longer average estimated time served (18 months for Class G).

Table 3 provides the number of FY 2023 misdemeanor convictions (breaking or entering buildings) in the potential pool by offense class and includes information about the sentence imposed for these convictions. However, misdemeanor convictions under this proposed enhancement would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known. Impact on the jail population would occur as a result of higher active rates and longer sentence lengths imposed for convictions to which the one class sentence enhancement is applied.

Table 3: Potential Pool of Breaking or Entering Buildings Misdemeanor Convictions

Offense Class	Number of Convictions	% Active	Average Active Sentence Length Imposed (Days)
1 (G.S. 14-54(b))	1,431	51	51

Source: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3]

STATUTE

§ 14-34.7A. Assault on a public safety officer, law enforcement agency animal, or search and rescue animal by throwing, spraying, or otherwise projecting water or other substances.

DESCRIPTION

Subdivision (b)(1):

A person who

1. commits an assault or battery
2. by throwing, spraying, or otherwise projecting, or causing to be thrown, sprayed, or otherwise projected,
3. water or any other substance
4. on a public safety officer
 - a. while the public safety officer is discharging or attempting to discharge his or her official duties or
 - b. because of the victim's status as a public safety officer.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

In subdivision (a)(2), this bill defines “public safety officer,” as any of the following:

- a. A law enforcement officer.
- b. A probation or parole officer.
- c. A person who is employed at (i) a detention facility, as defined in G.S. 143B-805, or (ii) any other detention facility operated under the jurisdiction of the State or a local government.
- d. A telecommunicator employed by a law enforcement agency.
- e. A firefighter or rescue squad worker.
- f. An emergency medical services personnel, as defined in G.S. 131E-155.
- g. A hospital employee, medical practice employee, licensed health care provider, individual under contract to provide services at a hospital or medical practice, hospital security personnel, or other emergency health care provider not otherwise covered under sub-subdivision e. of this subdivision.
- h. A member of the North Carolina National Guard.
- i. A member of any branch of the Armed Forces of the United States.
- j. A juvenile court counselor or chief court counselor, as those terms are defined in G.S. 143B-805.
- k. An emergency management worker, as defined in G.S. 166A-19.60(e).

Assault or affray on a firefighter, an emergency medical technician, medical responder, and medical practice and hospital personnel (causing physical injury) is a Class I felony. (G.S. 14-34.6(a))

Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility (inflicts physical injury) is a Class H felony. 14-34.7(c)

Assault on a State officer or employee is a Class A1 misdemeanor. (G.S. 14-33(c)(4))

Assault with a deadly weapon is a Class A1 misdemeanor. (G.S. 14-33(c)(1))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.7A. Assault on a public safety officer, law enforcement agency animal, or search and rescue animal by throwing, spraying, or otherwise projecting water or other substances.

DESCRIPTION

Subdivision (b)(2):

A person who

1. commits an assault or battery
2. by throwing, spraying, or otherwise projecting, or causing to be thrown, sprayed, or otherwise projected,
3. water or any other substance
4. on a law enforcement agency animal or a search and rescue animal
 - a. while the animal is in the performance of its duty or
 - b. because of the animal's status as a law enforcement agency animal or search and rescue animal.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

Law enforcement agency animal and search and rescue animal is defined in G.S. 14-163.1.

Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal (willfully killing the animal), is a Class H felony. (G.S. 14-163.1(a1))

Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal (causing serious physical harm), is a Class I felony. (G.S. 14-163.1(b))

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

14-34.8. Criminal use of laser device.

DESCRIPTION

Subdivision (b)(1):

A person who

1. intentionally points a laser device
2. while the device is emitting a laser beam
3. at a public safety officer
4. because of the person's status as a public safety officer.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

Under G.S. 14-34.8(b)(1), it is a Class I felony to intentionally point an emitting laser device at any of the listed people while in the performance of their duties.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

14-34.8. Criminal use of laser device.

DESCRIPTION

Subdivision (b)(3):

A person who

1. intentionally points a laser device
2. while the device is emitting a laser beam
3. at a law enforcement agency animal or a search and rescue animal
4. because of the animal's status as a law enforcement agency animal or search and rescue animal.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

Under G.S. 14-34.8(b)(3), it is a Class I felony to intentionally point an emitting laser device at a law enforcement agency animal or a search and rescue animal while in the performance of their duties.

Law enforcement agency animal and search and rescue animal, as defined in G.S. 14-163.1.

Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal (willfully killing the animal), is a Class H felony. (G.S. 14-163.1(a1))

Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal (causing serious physical harm), is a Class I felony. (G.S. 14-163.1(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.2. Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers.

DESCRIPTION

A person who

1. commits an assault
2. with a deadly weapon
3. upon an officer or employee of the State or of any political subdivision of the State, a company police officer, or a campus police officer
4. because of the victim's status as an officer or employee of the State or of any political subdivision of the State, a company police officer, or a campus police officer.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

Under G.S. 14-34.2, it is a Class E felony for one of the individuals listed above to be assaulted with a deadly weapon in the performance of an official duty.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as a Class F felony.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.5. Assault with a firearm on a public safety officer.

DESCRIPTION

Subsection (a):

A person who

1. commits an assault
2. with a firearm
3. upon a public safety officer
4. while the officer is in the performance of their duties.

PROPOSED OFFENSE CLASS

CURRENT: Class D felony.

PROPOSED: Class C felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.5. Assault with a firearm on a public safety officer.

DESCRIPTION

Subsection (a):

A person who

1. commits an assault
2. with a firearm
3. upon a public safety officer
4. because of the victim's status as a public safety officer.

PROPOSED OFFENSE CLASS

Class C felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

Under G.S. 14-34.5, it is a Class D felony to assault with firearm a law enforcement officer, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility while the officer is in the performance of his or her duties.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.7. Assault or affray on a public safety officer; penalty.

DESCRIPTION

Subsection (a):

A person who

1. commits an assault or affray
2. on a public safety officer
3. because of the victim's status as a public safety officer and
4. inflicts serious bodily injury on the officer.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

Under G.S. 14-34.7, it is a Class E felony to assault a law enforcement officer, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility while the officer is in the performance of his or her duties and inflict serious bodily injury on the officer.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-34.7. Assault or affray on a public safety officer; penalty.

DESCRIPTION

Subsection (c):

A person who

1. commits an assault or affray
2. on a public safety officer
3. because of the victim's status as a public safety officer and
4. inflicts physical injury on the officer.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

“Public safety officer” as defined by this bill in G.S. 14-34.7A(a)(2).

Under G.S. 14-34.7, it is a Class H felony to assault a law enforcement officer, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility while the officer is in the performance of his or her duties and inflicts physical injury on the officer.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-69.3. Arson or other unlawful burning that results in serious bodily injury or serious injury to a public safety officer or fire investigator.

DESCRIPTION

Subsection (b):

A person who

1. commits arson or other burning (Article 15 of Chapter 14)
2. because of the victim's status as a public safety officer or fire investigator and
3. the public safety officer or fire investigator suffers serious bodily injury.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

Assault inflicting serious bodily injury is a Class F felony. (G.S. 14-32.4(a))

Under G.S. 14-69.3(b), it is a Class E felony to commit an arson or other unlawful burning that results in serious bodily injury to a firefighter, law enforcement officer, fire investigator, or emergency medical technician while in the performance of their duties.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 52 – Protect Those Who Serve & Protect Act of 2025 [Ed. 3] (cont'd)

STATUTE

§ 14-69.3. Arson or other unlawful burning that results in serious bodily injury or serious injury to a public safety officer or fire investigator.

DESCRIPTION

Subsection (c):

A person who

1. commits arson or other burning (Article 15 of Chapter 14)
2. because of the victim's status as a public safety officer or fire investigator and
3. the public safety officer or fire investigator suffers serious injury.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

“Public safety officer” is defined by this bill in G.S. 14-34.7A(a)(2).

Under G.S. 14-69.3(c), it is a Class F felony to commit an arson or other unlawful burning that results in serious injury to a firefighter, law enforcement officer, fire investigator, or emergency medical technician while in the performance of their duties.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class E felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 52 - PROTECT THOSE WHO SERVE & PROTECT ACT OF 2025 [Ed. 2]

PREPARED: FEBRUARY 27, 2025

Estimated Prison Population Impact¹⁵

Section 2. This section enacts G.S. 14-34.7A, Assault on a public safety officer, law enforcement agency animal, or search and rescue animal by throwing, spraying, or otherwise projecting water or other substances. Subdivision (a)(2) creates a definition for “public safety officer.” Subsection (b) makes it a Class I felony if the person commits an assault or battery on either of the following by throwing, spraying, or otherwise projecting, or causing to be thrown, sprayed, or otherwise projected, water or any other substance at:

- (1) A public safety officer
 - (i) while the public safety officer is discharging or attempting to discharge his or her official duties or
 - (ii) because of the victim's status as a public safety officer.
- (2) A law enforcement agency animal or a search and rescue animal
 - (i) while the animal is in the performance of its duty or
 - (ii) because of the animal's status as a law enforcement agency animal or search and rescue animal.

Since the proposed section creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

Some of this conduct is currently covered by the offenses listed in Table 1. It is not known how many additional convictions may result from the proposed statute with the new definition of “public safety officer” and the inclusion of the victim’s status as a public safety officer or as a law enforcement agency animal or search and rescue animal.

¹⁵ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

Table 1: FY 2023 Misdemeanor Convictions

G.S. Number	Description	Offense Class	FY 2023 Convictions
G.S. 14-33(c)(4)	Assault an officer or employee of the State or any political subdivision of the State, <i>when the officer or employee is discharging or attempting to discharge his official duties*</i>	A1	0
G.S. 14-33(c)(6)	Assault a school employee or school volunteer <i>when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer*</i>	A1	1,145
G.S. 14-33(a)	Simple assault and battery**	2	1,740
G.S. 14-163.1(d)	Assault a law enforcement agency animal, an assistance animal, or a search and rescue animal	2	0

* Excludes the proposed victim's status as a public safety officer or the animal's status as a law enforcement agency animal or search and rescue animal.

** Potential victims include those defined as public safety officers.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

Section 3. This section amends G.S. 14-34.8(b)(1), Criminal use of laser device, in two ways. First, it expands the list of potential victims by replacing the existing list with “public safety officer” as defined in G.S. 14-34.7A (the definition of “public safety officer” includes more types of workers than are in the current list). Second, it expands coverage to a public safety officer because of the person's status as a public safety officer (currently limited to a public safety officer while the person is in the performance of his or her duties). These amendments expand the scope of the offense. The offense remains a Class I felony.

The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-34.8(b)(1). The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. It is not known how many additional convictions may result from the proposed expansion of the “public safety officer” definition and the person's status as a public safety officer. In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9 additional convictions (threshold) or 20 additional convictions (example) per year as a result of the proposed changes. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

This section also amends G.S. 14-34.8(b)(3), Criminal use of laser device, by expanding coverage to a law enforcement agency animal or a search and rescue animal because of its status as a law enforcement agency animal or a search and rescue animal (currently limited to while the law enforcement agency

animal or a search and rescue animal is in the performance of its duties). The offense remains a Class A1 misdemeanor if the animal is caused “harm” as defined by statute.

The AOC currently does not have a specific offense code for violations of G.S. 14-34.8(b)(3). The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions under this proposed expansion to include the animal’s status would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

This conduct could also be covered by G.S. 14-163.1, Assaulting a law enforcement agency animal, assistance animal, or search and rescue animal, a Class 2 misdemeanor. The AOC currently does not have a specific offense code for violations of G.S. 14-163.1. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions.

Section 4. This section amends G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury, to expand the scope of the offenses in subsection (d), assault emergency worker with a deadly weapon inflicting serious injury, and subsection (e), assault emergency worker with a deadly weapon with intent to kill, by replacing “emergency worker” with “public safety officer” (the definition of “public safety officer” includes more types of workers than the definition of “emergency worker”). Subsection (d) remains a Class D felony and subsection (e) remains a Class D felony.

In FY 2023, there were no convictions for violations of subsection (d) and subsection (e). It is not known how many additional convictions may result from the proposed definitional change of the current subsections. Under Structured Sentencing, all Class D offenders are required to receive an active sentence.¹⁶ In FY 2023, the average estimated time served for an offender convicted of a Class D offense was 58 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

Section 5. This section amends G.S. 14-33(c)(4), Assault on an officer or employee of the State or any political subdivision of the State, by adding “because of the victim’s status as an officer or employee of the State or any political subdivision of the State” (currently limited to when the officer or employee is discharging or attempting to discharge his or her official duties). This amendment expands the scope of the offense. The offense remains a Class A1 misdemeanor.

¹⁶ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

There were 1,138 Class A1 convictions for violations of G.S. 14-33(c)(4) in FY 2023. It is not known how many additional convictions may result from the proposed inclusion of the victim's status as an officer or employee of the State or any political subdivision of the State to the current statute. In FY 2023, 36% of Class A1 misdemeanor convictions resulted in active sentences, with an average sentence length of 67 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, additional convictions that result from the proposed broadening of the current statute would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Section 6. This section amends G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers by adding "because of the victim's status as an officer or employee of the State or of any political subdivision of the State, a company police officer, or a campus police officer" (currently limited to when the person is in the performance of an official duty). This amendment expands the scope of the offense. The offense remains a Class E felony.

There were 60 Class F convictions of G.S. 14-34.2 in FY 2023. During FY 2023, G.S. 14-34.2 was reclassified from a Class F to a Class E felony. It is not known how many additional convictions may result from the proposed inclusion of the victim's status to the current statute. In FY 2023, 57% of Class E convictions resulted in active sentences, with an average estimated time served of 25 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	3	3
20	12	25	29	29	29

Section 7. This section amends G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility, in two ways. First, it replaces the named potential victims with "public safety officer" (the definition of "public safety officer" includes more types of workers than the current statute lists). Second, it adds "because of the victim's status as a public safety officer" (currently limited to when the person is in the performance of their duties). These amendments expand the scope of the offense.

This section also reclassifies the offense from a Class D felony to a Class C felony. Violations of repealed G.S. 14-34.6(c) (see Section 8 of the bill) would be convicted under this section. Violation of G.S. 14-34.6(c) is currently a Class D felony.

There were 12 convictions of G.S. 14-34.5 and 24 convictions of G.S. 14-34.6(c) in FY 2023. It is not known how many additional convictions may result from the proposed definition of "public safety officer" and addition of the victim's status to the current statute. In addition, under Structured Sentencing, offenders convicted of Class B1 through Class D offenses are required to receive an active

sentence.¹⁷ Impact will occur if Class D convictions become Class C convictions under the proposed statute due to the longer average estimated time served (58 months for Class D compared to 78 months for Class C). Based on these differences in sentence lengths, impact will occur after 5 years. In addition, offenders will ‘stack up’ in prison as a result of the longer sentence lengths.

Section 8. This section repeals G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, and medical practice and hospital personnel. Violations will be covered by changes made in other sections of this bill.

Section 9. This section amends G.S. 14-34.7, Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility by combining the offenses in subsections (a), (a1), and (b) into one offense. It also expands the scope of the offense by changing the conduct from an assault to an assault or affray, by changing the list of potential victims to a public safety officer (the definition of “public safety officer” includes more types of workers than the current statute lists), and by adding “because of the victim's status as a public safety officer” (currently limited to while the officer is discharging or attempting to discharge his or her official duties). The offense remains a Class E felony.

There were 19 Class F convictions for violations of subsections (a), (a1), and (b) in FY 2023. During FY 2023, G.S. 14-34.7 was reclassified from a Class F to a Class E felony. It is not known how many additional convictions may result from the proposed broadening of the current statute. In FY 2023, 57% of Class E convictions resulted in active sentences, with an average estimated time served of 25 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	3	3
20	12	25	29	29	29

This section further amends G.S. 14-34.7 by combining the offenses in subdivisions (c)(1), (c)(2), and (c)(3) into one offense. It also expands the scope of the offense by changing the conduct from an assault to an assault or affray, by changing the list of potential victims to a public safety officer (the definition of “public safety officer” includes more types of workers than the current statute lists), and by adding “because of the victim's status as a public safety officer” (currently limited to while the officer is discharging or attempting to discharge his or her official duties). The offense remains a Class H felony.

In FY 2023, there were 79 convictions for violations of subdivisions (c)(1), (c)(2), and (c)(3). It is not known how many additional convictions may result from the proposed broadening of the current statute. In FY 2023, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. Nine months of post-release supervision is required upon release from prison

¹⁷ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 4 additional convictions (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	2	2	2	2
20	7	10	10	10	11

Some of the additional potential victims are currently covered under G.S. 14-34.6(a). Section 8 of this bill repeals G.S. 14-34.6. Violation of G.S. 14-34.6(a) is a Class I felony, effectively resulting in a reclassification assaults on those victims from Class I to Class H.

In FY 2023, there were 24 Class I felony convictions under G.S. 14-34.6(a). Due to the small number of convictions, a more detailed impact projection using the prison projection model would not be reliable. Impact on the prison population will occur if Class I convictions become Class H convictions under the proposed statute because of the higher rate of active sentences (35% for Class H compared to 16% for Class I) and longer average estimated time served (11 months for Class H compared to 6 months for Class I). The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold), 20 convictions (example), or 24 convictions (see data above) per year that would be reclassified from Class I to Class H. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	2	3	3	3	3
20	4	5	5	5	6
24	5	6	6	6	6

Section 10. This section amends G.S. 14-69.3, Arson or other unlawful burning that results in serious bodily injury or serious injury to a firefighter, law enforcement officer, or fire investigator, or emergency medical technician, subsection (b) Offense Involving Serious Bodily Injury, by changing the list of potential victims to a public safety officer or fire investigator (the definition of “public safety officer” includes more types of workers than the statute currently lists), and by adding “because of the victim's status as a public safety officer or fire investigator and the public safety officer or fire investigator suffers serious bodily injury” (currently limited to while the person is discharging or attempting to discharge his or her respective duties). These amendments expand the scope of the offense. The offense remains a Class E felony.

The AOC currently does not have a specific offense code for violations of subsection (b). The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. It is not known how many additional convictions may result from the proposed definition of “public safety officer” and addition of the victim’s status to the current statute. In FY 2023, 57% of Class E convictions resulted in active sentences, with an average estimated time served of 25 months. Twelve months of post-release supervision is required upon release from prison following an active

sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	3	3
20	12	25	29	29	29

This section also amends G.S. 14-69.3, subsection (c) Offense Involving Serious Injury, by changing the list of potential victims to a public safety officer or fire investigator (the definition of “public safety officer” includes more types of workers than the statute currently lists), and by adding “because of the victim’s status as a public safety officer or fire investigator and the public safety officer or fire investigator suffers serious injury” (currently limited to while the person is discharging or attempting to discharge his or her respective duties). These amendments expand the scope of the offense. The offense remains a Class F felony.

The AOC currently does not have a specific offense code for violations of subsection (c). The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. It is not known how many additional convictions may result from the proposed definition of “public safety officer” and addition of the victim’s status to the current statute. In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 61 – Assaults on First Responders [Ed. 1]
--

STATUTE

§ 14-34.5. Assault with a firearm on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility.

DESCRIPTION

A person who

1. commits an assault with a firearm
2. upon any of the following persons who are in the performance of their duties:
 - a. A law enforcement officer.
 - b. A probation officer.
 - c. A parole officer.
 - d. A member of the North Carolina National Guard.
 - e. An employee of a detention facility operated under the jurisdiction of the State or a local government.
 - f. An emergency medical technician or other emergency health care provider.
 - g. A medical responder.
 - h. A firefighter.
 - i. A telecommunicator employed by a law enforcement agency.

OFFENSE CLASS

CURRENT: Class D felony.

PROPOSED: Class B1 felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious debilitating long-term personal injury as Class B felonies.

G.S. 14-34.5 currently covers law enforcement, probation or parole, and detention facility officers, as well as North Carolina National Guard members. This bill adds emergency medical technicians or other emergency health care providers, medical responders, firefighters, and telecommunicators employed by a law enforcement agency. An assault with a firearm on anyone else is currently a Class D felony.

1st degree forcible rape is a Class B1 felony. (G.S. 14-27.21)

1st degree statutory rape is a Class B1 felony. (G.S. 14-27.24)

1st degree forcible sexual offense is a Class B1 felony. (G.S. 14-27.26)

1st degree statutory sexual offense is a Class B1 felony. (G.S. 14-27.29)

Assault with deadly weapon inflicting serious injury (G.S. 14-32(b)) and assault with deadly weapon with intent to kill (G.S. 14-32(c)) are Class E felonies.

Assault with deadly weapon with intent to kill inflicting serious injury is a Class C felony. (G.S. 14-32(a))

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class C felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 61 - ASSAULTS ON FIRST RESPONDERS [Ed. 1]

PREPARED: FEBRUARY 18, 2025

Estimated Prison Population Impact¹⁸

Section 2. This section amends G.S. 14-34.5, Assault with a firearm on a law enforcement officer, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility, by expanding the list of potential victims to include emergency medical technicians or other emergency health providers, medical responders, firefighters, and telecommunicators employed by law enforcement agencies.

The section also combines the offenses in G.S. 14-34.5 into one offense and reclassifies them from separate Class D felonies to one Class B1 felony.

In FY 2023, there were 12 Class D convictions under G.S. 14-34.5. Under Structured Sentencing, offenders convicted of Class B1 through Class D offenses are required to receive an active sentence.¹⁹ Impact will occur if Class D convictions become Class B1 convictions under the proposed statute due to the longer average estimated time served (58 months for Class D compared to 223 months for Class B1). Based on these differences in sentence lengths, impact will occur after 5 years. In addition, offenders will 'stack up' in prison as a result of the longer sentence lengths.

Some of these potential victims are currently covered by G.S. 14-34.6(c), Assault with a firearm on a firefighter, an emergency medical technician, medical responder, and medical practice and hospital personnel. G.S. 14-34.6(c) is a Class D felony.

There were no convictions under G.S. 14-34.6(c) in the past five fiscal years.

Section 3. This section excludes the potential victims added to G.S. 14-34.5 from G.S. 14-34.6(c).

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

¹⁸ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

¹⁹ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 83 – Revise Laws Governing Minors [Ed. 1]
--

STATUTE

§ 14-190.7. Dissemination to minors under the age of 16 years.

DESCRIPTION

A person who

1. is 18 years of age or older
2. who knowingly disseminates to any minor under the age of 16 years
3. any material which the person knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1.

OFFENSE CLASS

CURRENT: Class H felony.

PROPOSED: Class G felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

G.S. 14-190.7 was reclassified from Class I to Class H effective 12/1/2023.

This bill would also add a requirement for the court at the time of sentencing to consider ordering sex offender registration if it further the purposes of G.S. 14-208.5.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class H felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, or in significant societal injury as Class H felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 83 – Revise Laws Governing Minors [Ed. 1]
--

STATUTE

§ 14-190.8. Dissemination to minors under the age of 13 years.

DESCRIPTION

A person who

1. is 18 years of age or older
2. who knowingly disseminates to any minor under the age of 13 years
3. any material which the person knows or reasonably should know to be obscene within the meaning of G.S. 14-190.1.

OFFENSE CLASS

CURRENT: Class G felony.

PROPOSED: Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

G.S. 14-190.8 was reclassified from Class I to Class G effective 12/1/2023.

This bill would also add a requirement for the court at the time of sentencing to consider ordering sex offender registration if it further the purposes of G.S. 14-208.5.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 83 – Revise Laws Governing Minors [Ed. 1] (cont'd)

STATUTE

§ 4-190.15. Disseminating harmful material to minors; exhibiting harmful performances to minors.

DESCRIPTION

Subsection(a):

A person who

1. with or without consideration and
2. knowing the character or content of the material,
3. does either of the following:
 - a. Sells, furnishes, presents, or distributes to a minor material that is harmful to minors.
 - b. Allows a minor to review or peruse material that is harmful to minors.

OFFENSE CLASS

CURRENT: Class 1 misdemeanor.

PROPOSED: Class H felony.

ANALYSIS

The Sentencing Commission recommended classifying offenses which reasonably tend to result or do result in significant injury to person, serious injury to property, or serious injury to society as Class 1 misdemeanors.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

This bill would also add a requirement for the court at the time of sentencing to consider ordering sex offender registration if it further the purposes of G.S. 14-208.5.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 83 – Revise Laws Governing Minors [Ed. 1] (cont'd)

STATUTE

§ 14-190.15. Disseminating harmful material to minors; exhibiting harmful performances to minors.

DESCRIPTION

Subsection(b):

A person who

1. with or without consideration and
2. knowing the character or content of the performance,
3. allows a minor to view a live performance that is harmful to minors.

OFFENSE CLASS

CURRENT: Class 1 misdemeanor.

PROPOSED: Class H felony.

ANALYSIS

The Sentencing Commission recommended classifying offenses which reasonably tend to result or do result in significant injury to person, serious injury to property, or serious injury to society as Class 1 misdemeanors.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

This bill would also add a requirement for the court at the time of sentencing to consider ordering sex offender registration if it further the purposes of G.S. 14-208.5.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 83 – Revise Laws Governing Minors [Ed. 1] (cont'd)

STATUTE

§ 14-190.9. Indecent exposure.

DESCRIPTION

Subsection (a6):

A person who

1. commits an indecent exposure offense under G.S. 14-190.9, and
2. has two or more prior convictions under G.S. 14-190.9.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

Indecent exposure offenses under G.S. 14-190.9 include three Class 2 misdemeanors and one Class H felony.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 83 - REVISE LAWS GOVERNING MINORS [Ed. 1]

PREPARED: MARCH 4, 2025

Estimated Prison Population Impact²⁰

SECTION 1. This section amends G.S. 14-190.7, Dissemination to minors under the age of 16, by reclassifying the offense in subsection (a) from a Class H felony to a Class G felony.

The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 14-190.7. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Impact on the prison population will occur if Class H convictions become Class G convictions under the proposed statute because of the higher rate of active sentences (40% for Class G compared to 35% for Class H) and longer average estimated time served (14 months for Class G compared to 11 months for Class H). The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class H to Class G. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	1	1	1	1
20	2	4	4	4	3

This section also creates a new subsection (b), Registration. Under subsection (b), the sentencing court shall consider whether a person who violates subsection (a) must be required to register as a sex offender under Article 27A, Sex Offender and Public Protection Registration Program, of Chapter 14. Requiring more people to register as sex offenders could result in additional violations of G.S. 14-208.11, Failure to register; falsification of verification notice; failure to return verification form; order for arrest. Under G.S. 14-208.11, a person who is required to register and fails to comply with the requirements is guilty of a Class F felony.

There were 92 convictions for the Class F felony, fail to register as a sex offender, and 269 convictions for the Class F felony, fail to report new address as a sex offender, in FY 2023. It is not known how many additional convictions may result from the proposed inclusion of G.S. 14-190.7 violators in the Sex Offender and Public Protection Registration Program. In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of

²⁰ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

SECTION 1.2. This section amends G.S. 14-190.8, Dissemination to minors under the age of 13, by reclassifying the offense in subsection (a) from a Class G felony to a Class F felony.

The AOC currently does not have a specific offense code for violations of G.S. 14-190.8. The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions. Impact on the prison population will occur if Class G convictions become Class F convictions under the proposed statute because of the higher rate of active sentences (53% for Class F compared to 40% for Class G) and longer average estimated time served (18 months for Class F compared to 14 months for Class G). The following table shows the estimated annual impact if, for example, there were 3 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class G to Class F. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
3	1	2	2	2	2
20	3	5	6	6	6

This section also creates a new subsection (b), Registration. Under subsection (b), the sentencing court shall consider whether a person who violates subsection (a) must be required to register as a sex offender under Article 27A, Sex Offender and Public Protection Registration Program, of Chapter 14. Requiring more people to register as sex offenders could result in additional violations of G.S. 14-208.11, Failure to register; falsification of verification notice; failure to return verification form; order for arrest. Under G.S. 14-208.11, a person who is required to register and fails to comply with the requirements is guilty of a Class F felony.

There were 92 convictions for the Class F felony, fail to register as a sex offender, and 269 convictions for the Class F felony, fail to report new address as a sex offender, in FY 2023. It is not known how many additional convictions may result from the proposed inclusion of G.S. 14-190.8 violators in the Sex Offender and Public Protection Registration Program. In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and

probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

SECTION 1.3. This section amends G.S. 14-190.15, Dissemination to minors; exhibiting harmful performances to minors, by reclassifying the offenses in subsections (a) and (b) from Class 1 misdemeanors to Class I felonies.

There were 4 Class 1 misdemeanor convictions under G.S. 14-190.15 in FY 2023. For statistical reasons, the prison projection model cannot be used to project the impact of misdemeanor to felony reclassifications.

In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year that would be reclassified from Class 1 to Class I. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions. In addition, there will be some impact on post-release supervision (PRS) caseloads since 9 months of PRS is required for offenders convicted of Class I felonies.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

This section also creates a new subsection (e), Registration. Under subsection (e), the sentencing court shall consider whether a person who violates subsection (a) or (b) must be required to register as a sex offender under Article 27A, Sex Offender and Public Protection Registration Program, of Chapter 14. Requiring more people to register as sex offenders could result in additional violations of G.S. 14-208.11, Failure to register; falsification of verification notice; failure to return verification form; order for arrest. Under G.S. 14-208.11, a person who is required to register and fails to comply with the requirements is guilty of a Class F felony.

There were 92 convictions for the Class F felony, fail to register as a sex offender, and 269 convictions for the Class F felony, fail to report new address as a sex offender, in FY 2023. It is not known how many additional convictions may result from the proposed inclusion of G.S. 14-190.15 violators in the Sex Offender and Public Protection Registration Program. In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

Section 1.4. This section amends G.S. 14-190.9, Indecent exposure, by creating the offense of habitual indecent exposure. Under subsection (a6), a person who violates G.S. 14-190.9 and has two or more prior convictions of G.S. 14-190.9, is guilty of a Class H felony. There is one Class H felony and four Class 2 misdemeanors in G.S. 14-190.9.

In FY 2023, there were 8 convictions for the Class H felony in G.S. 14-190.9(a1). It is not known how many of these offenders had two prior convictions for G.S. 14-190.9 offenses; therefore, it is not known how many offenders might be convicted and sentenced for this new offense. Since the proposed subsection (a6) is also a Class H felony, no additional impact on the prison population would be expected.

In FY 2023, there were 244 convictions for the Class 2 misdemeanors in G.S. 14-190.9 and 152 of those (62%) involved offenders with 2 or more prior convictions. However, it is not known whether these prior convictions involved G.S. 14-190.9 offenses. Therefore, it is also not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	2	2	2	2
20	7	10	10	10	11

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 108 – The Sober Operator Act of 2025 [Ed. 1]

STATUTE

§ 18B-302. Sale to or purchase by underage persons.

DESCRIPTION

Subdivision(c)(2):

A person who

1. is over the lawful age to purchase alcoholic beverages and
2. who aids or abets a person under the lawful age to purchase
3. in violation of subsection (a), (a1), or (b) of this section and
4. the person under the lawful age to purchase
5. consumed the alcoholic beverage involved in the violation, and
6. serious bodily injury to the person under lawful age or another results
7. that was proximately caused by the consumption of the alcoholic beverage.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

A person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) is guilty of a Class 1 misdemeanor. (G.S. 18B-302(c)(2))

For purposes of this subdivision, the term "serious bodily injury" is as defined in G.S. 14-32.4.

Assault inflicting serious bodily injury is a Class F felony. (G.S. 14-32.4(a))

Patient abuse and neglect, conduct proximately causes serious bodily injury is a Class F felony. (G.S. 14-32.2(b)(3))

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

This offense would also be consistent with the Offense Classification Criteria for a Class E felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 109 – Strangulation/Increase Punishment [Ed. 1]
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STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (a):

A person who

1. assaults another person and
2. inflicts serious bodily injury.

OFFENSE CLASS

CURRENT: Class F felony.

PROPOSED: Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

G.S. 14-32.4(d)(1) would define “serious bodily injury” as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

Assault with deadly weapon inflicting serious injury (G.S. 14-32(b)) and assault with deadly weapon with intent to kill (G.S. 14-32(c)) are Class E felonies.

Assaults inflicting serious bodily injury on executive, legislative, or court officer (G.S. 14-46.6(c)), as well as on law enforcement officer, probation officer, or parole officer (G.S. 14-34.7(a)) are Class E felonies.

Assault or affray on a firefighter, emergency medical technician, medical responder, and medical practice and hospital personnel (inflicting serious bodily injury or using a non-firearm deadly weapon) is a Class F felony. (G.S. 14-34.6(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would also be consistent with the Offense Classification Criteria for a Class C felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 109 – Strangulation/Increase Punishment [Ed. 1] (cont'd)

STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (b):

A person who

1. assaults another person and
2. inflicts physical injury by strangulation.

OFFENSE CLASS

CURRENT: Class H felony.

PROPOSED: Class G felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

G.S. 14-32.4(d)(2) would define "strangulation" as impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of the person or by obstructing the nose and mouth of the person.

Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility (inflicts physical injury) is a Class H felony. (G.S. 14-34.7(c))

Assault inflicting serious injury is a Class A1 misdemeanor. (G.S. 14-33(c)(1))

Burglary in the 2nd degree is a Class G felony. (G.S. 14-51, -52)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 109 – Strangulation/Increase Punishment [Ed. 1] (cont'd)

STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (c):

A person who

1. assaults another person
2. by strangulation.

OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

G.S. 14-32.4(d)(2) would define “strangulation” as impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of the person or by obstructing the nose and mouth of the person.

Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility (inflicts physical injury) is a Class H felony. (G.S. 14-34.7(c))

Assault inflicting serious injury is a Class A1 misdemeanor. (G.S. 14-33(c)(1))

Simple assault or a simple assault and battery or simple affray is a Class 2 misdemeanor. (G.S. 14-33(a))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 123 – Criminal Falsification of Medical Records [Ed. 1]

STATUTE

§ 90-413. Willful destruction, alteration, or falsification of medical records.

DESCRIPTION

Subdivision (a)(1):

A health care provider who

1. knowingly and willfully
2. a. destroys, alters, or falsifies a medical record, or
b. directs any person to knowingly destroy, alter, or falsify a medical record
3. for the purpose of concealing the commission of an error by the health care provider in providing medical services that caused injury or death to a patient.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

Under subdivision (a)(3) of the bill it would be a Class A1 misdemeanor for a health care provider to knowingly and willfully destroy, alter, or falsify a medical record, or direct any person to knowingly destroy, alter, or falsify a medical record for the purpose of concealing any material fact not covered under subdivision (1) of this subsection relating to a potential claim or cause of action.

Medical assistance provider fraud (executing a scheme to defraud provide or falsely obtain money or property from the provider), is a Class H felony. (G.S. 108A-63(e))

Patient abuse and neglect (willful or culpably negligent and proximately causes bodily injury to a patient or resident), is a Class H felony. (G.S. 14-32.2(b)(4))

Obstruction of justice, without alleging deceit and intent to defraud, is a Class 1 misdemeanor. (Common Law)

The Sentencing Commission reviewed an identical provision in March 2021 in HB 195 and April 2023 in HB 298 and found it to be consistent with the Offense Classification Criteria for a Class H felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 123 – Criminal Falsification of Medical Records [Ed. 1] (cont'd)

STATUTE

§ 90-413. Willful destruction, alteration, or falsification of medical records.

DESCRIPTION

Subdivision (a)(2):

A health care provider who

1. knowingly and willfully
2. a. destroys, alters, or falsifies a medical record, or
b. directs any person to knowingly destroy, alter, or falsify a medical record
3. for the purpose of unlawfully obtaining money or any other thing of value.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

Medical assistance provider fraud is a Class I felony. (G.S. 108A-63)

The Sentencing Commission reviewed an identical provision in March 2021 in HB 195 and April 2023 in HB 298 and found it to be consistent with the Offense Classification Criteria for a Class I felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 123 - CRIMINAL FALSIFICATION OF MEDICAL RECORDS [Ed. 1]

PREPARED: MARCH 5, 2025

Estimated Prison Population Impact²¹

This bill creates two new felony offenses and one new misdemeanor offense.

This bill enacts G.S. 90-413, Willful destruction, alteration, or falsification of medical records.

Under subdivision (a)(1), it is a Class H felony for a health care provider to knowingly and willfully destroy, alter, or falsify a medical record, or to direct any person to knowingly destroy, alter, or falsify a medical record, for the purpose of concealing the commission of an error by the health care provider in providing medical services that caused injury to or the death of a patient.

Since the proposed subdivision creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 35% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	2	2	2	2
20	7	10	10	10	11

Under subdivision (a)(2), it is a Class I felony for a health care provider to knowingly and willfully destroy, alter, or falsify a medical record, or to direct any person to knowingly destroy, alter, or falsify a medical record, for the purpose of unlawfully obtaining money or any other thing of value.

Since the proposed subdivision creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9

²¹ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

Under subdivision (a)(3), it is a Class A1 misdemeanor for a health care provider to knowingly and willfully destroy, alter, or falsify a medical record, or to direct any person to knowingly destroy, alter, or falsify a medical record, for the purpose of concealing any material fact not covered under subdivision (1) of this subsection relating to a potential claim or cause of action.

Since the proposed subdivision creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this proposed change on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 36% of Class A1 misdemeanor convictions resulted in active sentences, with an average sentence length of 67 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 182 – Revise Laws on Domestic & Child Abuse [Ed. 1]
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STATUTE

§ 14-318.4. Child abuse a felony.

DESCRIPTION

Subsection (a4):

A person who

1. is a parent or any other person providing care to or supervision of a child less than 16 years of age
2. for the purpose of causing fear, emotional injury, or deriving sexual gratification,
3. intentionally and routinely
 - a. inflicts physical injury on that child and
 - b. deprives that child of necessary food, clothing, shelter, or proper physical care.

PROPOSED OFFENSE CLASS

Class B2 felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious debilitating long-term personal injury as Class B felonies.

This offense inflicts “physical injury” which is not defined in the statute.

Child abuse inflicting serious bodily injury is a Class B2 felony. (G.S. 14-318.4(a3))

Child abuse inflicting serious injury is a Class D felony. (G.S. 14-318.4(a))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 182 - REVISE LAWS ON DOMESTIC & CHILD ABUSE [Ed. 1]

PREPARED: MARCH 4, 2025

Estimated Prison Population Impact²²

Section 1.(a). This section amends G.S. 15A-1340.50, Permanent no contact order prohibiting future contact by convicted sex offender with crime victim; by expanding coverage from convicted sex offenders to convicted violent offenders. This section also expanding the list of people an offender is prohibited from contacting while under a permanent no contact (PNC) order to include the victim of the violent offense (was the sex offense) and the victim's immediate family, thereby expanding the potential for an offender to violate a PNC order.

This section defines a violent offense to include a criminal offense that requires registration under Article 27A of Chapter 14 of the General Statutes (current statute), all Class A through G felonies that are not otherwise covered under Article 27A of Chapter 14 of the General Statutes, and an offense under subsection (b) of G.S. 14-32.4, Assault inflicting physical injury by strangulation.

The potential pool of offenders for receiving a PNC is comprised of anyone who has ever been convicted of any of the specified offenses. As an example of the number convicted in a single year, there were 10,736 Class A through Class G convictions in FY 2023,²³ including the violations of G.S. 14-32.4 (205 convictions) and offenses requiring registration under Article 27A of Chapter 14 (921 convictions²⁴). It is not known how many of these convictions would receive a permanent no contact order under the proposed bill and how many would violate that order. Violation is a Class A1 misdemeanor under subsection (g).

There were 2 convictions for the Class A1 misdemeanor under subsection (g) in FY 2023. It is not known how many additional convictions may result from the proposed broadening of the current statute. In FY 2023, 36% of Class A1 misdemeanor convictions resulted in active sentences, with an average sentence length of 67 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, additional convictions that result from the proposed broadening of the current statute would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known; the impact will depend on the number of convictions under the proposed statute.

²² A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

²³ This total includes 10,227 convictions under the Structured Sentencing Act and 509 convictions under G.S. 90-95(h) (drug trafficking).

²⁴ This number does not include offenses where registration is discretionary or based upon the existence of a specific element (e.g., first degree kidnapping but only where the victim was a minor and was kidnapped by a non-parent).

Section 2.(a). This section amends G.S. 14-318.4(a2), Child abuse a felony, by expanding the group of potential offenders to include a parent or any other person providing care to or supervision (was legal guardian) of a child less than 16 years of age who commits or allows the commission of any sexual act upon the child. A violation is a Class D felony.

There were 5 convictions for the Class D felony in G.S. 14-318.4(a2) in FY 2023. It is not known how many additional convictions may result from the proposed broadening of the current statute. Under Structured Sentencing, all Class D offenders are required to receive an active sentence.²⁵ In FY 2023, the average estimated time served for an offender convicted of a Class D offense was 58 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 additional conviction (threshold) or 20 additional convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

This section moves the existing G.S. 14-318(a4) to (a5) and enacts a new subsection (a4). Subsection (a4) makes it a Class B2 felony if a parent or any other person providing care to or supervision of a child less than 16 years of age who, for the purpose of causing fear, emotional injury, or deriving sexual gratification, intentionally and routinely (i) inflicts physical injury on that child and (ii) deprives that child of necessary food, clothing, shelter, or proper physical care.

Since the proposed subsection creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. Under Structured Sentencing, all Class B2 offenders are required to receive an active sentence.²⁶ In FY 2023, the average estimated time served for an offender convicted of a Class B2 offense was 144 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

²⁵ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

²⁶ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1]
--

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(1) and (c)(2):

person who

1. unlawfully
 - a. takes, or
 - b. exercises unlawful control over,
2. the mail of another person
3. with the intent to deprive the other person of that mail
4. and the value of the mail is less than \$200.00.

PROPOSED OFFENSE CLASS

Class G felony, for a second offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another. Under this section, a first offense, when the value is less than \$200.00, is a Class A1 misdemeanor. (G.S. 14-72.10(c)(1))

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

BILL CONTINUED ON NEXT PAGE

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(1) and (c)(3):

A person who

1. unlawfully
 - a. takes, or
 - b. exercises unlawful control over,
2. the mail of another person
3. with the intent to deprive the other person of that mail
4. and the value of the mail is two hundred dollars (\$200.00) or more.

PROPOSED OFFENSE CLASS

Class E felony, first offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(1) and (c)(3):

A person who

1. unlawfully
 - a. takes, or
 - b. exercises unlawful control over,
2. the mail of another person
3. with the intent to deprive the other person of that mail
4. and the value of the mail is two hundred dollars (\$200.00) or more.

PROPOSED OFFENSE CLASS

Class E felony, for a second offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(1) and (c)(4):

A person who

1. unlawfully
 - a. takes, or
 - b. exercises unlawful control over,
2. the mail of another person
3. with the intent to deprive the other person of that mail.

PROPOSED OFFENSE CLASS

Class D felony, for a third or subsequent offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Habitual larceny, is a Class H felony. (G.S. 14-72(b)(6))

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

BILL CONTINUED ON NEXT PAGE

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(1) and (c)(4):

A person who

1. unlawfully
 - a. takes, or
 - b. exercises unlawful control over,
2. the mail of another person
3. with the intent to deprive the other person of that mail
4. and the value of the mail exceeds two thousand dollars (\$2,000).

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(2) and (c)(2):

A person who

1. unlawfully
 - a. transfers, or
 - b. exercises unlawful control over,
2. the mail of another person or an interest in the mail of another person
3. with the intent to benefit the person or another person not entitled to that mail or interest in that mail
4. and the value of the mail is less than two hundred dollars (\$200.00).

PROPOSED OFFENSE CLASS

Class G felony, for a second offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another. Under this section, a first offense, when the value is less than \$200.00, is a Class A1 misdemeanor. (G.S. 14-72.10(c)(1))

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

BILL CONTINUED ON NEXT PAGE

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(2) and (c)(3):

A person who

1. unlawfully
 - a. transfers, or
 - b. exercises unlawful control over,
2. the mail of another person or an interest in the mail of another person
3. with the intent to benefit the person or another person not entitled to that mail or interest in that mail
4. and the value of the mail is two hundred dollars (\$200.00) or more.

PROPOSED OFFENSE CLASS

Class E felony, for a first offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(2) and (c)(3):

A person who

1. unlawfully
 - a. transfers, or
 - b. exercises unlawful control over,
2. the mail of another person or an interest in the mail of another person
3. with the intent to benefit the person or another person not entitled to that mail or interest in that mail
4. and the value of the mail is two hundred dollars (\$200.00) or more.

PROPOSED OFFENSE CLASS

Class E felony, for a second offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(2) and (c)(4):

A person who

1. unlawfully
 - a. transfers, or
 - b. exercises unlawful control over,
2. the mail of another person or an interest in the mail of another person
3. with the intent to benefit the person or another person not entitled to that mail or interest in that mail
4. and it is the third or subsequent offense.

PROPOSED OFFENSE CLASS

Class D felony, for a third or subsequent offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Habitual larceny, is a Class H felony. (G.S. 14-72(b)(6))

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 202 – Defense Against Porch Pirates Act [Ed. 1] (cont'd)

STATUTE

§ 14-72.10. Larceny of mail.

DESCRIPTION

Subdivisions (b)(2) and (c)(4):

A person who

1. unlawfully
 - a. transfers, or
 - b. exercises unlawful control over,
2. the mail of another person or an interest in the mail of another person
3. with the intent to benefit the person or another person not entitled to that mail or interest in that mail
4. and if the value of the mail exceeds two thousand dollars (\$2,000).

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

For purposes of this section, the term "mail" means a letter, package, bag, or other item of value sent or delivered to another.

Misdemeanor larceny (less than \$1,000), is a Class 1 misdemeanor. (G.S. 14-72(a))

Felony larceny (\$1,000 or more), is a Class H felony. (G.S. 14-72)

Theft or receipt of stolen mail matter generally (18 U.S. Code § 1708) is a federal offense. Punishment includes a fine and/or imprisonment for up to five years.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 214 – Faithful Article V Commissioner Act [Ed. 1]

STATUTE

§ 120-272.100. Faithful Article V Commissioner Act.

DESCRIPTION

Subsection (h):

A person who

1. serving as a delegate at an interstate convention,
 - a. votes for,
 - b. votes to consider, or
 - c. otherwise promotes any action of the convention
2. not within the scope defined in subsection (f) of this section.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

Subdivision (b)(6) defines an interstate convention as a diplomatic meeting, however denominated, of committees from three or more states or state legislatures to consult upon and propose or adopt measures pertaining to one or more issues previously prescribed by applications, by the convention call, or by the commissioning authority.

Subsection (f) describes the commissioner's scope of authority as not to exceed the scope of authority granted by his or her commission or violate his or her instructions. In the case of a convention for proposing amendments, the scope of authority granted by any commission and instructions shall not be deemed to exceed the narrowest of (i) the scope of the congressional call, (ii) the scope of the narrowest application among those cited by Congress as mandating the convention call, or (iii) the actual terms of the application.

Buying and selling government offices is a Class I felony. (G.S. 14-228)

Making false affidavit perjury (Elections) is a Class I felony. (G.S. 163-90.3)

Willfully failing to discharge duties (government officials) is a Class 1 misdemeanor. (G.S. 14-230)

The Sentencing Commission reviewed an identical provision in April 2023 in HB 648 [Ed. 1] and found it to be consistent with the Offense Classification Criteria for a Class I felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 230 – Create Crime for Habitual Domestic Violence [Ed. 1]
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STATUTE

§ 14-32.6. Habitual domestic violence.

DESCRIPTION

A person who

1. commits
 - a. a misdemeanor crime of domestic violence (G.S. 14-32.5), or
 - b. an assault where the person is related to the victim by one or more of the relationship descriptions set forth in G.S. 14-32.5,
2. and has two or more prior convictions that include either of the following combination of offenses, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation:
 - a. Two or more convictions of an offense under G.S. 14-32.5 or an offense committed in another jurisdiction substantially similar to an offense under G.S. 14-32.5.
 - b. One prior conviction of an offense described in subdivision (1) of this subsection and at least one prior conviction of an offense in this State or another jurisdiction involving an assault where the person is related to the victim by one or more of the relationship descriptions set forth in G.S. 14-32.5.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

In G.S. 14-32.5 it is a Class A1 misdemeanor to commit domestic violence, when a person uses or attempts to use physical force, or threatens the use of a deadly weapon, against another person and the person who commits the offense is:

- (1) A current or former spouse, parent, or guardian of the victim.
- (2) A person with whom the victim shares a child in common.
- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian.
- (4) A person similarly situated to a spouse, parent, or guardian of the victim.
- (5) A person who has a current or recent former dating relationship with the victim.

Assault by strangulation inflicting physical injury is a Class H felony. (G.S. 14-32.4(b))

Simple assault or a simple assault and battery or participates in a simple affray is a Class 2 misdemeanor.
(G.S. 14-33(a))

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 230 – Create Crime for Habitual Domestic Violence [Ed. 1] (cont'd)
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STATUTE

§ 14-32.6. Habitual domestic violence.

DESCRIPTION

A person who

1. commits
 - a. a misdemeanor crime of domestic violence (G.S. 14-32.5), or
 - b. an assault where the person is related to the victim by one or more of the relationship descriptions set forth in G.S. 14-32.5,
2. and has two or more prior convictions that include either of the following combination of offenses, with the earlier of the two prior convictions occurring no more than 15 years prior to the date of the current violation:
 - a. Two or more convictions of an offense under G.S. 14-32.5 or an offense committed in another jurisdiction substantially similar to an offense under G.S. 14-32.5.
 - b. One prior conviction of an offense described in subdivision (1) of this subsection and at least one prior conviction of an offense in this State or another jurisdiction involving an assault where the person is related to the victim by one or more of the relationship descriptions set forth in G.S. 14-32.5.

PUNISHMENT RANGE

PROPOSED: For second and subsequent convictions, punished one offense class higher than the offense class of the most recent prior conviction, not to exceed a Class C felony.

ANALYSIS

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

In G.S. 14-32.5 it is a Class A1 misdemeanor to commit domestic violence, when a person uses or attempts to use physical force, or threatens the use of a deadly weapon, against another person and the person who commits the offense is:

- (1) A current or former spouse, parent, or guardian of the victim.
- (2) A person with whom the victim shares a child in common.
- (3) A person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian.
- (4) A person similarly situated to a spouse, parent, or guardian of the victim.
- (5) A person who has a current or recent former dating relationship with the victim.

Assault with deadly weapon with intent to kill inflicting serious injury is a Class C felony. (G.S. 14-32(a))

Assault with deadly weapon inflicting serious injury (G.S. 14-32(b)) and assault with deadly weapon with intent to kill (G.S. 14-32(c)) are Class E felonies.

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 235 – Fraudulent Deeds [Ed. 1]

STATUTE

§ 14-122. Forgery of deeds, wills and certain other instruments; presentation for filing.

DESCRIPTION

Subsection (b):

A person who

1. presents for filing or recording in a public record or a private record generally available to the public
2. a deed or transfer of real property of an owner,
3. knowing or having reason to know that the deed or conveyance is
 - a. false or
 - b. contains a materially false, fictitious, or fraudulent statement or representation,
4. and the value of property is less than \$100,000.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

Forgery of deeds, wills, and certain other instruments is a Class H felony regardless of the value of the property. (G.S. 14-122(a))

Larceny by servants and other employees (amount involved less than \$100,000) is a Class H felony. (G.S. 14-74)

Embezzlement of property received by virtue of office or employment (amount involved less than \$100,000) is a Class H felony. (G.S. 14-90)

Obtaining property by false pretenses (amount involved less than \$100,000) is a Class H felony. (G.S. 14-100)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 03/07/2025

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A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 235 – Fraudulent Deeds [Ed. 1] (cont'd)

STATUTE

§ 14-122. Forgery of deeds, wills and certain other instruments; presentation for filing.

DESCRIPTION

Subsection (b):

A person who

1. presents for filing or recording in a public record or a private record generally available to the public
2. a deed or transfer of real property of an owner,
3. knowing or having reason to know that the deed or conveyance is
 - a. false or
 - b. contains a materially false, fictitious, or fraudulent statement or representation,
4. and the value of property is \$100,000 or more.

PROPOSED OFFENSE CLASS

Class C felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

Forgery of deeds, wills, and certain other instruments is a Class H felony regardless of value of the property. (G.S. 14-122(a))

Larceny by servants and other employees (amount involved \$100,000 or more) is a Class C felony. (G.S. 14-74)
Embezzlement of property received by virtue of office or employment (amount involved \$100,000 or more) is a Class C felony. (G.S. 14-90)

Obtaining property by false pretenses (amount involved \$100,000 or more) is a Class C felony. (G.S. 14-100)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 235 – Fraudulent Deeds [Ed. 1] (cont’d)

STATUTE

§ 14-118.6A. Fraudulent deed or conveyance.

DESCRIPTION

Subsection (d):

A person who

1. initiates a civil action under this section
2. knowing that the subject deed or conveyance is not false, fictitious, or fraudulent.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person’s dwelling as Class G felonies.

Obtaining signatures by false pretenses is a Class H felony. (G.S. 14-101)

Transfer by owner (filing false sworn certification as to unavailability of certificate of title) is a Class H felony. (G.S. 20-72(b))

Penalty for fraud (obtain/deny workers’ compensation) is a Class H felony. (G.S. 97-88.2(a))

Filing false security agreements is a Class I felony. (G.S. 14-401.19)

Punishment for making false statement in financial or other statement is a Class I felony. (G.S. 58-2-180)

Swearing falsely to official reports, is a Class 1 misdemeanor. (G.S. 14-232)

Failing to return process or making false return, is a Class 1 misdemeanor. (G.S. 14-242)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class H felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 235 - FRAUDULENT DEEDS [Ed. 1]

PREPARED: MARCH 6, 2025

Estimated Prison Population Impact²⁷

Section 1. This section amends G.S. 14-122, Forgery of deeds, wills and certain other instruments; presentation for filing, by creating two new felony offenses.

Subsection (b) makes it unlawful for a person to present, file, or record a deed or transfer of real property from an owner in a public record or a private record generally available to the public, knowing or having reason to know the deed or conveyance is false or contains a materially false, fictitious, or fraudulent statement or representation.

Violation of subsection (b) is a Class C felony if the value of the property is \$100,000 or more. Since the proposed subsection creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. Under Structured Sentencing, all Class C offenders are required to receive an active sentence.²⁸ In FY 2023, the average estimated time served for an offender convicted of a Class C offense was 78 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

Violation of subsection (b) is a Class G felony if the value of the property is less than \$100,000. Since the proposed subsection creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 40% of Class G convictions resulted in active sentences, with an average estimated time served of 14 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 3 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year

²⁷ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

²⁸ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
3	1	2	2	2	2
20	9	14	14	14	14

Currently, under subsection (a), it is unlawful for a person to forge any deed, lease, or will with the intent to defraud any person or corporation. Violation is a Class H felony. There were no convictions for this offense in FY 2023.

Section 2. This section creates G.S. 14-118.6A, Fraudulent deed or conveyance, creating a new felony offense.

Subsection (d) makes it unlawful for the actual owner of an interest in real property to file a civil action (pursuant to G.S. 14-118.6(a)) claiming their interest in real property was subject to a recorded false, fictitious, or fraudulent deed or conveyance, when the actual owner knows that the subjected deed or conveyance is not false, fictitious, or fraudulent. Violation is a Class G felony.

Since the proposed subsection creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 40% of Class G convictions resulted in active sentences, with an average estimated time served of 14 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 3 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
3	1	2	2	2	2
20	9	14	14	14	14

Effective December 1, 2025, and applies to documents and instruments submitted for recording on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1]

STATUTE

§ 20-140. Reckless driving.

DESCRIPTION

Subsections (a) and (h):

A person who

1. drives any vehicle
2. upon a highway or any public vehicular area
3. carelessly and heedlessly
4. in willful or wanton disregard of the rights or safety of others
5. and causes serious bodily injury.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

A violation for reckless driving under G.S. 20-140 (a), (b), or (f) is a Class 2 misdemeanor.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in serious bodily injury) is a Class 1 misdemeanor. (G.S. 20-149(b)(1))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in bodily injury or property damage) is a Class 2 misdemeanor. (G.S. 20-149(b)(2))

FINDINGS

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Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-140. Reckless driving.

DESCRIPTION

Subsections (b) and (h):

A person who

1. drives any vehicle
2. upon a highway or any public vehicular area
3. without due caution and circumspection,
4. at a speed or in a manner so as to endanger or be likely to endanger any person or property,
5. and causes serious bodily injury.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

A violation for reckless driving under G.S. 20-140 (a), (b), or (f) is a Class 2 misdemeanor.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in serious bodily injury) is a Class 1 misdemeanor. (G.S. 20-149(b)(1))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in bodily injury or property damage) is a Class 2 misdemeanor. (G.S. 20-149(b)(2))

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-140. Reckless driving.

DESCRIPTION

Subsections (f) and (h):

A person who

1. drives a commercial motor vehicle
2. carrying a load that is subject to the permit requirements of G.S. 20-119
3. upon a highway or any public vehicular area either:
 - a. carelessly and heedlessly in willful or wanton disregard of the rights or safety of others;
 - or
 - b. without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property
4. and causes serious bodily injury.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

A violation for reckless driving under G.S. 20-140 (a), (b), or (f) is a Class 2 misdemeanor.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in serious bodily injury) is a Class 1 misdemeanor. (G.S. 20-149(b)(1))

Overtaking a vehicle (failure to comply with this section is the proximate cause of a collision resulting in bodily injury or property damage) is a Class 2 misdemeanor. (G.S. 20-149(b)(2))

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (a) and (c1):

A person who

1. operated a motor vehicle
2. on a street or highway
3. willfully
4. in a prearranged speed competition
5. with another motor vehicle
6. and caused serious injury.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Aggravated felony serious injury by vehicle is a Class E felony. (G.S. 20-141.4(a4), (b)(3))

Serious injury by impaired boating is a Class F felony. (G.S. 75A-10.3(b), (f)(4))

Aggravated serious injury by impaired boating is a Class E felony. (G.S. 75A-10.3(c), (f)(3))

Assault with deadly weapon inflicting serious injury is a Class E felony. (G.S. 14-32(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (b) and (c1):

A person who

1. operated a motor vehicle
2. on a street or highway
3. willfully
4. in speed competition
5. with another motor vehicle
6. and caused serious injury.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Aggravated felony serious injury by vehicle is a Class E felony. (G.S. 20-141.4(a4), (b)(3))

Serious injury by impaired boating is a Class F felony. (G.S. 75A-10.3(b), (f)(4))

Aggravated serious injury by impaired boating is a Class E felony. (G.S. 75A-10.3(c), (f)(3))

Assault with deadly weapon inflicting serious injury is a Class E felony. (G.S. 14-32(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (c) and (c1):

A person who

1. a. authorized or knowingly permitted a motor vehicle owned by him or under his control to be operated on a public street, highway, or thoroughfare in prearranged speed competition with another motor vehicle, or
b. placed or received any bet, wager, or other thing of value from the outcome of any prearranged speed competition on any public street, highway, or thoroughfare
2. and caused serious injury.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Felony serious injury by vehicle is a Class F felony. (G.S. 20-141.4(a3), (b)(4))

Aggravated felony serious injury by vehicle is a Class E felony. (G.S. 20-141.4(a4), (b)(3))

Serious injury by impaired boating is a Class F felony. (G.S. 75A-10.3(b), (f)(4))

Aggravated serious injury by impaired boating is a Class E felony. (G.S. 75A-10.3(c), (f)(3))

Assault with deadly weapon inflicting serious injury is a Class E felony. (G.S. 14-32(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (a) and (c2):

A person who

1. operated a motor vehicle
2. on a street or highway
3. willfully
4. in a prearranged speed competition
5. with another motor vehicle
6. and caused a death.

PROPOSED OFFENSE CLASS

Class B2 felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

Voluntary manslaughter is a Class D felony and involuntary manslaughter is a Class F felony. (G.S. 14-18)

Repeat felony death by vehicle is a Class B2 felony. (G.S. 20-141.4(a6), (b)(1))

Felony death by vehicle and aggravated felony death by vehicle are Class D felonies. (G.S. 20-141.4(a1), (b)(1a) and (b)(2)).

Misdemeanor death by vehicle is a Class A1 misdemeanor. (G.S. 20-141.4(a2), (b)(5))

Repeat death by impaired boating is a Class B2 felony. (G.S. 75A-10.3(e), (f)(1))

Death by impaired boating and aggravated death by impaired boating are Class D felonies. (G.S. 75A-10.3(d), (f)(1a) and (f)(2))

FINDINGS



Bill is **consistent** with the Homicide Offense Classification Criteria.



Bill is **inconsistent** with the Homicide Offense Classification Criteria.



Homicide Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (b) and (c2):

A person who

1. operated a motor vehicle
2. on a street or highway
3. willfully
4. in speed competition
5. with another motor vehicle
6. and caused a death.

PROPOSED OFFENSE CLASS

Class B2 felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

Voluntary manslaughter is a Class D felony and involuntary manslaughter is a Class F felony. (G.S. 14-18)

Repeat felony death by vehicle is a Class B2 felony. (G.S. 20-141.4(a6), (b)(1))

Felony death by vehicle and aggravated felony death by vehicle are Class D felonies. (G.S. 20-141.4(a1), (b)(1a) and (b)(2)).

Misdemeanor death by vehicle is a Class A1 misdemeanor. (G.S. 20-141.4(a2), (b)(5))

Repeat death by impaired boating is a Class B2 felony. (G.S. 75A-10.3(e), (f)(1))

Death by impaired boating and aggravated death by impaired boating are Class D felonies. (G.S. 75A-10.3(d), (f)(1a) and (f)(2))

FINDINGS



Bill is **consistent** with the Homicide Offense Classification Criteria.



Bill is **inconsistent** with the Homicide Offense Classification Criteria.



Homicide Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-141.3. Unlawful racing on streets and highways.

DESCRIPTION

Subsections (c) and (c2):

A person who

1. a. authorized or knowingly permitted a motor vehicle owned by him or under his control to be operated on a public street, highway, or thoroughfare in prearranged speed competition with another motor vehicle,
b. or placed or received any bet, wager, or other thing of value from the outcome of any prearranged speed competition on any public street, highway, or thoroughfare
2. and caused a death.

PROPOSED OFFENSE CLASS

Class B2 felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

Voluntary manslaughter is a Class D felony and involuntary manslaughter is a Class F felony. (G.S. 14-18)

Repeat felony death by vehicle is a Class B2 felony. (G.S. 20-141.4(a6), (b)(1))

Felony death by vehicle and aggravated felony death by vehicle are Class D felonies. (G.S. 20-141.4(a1), (b)(1a) and (b)(2)).

Misdemeanor death by vehicle is a Class A1 misdemeanor. (G.S. 20-141.4(a2), (b)(5))

Repeat death by impaired boating is a Class B2 felony. (G.S. 75A-10.3(e), (f)(1))

Death by impaired boating and aggravated death by impaired boating are Class D felonies. (G.S. 75A-10.3(d), (f)(1a) and (f)(2))

FINDINGS



Bill is **consistent** with the Homicide Offense Classification Criteria.



Bill is **inconsistent** with the Homicide Offense Classification Criteria.



Homicide Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 246 – Liam's Law [Ed. 1] (cont'd)

STATUTE

§ 20-166. Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability.

DESCRIPTION

Subsection (a)(2):

A person who

1. was a driver of a vehicle
2. who knows or reasonably should know that the vehicle which he or she is operating was involved in a crash and
3. the crash has resulted in death and
4. willfully
 - a. fails to immediately stop at the scene of the crash,
 - b. fails to remain with the vehicle at the scene until a law enforcement officer completes an investigation of the crash or authorizes the person to leave and the vehicle to be removed, or
 - c. facilitates, allows, or agrees to the removal of the vehicle before the completion of an investigation of the crash by a law enforcement officer or before receiving consent by the officer to leave.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

A violation of G.S. 20-166 is a Class F felony when serious bodily injury occurred (as defined in G.S. 14-32.4); this bill retains that offense in subsection (a)(2).

Voluntary manslaughter is a Class D felony and involuntary manslaughter is a Class F felony. (G.S. 14-18)

Repeat felony death by vehicle is a Class B2 felony. (G.S. 20-141.4(a6), (b)(1))

Felony death by vehicle and aggravated felony death by vehicle are Class D felonies. (G.S. 20-141.4(a1), (b)(1a) and (b)(2)).

Misdemeanor death by vehicle is a Class A1 misdemeanor. (G.S. 20-141.4(a2), (b)(5))

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

This offense would also be consistent with the Offense Classification Criteria for a Class E felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 246 - LIAM'S LAW [Ed. 1]

PREPARED: MARCH 6, 2025

Estimated Prison Population Impact²⁹

SECTION 1.

Under the existing G.S. 20-140, Reckless driving, it is a Class 2 misdemeanor for the following offenses in subsections (a), (b), and (f):

(a) A person who drives any vehicle upon a highway or any public vehicular area carelessly and heedlessly in willful or wanton disregard of the rights or safety of others.

(b) A person who drives any vehicle upon a highway or any public vehicular area without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.

(f) A person who drives a commercial motor vehicle carrying a load that is subject to the permit requirements of G.S. 20-119 upon a highway or any public vehicular area either:

(1) Carelessly and heedlessly in willful or wanton disregard of the rights or safety of others; or

(2) Without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property.

This section adds subsections (g) and (h) in G.S. 20-140 creating new offenses based on the existing offenses if they result in specified injuries. Specifically, subsection (g) makes it a Class 1 misdemeanor for a violation of G.S. 20-140 and the reckless driving causes serious injury. Subsection (h) makes it a Class 1 felony for a violation of G.S. 20-140 and the reckless driving causes serious bodily injury as defined in G.S. 14-32.4.

In FY 2023, there were 2,335 convictions involving reckless driving under G.S. 20-140(a); 5,739 convictions under G.S. 20-140(b), and 0 convictions under G.S. 20-140(f) for a total of 8,074 Class 2 misdemeanor convictions under G.S. 20-140.

Out of the 8,074 Class 2 misdemeanor convictions under G.S. 20-140 in FY 2023, it is not known how many involved serious injury and could become Class 1 misdemeanor convictions under the proposed subsection (g). In FY 2023, 36% of Class 1 misdemeanor convictions resulted in active sentences, with an average sentence length of 41 days. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, convictions for this proposed offense would not be expected to have an impact on the prison population. The impact on local jail populations and the Statewide Misdemeanant Confinement Program is not known.

²⁹ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

Out of the 8,074 Class 2 misdemeanor convictions under G.S. 20-140 in FY 2023, it is not known how many involved serious bodily injury and could become Class I felony convictions under the proposed subsection (h). In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

SECTION 2.(b)

Under the existing G.S. 20-141.3, Unlawful racing on streets and highways, there are three misdemeanor offenses described in subsections (a), (b), and (c):

- (a) It is a Class 1 misdemeanor for a person to operate a motor vehicle on a street or highway willfully in prearranged speed competition with another motor vehicle.
- (b) It is a Class 2 misdemeanor for a person to operate a motor vehicle on a street or highway willfully in speed competition with another motor vehicle.
- (c) It is a Class 1 misdemeanor for a person to authorize or knowingly permit a motor vehicle owned by him or under his control to be operated on a public street, highway, or thoroughfare in prearranged speed competition with another motor vehicle, or to place or receive any bet, wager, or other thing of value from the outcome of any prearranged speed competition on any public street, highway, or thoroughfare.

This section adds subsections (c1) and (c2) in G.S. 20-141.3 creating new offenses based on the existing offenses if they result in specified injuries. Specifically, subsection (c1) makes it a Class F felony for a violation of subsection (a), (b), or (c) and the speed competition causes serious injury. Subsection (c2) makes it a Class B2 felony for a violation of subsection (a), (b), or (c) and the speed competition causes a death.

In FY 2023, there were 5 Class 1 convictions involving unlawful racing on streets or highways under G.S. 20-141.3(a) and 34 Class 2 convictions under G.S. 20-141.3(b). The Administrative Office of the Courts (AOC) currently does not have a specific offense code for violations of G.S. 20-141.3(c). The lack of an AOC offense code is some indication that this offense is infrequently charged and/or infrequently results in convictions.

Out of the 39 misdemeanor convictions under G.S. 20-141.3 in FY 2023, it is not known how many involved serious injury and could become Class F felony convictions under the proposed subsection (c1). In FY 2023, 53% of Class F convictions resulted in active sentences, with an average estimated time served of 18 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and

probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	2	2	2
20	12	19	20	20	20

Out of the 39 misdemeanor convictions under G.S. 20-141.3 in FY 2023, it is not known how many involved death and could become Class B2 felony convictions under the proposed subsection (c2). Under Structured Sentencing, all Class B2 offenders are required to receive an active sentence.³⁰ In FY 2023, the average estimated time served for an offender convicted of a Class B2 offense was 144 months. Twelve months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	1	2	3	4	5
20	21	41	61	82	102

For subsection (c2), establishing a B2 felony when the violation causes death, the conduct in the proposed offense could potentially be covered under the following offenses:

- 2nd degree murder without regard for human life, a Class B2 felony (G.S. 14-17(b))
- Felony and misdemeanor death by vehicle (G.S. 20-141.4 (a1), (a2)):
 - Repeat felony death by vehicle, a Class B2 felony (G.S. 20-141.4(b)(1))
 - Aggravated felony death by vehicle and felony death by vehicle, Class D felonies (G.S. 20-141.4(b)(1a), (2))
 - Misdemeanor death by vehicle, a Class A1 misdemeanor (G.S. 20-141.4(b)(5))
- Involuntary manslaughter, a Class F felony (G.S. 14-18)

The following table shows how many convictions occurred for these offenses in FY 2023. It is not known whether any of these convictions involved conduct covered by the proposed Class B2 offense.

G.S. Number	Description	Offense Class	FY 2023 Convictions
14-17(b)	Second Degree Murder without Regard	B2	66
20-141.4(b)(1)	Repeat Felony Death by Vehicle	B2	0

continued

³⁰ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

G.S. Number	Description	Offense Class	FY 2023 Convictions
20-141.4(b)(1a)	Aggravated Felony Death by Vehicle	D	5
20-141.4(b)(2)	Felony Death by Vehicle	D	70
14-18	Involuntary Manslaughter	F	96
20-141.4(b)(5)	Misdemeanor Death by Vehicle	A1	114

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

If any of the B2 felonies noted above are convicted under the new offense, there would be no impact because they are the same class as the proposed offense.

Under Structured Sentencing all offenders convicted of Class D and Class B2 offenses are required to receive an active sentence.³¹ Impact will occur if any of the Class D convictions noted above become Class B2 convictions due to the longer average estimated time served (58 months for Class D compared to 144 months for Class B2). Based on these differences in sentence lengths, impact will occur outside the 5-year projection period. Offenders will 'stack up' in prison as a result of the longer sentence lengths.

Impact on the prison population will occur if any of the Class F convictions noted above become Class B2 convictions under the proposed statute because of the higher rate of active sentences (53% for Class F compared to 100% for Class B2) and longer average estimated time served (18 months for Class F compared to 144 months for Class B2). In addition, there will be some impact on post-release supervision caseloads since Class B2 requires an additional three months of supervision.

Impact on the prison population will occur if any of the Class A1 convictions noted above become Class B2 convictions under the proposed statute because misdemeanants serve their sentences in local jails and felons serve their sentences in prison. In addition, there will be some impact on post-release supervision (PRS) caseloads since twelve months of PRS is required for offenders convicted of Class B2 felonies.

SECTION 2.(c)

Under G.S. 20-166. Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability, it is a Class F felony for a willful violation of the section causing either serious bodily injury or death. "Serious bodily injury" is as defined in G.S. 14-32.4.

This section adds two subdivisions, the first subdivision (a)(1), making it so that it remains a Class F felony for a willful violation of the section that does not result in death and subdivision (a)(2) making it a Class D felony for a willful violation of the section that results in the death of another person, effectively reclassifying some of the current Class F felonies to Class D felonies.

In FY 2023, there was 1 conviction for a willful violation of G.S. 20-166(a) involving serious bodily injury or death. It is not known whether this conviction involved serious bodily injury (Class F under the proposed subdivision (a)(1)) or death (Class D under the proposed subdivision (a)(2)).

³¹ If extraordinary mitigation is found, the court may impose an intermediate punishment when only an active punishment is authorized. G.S. § 15A-1340.13(g) and (h).

Since the proposed subdivision (a)(1) and the current offense under G.S. 20-166(a) are both Class F felonies, no additional impact on the prison population would be expected.

Under the proposed subdivision (a)(2) impact on the prison population will occur if Class F convictions become Class D convictions because of the higher rate of active sentences (100% for Class D compared to 53% for Class F) and longer average estimated time served (58 months for Class D compared to 18 months for Class F). In addition, there will be some impact on post-release supervision caseloads since Class D requires an additional three months of supervision. The following table shows the estimated annual impact if, for example, there was 1 conviction (threshold) or 10 convictions (example) per year that would be reclassified from Class F to Class D. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
1	0	0	1	2	3
10	5	12	21	31	41

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 251 – Disaster Response Funding/Nondiscrimination [Ed. 1]
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STATUTE

§ 166A-19.4. Nondiscrimination in State disaster recovery assistance.

DESCRIPTION

A person who

1. is an employee or works for the State or its agencies
2. denies or discriminates against
3. a United States citizen or legal resident
4. for disaster recovery assistance
5. on the basis of political affiliation or political speech.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

Punishment of Class 2 or 3 misdemeanors when the offense is committed with ethnic animosity (due to the victim's race, color, religion, nationality, or country of origin) is a Class 1 misdemeanor. (G.S. 14-3(c))

Punishment of Class A1 or Class 1 misdemeanor when the offense is committed with ethnic animosity (due to the victim's race, color, religion, nationality, or country of origin) is a Class H felony. (G.S. 14-3(c))

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 251 - DISASTER RESPONSE FUNDING/NONDISCRIMINATION {Ed. 1}

PREPARED: MARCH 10, 2025

Estimated Prison Population Impact³²

This bill creates G.S. 166A-19.4. Nondiscrimination in State disaster recovery assistance, which makes it a Class I felony for a person (the State or its agencies and employees) to deny or discriminate against a United States citizen or legal resident of North Carolina for disaster recovery assistance on the basis of political affiliation or political speech.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for this new offense. In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) for this proposed offense per year. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

³² A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 261 – Sent. Enhancement/Immigration-Related Crimes [Ed. 1]

STATUTE

§ 15A-1340.16H. Enhanced sentence for felony committed by person unlawfully in the United States.

DESCRIPTION

Subsection (a):

A person who

1. is convicted of a felony other than a Class A felony and
2. it is found that the person had been previously denied admission to, or excluded, deported, or removed from, the United States.

PUNISHMENT RANGE

CURRENT (if applicable): According to the offense classification of the felony offense and the prior record level of the defendant.

PROPOSED: One class higher than the underlying felony for which the person was convicted.

ANALYSIS

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 261 – Sent. Enhancement/Immigration-Related Crimes [Ed. 1] (cont’d)

STATUTE

§ 15A-1340.16H. Enhanced sentence for felony committed by person unlawfully in the United States.

DESCRIPTION

Subsection (b):

A person who

1. is convicted of a felony other than a Class A felony and
2. it is found that the person had been previously convicted of a crime relating to the reentry of removed aliens under 8 U.S.C. § 1326.

PUNISHMENT RANGE

CURRENT (if applicable): According to the offense classification of the felony offense and the prior record level of the defendant.

PROPOSED: Two classes higher than the underlying felony for which the person was convicted.

ANALYSIS

8 U.S.C. § 1326, Reentry of deported alien; criminal penalties for reentry of certain deported aliens, describes an offense for when a person reenters or attempts to reenter the United States after having been deported or excluded and deported.

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 261 – Sent. Enhancement/Immigration-Related Crimes [Ed. 1] (cont'd)

STATUTE

§ 15A-1340.16I. Enhanced sentence for felony committed for the purpose of benefitting, promoting, or furthering criminal activity.

DESCRIPTION

Subsection (b):

A person who

1. is convicted of a felony other than a Class A felony and
2. it is found that the felony was committed by a person conspiring with one or more persons
3. for the purpose of benefitting, promoting, or furthering criminal activity.

PUNISHMENT RANGE

CURRENT (if applicable): According to the offense classification of the felony offense and the prior record level of the defendant.

PROPOSED: One class higher than the underlying felony for which the person was convicted.

ANALYSIS

The term "criminal activity" is defined in G.S. 14-118.8 as an offense that is (i) classified as a felony under the laws of this State or the United States or (ii) punishable by imprisonment for more than one year under the laws of another state.

The offense of conspiracy to commit a felony, unless a different classification is expressly stated in statute, is punishable under the next lower classification of the offense which the offender conspired to commit. (G.S. 14-2.4)

Under G.S. 15A-1340.16(d)(2), it is an aggravating factor if the defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-41)**

BILL NUMBER/SHORT TITLE: HB 261 – Sent. Enhancement/Immigration-Related Crimes [Ed. 1] (cont'd)

STATUTE

§ 15A-1340.24. Enhanced sentence for misdemeanor committed for the purpose of benefitting, promoting, or furthering criminal activity.

DESCRIPTION

Subsection (b):

A person who

1. If a person is convicted of a Class A1 misdemeanor and
2. that the misdemeanor was committed by a person conspiring with one or more persons
3. for the purpose of benefitting, promoting, or furthering criminal activity.

PUNISHMENT RANGE

CURRENT (if applicable): Class A1 misdemeanor.

PROPOSED: Class I felony.

ANALYSIS

The term "criminal activity" is defined in G.S. 14-118.8 as an offense that is (i) classified as a felony under the laws of this State or the United States or (ii) punishable by imprisonment for more than one year under the laws of another state.

A similar class enhancement as the felony enhancement from this bill would apply to Class 1, 2, and 3, misdemeanors, such that a misdemeanor committed by a person conspiring with one or more persons for the purpose of benefitting, promoting, or furthering criminal activity, will be punished at one class higher than the underlying misdemeanor for which the person was convicted.

The offense of conspiracy to commit a misdemeanor, unless a different classification is expressly stated in statute, is punishable under the next lower classification of the offense which the offender conspired to commit. (G.S. 14-2.4)

FINDINGS

☐

Bill is **consistent** with G.S. 164-41.

☒

Bill is **inconsistent** with G.S. 164-41.

☐

G.S. 164-41 is not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS ON NEXT PAGE

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

HB 261 - SENT. ENHANCEMENT/IMMIGRATION-RELATED CRIMES [Ed. 1]

PREPARED: MARCH 4, 2025

Estimated Prison Population Impact³³

SECTION 1. Creates three new felony sentencing enhancements.

G.S. 15A-1340.16H, enhanced sentence for felony committed by person unlawfully in the United States, establishes two sentence enhancements in subsections (a) and (b). First, subsection (a) states that a person is guilty of a felony that is one class higher than the underlying felony for which the person was convicted if the person is convicted of a felony other than a Class A felony and it is found as provided in this section that the person had been previously denied admission to, or excluded, deported, or removed from, the United States.

Second, subsection (b) states that a person is guilty of a felony that is two classes higher than the underlying felony if the person is convicted of a felony other than a Class A felony and it is found as provided in this section that the person had been previously convicted of a crime relating to the reentry of removed aliens under 8 U.S.C. § 1326.

G.S. 15A-1340.16I, enhanced sentence for felony committed for the purpose of benefitting, promoting, or furthering criminal activity, subsection (b) states that a person is guilty of a felony that is one class higher than the underlying felony if the person is convicted of a felony other than a Class A felony and it is found as provided in this section that the felony was committed by a person conspiring with one or more persons for the purpose of benefitting, promoting, or furthering criminal activity. For purposes of this section, the term "criminal activity" is as defined in G.S. 14-118.8, which is an offense that is (i) classified as a felony under the laws of this State or the United States or (ii) punishable by imprisonment for more than one year under the laws of another state.

It is not known how many offenders would qualify for either the one class sentence enhancement under G.S. 15A-1340.16H subsection (a) and G.S. 15A-1340.16I subsection (b), or the two class sentence enhancement under G.S. 15A-1340.16H subsection (b). However, a potential pool of eligible felony convictions for these sentence enhancements can be identified from FY 2023 data. Table 1 provides the number of FY 2023 felony convictions in the potential pool by offense class and includes information about the sentence imposed for these convictions.

³³ A threshold analysis is provided when it is not known how many offenders might be convicted and sentenced as a result of the proposed change. For each offense class, the threshold estimate is the number of convictions that results in the need for 1 prison bed the first year.

Table 1: FY 2023 Felony Convictions

Offense Class	Number of Convictions	% Active	Average Estimated Time Served for Active Sentences (Months)
B1	329	100	223
B2	197	100	144
C	643	100	78
D	873	100	58
E	1,970	57	25
F	2,353	53	18
G	3,793	40	14
H	9,792	35	11
I	6,304	16	6

Note: This table is limited to convictions under the Structured Sentencing Act. The calculations for average estimated time served exclude life sentences and death sentences. For resource projections, NCSPAC estimates the active rate for Classes A – D at 100% since a non-active sentence is only available for these offense classes as an exception to sentencing under the felony punishment chart.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

The impact of the one class enhancement and the two class enhancement on the prison population cannot be determined because it is not known how many convictions in the potential pool would receive a sentence enhancement under the proposed section. The impact would depend on the number and offense class of convictions to which the sentence enhancement is applied. As shown in Table 1, active rates and minimum sentences imposed increase as offense seriousness increases. Impact on the prison population would occur as a result of higher active rates and longer sentence lengths imposed for any conviction to which an enhancement is applied. The timing of impact would depend on the offense class of the offense to which the sentence enhancement would be applied. Impact would occur within the five-year projection period if the sentence enhancement were applied to a Class E through Class I felony; it would occur outside the five-year projection period if applied to a Class B1 through Class D felony.

SECTION 2.

Creates two new misdemeanor sentencing enhancements in 15A-1340.24, enhanced sentence for misdemeanor committed for the purpose of benefitting, promoting, or furthering criminal activity. Potential pools of eligible misdemeanor convictions can be identified from FY 2023 data. Table 2 provides the number of FY 2023 misdemeanor convictions in the potential pools by offense class and includes information about the sentence imposed for these convictions.

Table 2: FY 2023 Misdemeanor Convictions

Offense Class	Number of Convictions	% Active	Average Active Sentence Length (Days)
A1	8,185	36	67
1	33,729	36	41
2	20,129	23	20
3	40,967	16	8

Note: Number of convictions includes all misdemeanor convictions, including possible discrepant data.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

Subsection (b) states the person convicted of a Class 1, Class 2, or Class 3 misdemeanor is guilty of a misdemeanor that is one class higher than the underlying misdemeanor for which the person was convicted if it is found as provided in this section that the misdemeanor was committed by a person conspiring with one or more persons for the purpose of benefitting, promoting, or furthering criminal activity.

It is not known how many Class 1, Class 2, or Class 3 offenders in the potential pool shown in Table 2 would qualify for the one class sentence enhancement under the proposed section. Structured Sentencing misdemeanants who receive an active sentence are housed in county jails either directly (90 days or less) or through the Statewide Misdemeanant Confinement Program (more than 90 days). Therefore, the proposed sentence enhancement would not be expected to have an impact on the prison population. The impact of the proposed sentence enhancement on local jail populations and the Statewide Misdemeanant Confinement Program is not known; the impact would depend on the number and offense class of convictions to which the sentence enhancement is applied.

Additionally, subsection (b) requires that if a person is convicted of a Class A1 misdemeanor and it is found as provided in this section that the misdemeanor was committed by a person conspiring with one or more persons for the purpose of benefitting, promoting, or furthering criminal activity, then the person is guilty of a Class I felony. For purposes of this section, the term "criminal activity" is as defined in G.S. 14-118.8, which is an offense that is (i) classified as a felony under the laws of this State or the United States or (ii) punishable by imprisonment for more than one year under the laws of another state.

It is not known how many Class A1 offenders in the potential pool shown in Table 2 would qualify for the one class sentence enhancement and be sentence in Class I under the proposed section. In FY 2023, 16% of Class I convictions resulted in active sentences, with an average estimated time served of 6 months. Nine months of post-release supervision is required upon release from prison following an active sentence or revocation of probation. The following table shows the estimated annual impact if, for example, there were 9 convictions (threshold) or 20 convictions (example) per year as a result of the proposed change. The five-year estimate takes into account the combination of active sentences and probation and post-release supervision violations resulting in confinement, as well as estimated growth rates in convictions.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
9	1	2	2	2	2
20	3	5	5	5	5

Effective December 1, 2025, and applies to offenses committed on or after that date.

DATA SOURCE: NC Sentencing and Policy Advisory Commission, FY 2023 Structured Sentencing Simulation Data

Technical consideration: It is not clear what effect a one class enhancement would have on a conviction for a Class B1 felony or a two class enhancement would have on a conviction for a Class B1 or B2 felony. Neither offense class is excluded from the enhancements but increasing their class would make them subject to a sentence for a Class A felony. Individuals convicted of a Class A felony are subject to death or life without parole.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 307 – Various Criminal Law Revisions [Ed. 1]

STATUTE

§ 14-318.7. Exposing a child to a controlled substance.

DESCRIPTION

Subsection (b):

A person who

1. knowingly, recklessly, or intentionally
2. causes or permits a child to be exposed to a controlled substance.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

The following definitions apply in this section:

- (1) Child. – Any person who is less than 16 years of age.
- (2) Controlled substance. – A controlled substance, controlled substance analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy straw, or targeted controlled substance, all as defined in G.S. 90-87. 18.

It is currently an aggravating factor if a person is convicted of manufacture of methamphetamine and it was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste. (G.S. 15A-1340.16(d)(16a))

The Sentencing Commission reviewed an identical provision in August 2023 in HB 748 [Ed. 3] and found it to be consistent with the Offense Classification Criteria for a Class H felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 307 – Various Criminal Law Revisions [Ed. 1] (cont'd)

STATUTE

§ 14-318.7. Exposing a child to a controlled substance.

DESCRIPTION

Subsection (c):

A person who

1. knowingly, recklessly, or intentionally
2. causes or permits a child to be exposed to a controlled substance, and
3. as a result the child ingests the controlled substance.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

The following definitions apply in this section:

- (1) Child. – Any person who is less than 16 years of age.
- (2) Controlled substance. – A controlled substance, controlled substance analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy straw, or targeted controlled substance, all as defined in G.S. 90-87. 18
- (3) Ingest. – Any means used to take into the body, to eat or drink, or otherwise consume, or absorb into the body in any way.

Child abuse (willful act or grossly negligent omission which shows a reckless disregard for human life and results in serious bodily injury to the child) is a Class E felony. (G.S. 14-318.4(a4))

The Sentencing Commission reviewed an identical provision in August 2023 in HB 748 [Ed. 3] and found it to be inconsistent with the Offense Classification Criteria for a Class E felony. The Commission noted that the provision would be consistent with the Offense Classification Criteria for a Class F felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

The offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 03/07/2025

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A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 307 – Various Criminal Law Revisions [Ed. 1] (cont'd)
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STATUTE

§ 14-318.7. Exposing a child to a controlled substance.

DESCRIPTION

Subsection (d):

A person who

1. knowingly, recklessly, or intentionally
2. causes or permits a child to be exposed to a controlled substance, and
3. as a result the child ingests the controlled substance,
4. resulting in serious physical injury.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

The following definitions apply in this section:

(1) Child. – Any person who is less than 16 years of age.

(2) Controlled substance. – A controlled substance, controlled substance analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy straw, or targeted controlled substance, all as defined in G.S. 90-87. 18

(3) Ingest. – Any means used to take into the body, to eat or drink, or otherwise consume, or absorb into the body in any way.

(4) Serious physical injury. - Physical injury that causes great pain and suffering. The term includes serious mental injury. (G.S. 14-318.4)

Child abuse (willful act or grossly negligent omission which shows a reckless disregard for human life and results in serious bodily injury to the child) is a Class E felony. (G.S. 14-318.4(a4))

The Sentencing Commission reviewed a substantially similar in August 2023 in HB 748 [Ed. 3] and found it to be inconsistent with the Offense Classification Criteria for a Class D felony. The Commission noted that the provision would be consistent with the Offense Classification Criteria for a Class E felony.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class E felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 307 – Various Criminal Law Revisions [Ed. 1] (cont'd)
--

STATUTE

§ 14-318.7. Exposing a child to a controlled substance

DESCRIPTION

Subsection (e):

A person who

1. knowingly, recklessly, or intentionally
2. causes or permits a child to be exposed to a controlled substance, and
3. as a result the child ingests the controlled substance,
4. resulting in serious bodily injury.

PROPOSED OFFENSE CLASS

Class C felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

The following definitions apply in this section:

- (1) Child. – Any person who is less than 16 years of age.
- (2) Controlled substance. – A controlled substance, controlled substance analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy straw, or targeted controlled substance, all as defined in G.S. 90-87. 18
- (3) Ingest. – Any means used to take into the body, to eat or drink, or otherwise consume, or absorb into the body in any way.
- (4) Serious bodily injury. - Bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization. (G.S. 14-318.4)

Child abuse (willful act or grossly negligent omission which shows a reckless disregard for human life and results in serious bodily injury to the child) is a Class E felony. (G.S. 14-318.4(a4))

The Sentencing Commission reviewed a substantially similar in August 2023 in HB 748 [Ed. 3] and found it to be inconsistent with the Offense Classification Criteria for a Class C felony. The Commission noted that the provision would be consistent with the Offense Classification Criteria for a Class C felony if it resulted in serious permanent bodily injury. This bill adds the definition of serious bodily injury from G. S. 14-318.4.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 307 – Various Criminal Law Revisions [Ed. 1] (cont'd)

STATUTE

§ 14-318.7. Exposing a child to a controlled substance

DESCRIPTION

Subsection (f):

A person who

1. knowingly, recklessly, or intentionally
2. causes or permits a child to be exposed to a controlled substance, and
3. as a result the child ingests the controlled substance, and
4. the ingestion is the proximate cause of death.

PROPOSED OFFENSE CLASS

Class B1 felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

The following definitions apply in this section:

- (1) Child. – Any person who is less than 16 years of age.
- (2) Controlled substance. – A controlled substance, controlled substance analogue, drug, marijuana, narcotic drug, opiate, opioid, opium poppy, poppy straw, or targeted controlled substance, all as defined in G.S. 90-87.
- (3) Ingest. – Any means used to take into the body, to eat or drink, or otherwise consume, or absorb into the body in any way.

Death by distribution of certain controlled substances is a Class C felony. (G.S. 14-18.4(b))

Death by distribution of certain controlled substances (aggravated by a prior conviction for certain offenses) is a Class B2 felony. (G.S. 14-18.4(c))

The Sentencing Commission reviewed an identical provision in August 2023 in HB 748 [Ed. 3] and found it to be consistent with the Homicide Offense Classification Criteria for a Class B1 felony.

FINDINGS



Bill is **consistent** with the Homicide Offense Classification Criteria.



Bill is **inconsistent** with the Homicide Offense Classification Criteria.



Homicide Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 308 – Criminal Law Changes [Ed. 1]

STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (a):

A person who

1. assaults another person and
2. inflicts serious bodily injury.

OFFENSE CLASS

CURRENT: Class F felony.

PROPOSED: Class E felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

G.S. 14-32.4(d)(1) defines “serious bodily injury” as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

Assault with deadly weapon inflicting serious injury (G.S. 14-32(b)) and assault with deadly weapon with intent to kill (G.S. 14-32(c)) are Class E felonies.

Assaults inflicting serious bodily injury on executive, legislative, or court officer (G.S. 14-46.6(c)), as well as on law enforcement officer, probation officer, or parole officer (G.S. 14-34.7(a)) are Class E felonies.

Assault or affray on a firefighter, emergency medical technician, medical responder, and medical practice and hospital personnel (inflicting serious bodily injury or using a non-firearm deadly weapon) is a Class F felony. (G.S. 14-34.6(b))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would also be consistent with the Offense Classification Criteria for a Class C felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 308 – Criminal Law Changes [Ed. 1]

STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (a2):

A person who

1. assaults another person
2. by strangulation.

OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

G.S. 14-32.4(d)(2) would define “strangulation” as impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of the person or by obstructing the nose and mouth of the person.

Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility (inflicts physical injury) is a Class H felony. (G.S. 14-34.7(c))

Assault inflicting serious injury is a Class A1 misdemeanor. (G.S. 14-33(c)(2))

Simple assault or a simple assault and battery or simple affray is a Class 2 misdemeanor. (G.S. 14-33(a))

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE CLASS OF AN EXISTING OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 308 – Criminal Law Changes [Ed. 1]

STATUTE

§ 14-32.4. Assault inflicting serious bodily injury; strangulation; penalties.

DESCRIPTION

Subsection (b):

A person who

1. assaults another person and
2. inflicts physical injury by strangulation.

OFFENSE CLASS

CURRENT: Class H felony.

PROPOSED: Class G felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

G.S. 14-32.4(d)(2) would define "strangulation" as impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of the person or by obstructing the nose and mouth of the person.

Certain assaults on a law enforcement, probation, or parole officer, or on a member of the North Carolina National Guard, or on a person employed at a State or local detention facility (inflicts physical injury) is a Class H felony. (G.S. 14-34.7(c))

Assault inflicting serious injury is a Class A1 misdemeanor. (G.S. 14-33(c)(2))

Burglary in the 2nd degree, is a Class G felony. (G.S. 14-51, -52)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

127 A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1]
--

STATUTE

§ 14-54. Breaking or entering buildings generally.

DESCRIPTION

Subsection (b1):

A person who

1. knowingly and wrongfully enters any area of a building
 - (i) that is commonly reserved for personnel of a commercial business where money or other property is kept or
 - (ii) clearly marked with a sign that indicates to the public that entry is forbidden.

PROPOSED OFFENSE CLASS

Class I felony for a second or subsequent offense.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

The first offense is a Class 1 misdemeanor.

Breaking or entering with the intent to commit any felony or larceny therein is a Class H felony. (G.S. 14-54(a))

Wrongfully breaking or entering any building is a Class 1 misdemeanor. (G.S. 14-54(b))

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level. Increasing the offense class based on prior convictions is inconsistent with Structured Sentencing.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-72.12. Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

DESCRIPTION

A person who

1. does any of the following:
 - a. Acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder or card issuer.
 - b. Obtains a gift card or gift card redemption information from a cardholder or card issuer by means of false or fraudulent pretenses, representations, or promises.
 - c. Alters or tampers with a gift card or its packaging with intent to defraud another.
2. and the value of the gift card is more than \$1,000.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

A violation of this section is a Class 1 misdemeanor if the value of the gift card acquired, retained, or for which the card redemption information is obtained, or is altered or tampered with, is not more than one thousand dollars (\$1,000).

Larceny of property (worth more than \$1,000) is a Class H felony. (G.S. 14-72)

Obtaining property by false pretenses (amount involved less than \$100,000) is a Class H felony. (G.S. 14-100)

Financial transaction card fraud (value over \$500) is a Class I felony. (G.S. 14-113.13)

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(4) and (a2)(1):

A person who

1. conspires with another person
2. to acquire or retain possession of a gift card or gift card redemption information
3. without the consent of the cardholder or card issuer.

PROPOSED OFFENSE CLASS

Class H felony if the value of the retail property exceeds \$1,500 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(1), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(4) and (a2)(2):

A person who

1. conspires with another person
2. to acquire or retain possession of a gift card or gift card redemption information
3. without the consent of the cardholder or card issuer.

PROPOSED OFFENSE CLASS

Class G felony if the value of the retail property exceeds \$20,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(1), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(4) and (a2)(3):

A person who

1. conspires with another person
2. to acquire or retain possession of a gift card or gift card redemption information
3. without the consent of the cardholder or card issuer.

PROPOSED OFFENSE CLASS

Class F felony if the value of the retail property exceeds \$50,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(1), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(4) and (a2)(4):

A person who

1. conspires with another person
2. to acquire or retain possession of a gift card or gift card redemption information
3. without the consent of the cardholder or card issuer.

PROPOSED OFFENSE CLASS

Class C felony if the value of the retail property exceeds \$100,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b) 1), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(5) and (a2)(1):

A person who

1. devises a scheme with one or more persons
2. to obtain a gift card or gift card redemption information
3. from a cardholder or card issuer
4. by means of false or fraudulent pretenses, representations, or promises.

PROPOSED OFFENSE CLASS

Class H felony if the value of the retail property exceeds \$1,500 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

Under G.S. 15A-1340.16(d)(2), it is an aggravating factor if the defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(5) and (a2)(2):

A person who

1. devises a scheme with one or more persons
2. to obtain a gift card or gift card redemption information
3. from a cardholder or card issuer
4. by means of false or fraudulent pretenses, representations, or promises.

PROPOSED OFFENSE CLASS

Class G felony if the value of the retail property exceeds \$20,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

Under G.S. 15A-1340.16(d)(2), it is an aggravating factor if the defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(5) and (a2)(3):

A person who

1. devises a scheme with one or more persons
2. to obtain a gift card or gift card redemption information
3. from a cardholder or card issuer
4. by means of false or fraudulent pretenses, representations, or promises.

PROPOSED OFFENSE CLASS

Class F felony if the value of the retail property exceeds \$50,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Under G.S. 15A-1340.16(d)(2), it is an aggravating factor if the defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(5) and (a2)(4):

A person who

1. devises a scheme with one or more persons
2. to obtain a gift card or gift card redemption information
3. from a cardholder or card issuer
4. by means of false or fraudulent pretenses, representations, or promises.

PROPOSED OFFENSE CLASS

Class C felony if the value of the retail property exceeds \$100,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

Under G.S. 15A-1340.16(d)(2), it is an aggravating factor if the defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(6) and (a2)(1):

A person who

1. conspires with another person
2. to alter or tamper with a gift card or its packaging
3. with intent to defraud another.

PROPOSED OFFENSE CLASS

Class H felony if the value of the retail property exceeds \$1,500 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from any structure designed to house or secure any activity or property, loss occasioned by the taking or removing of property or by breach of trust, formal or informal, in personal injury, or in significant societal injury as Class H felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(3), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS

☒

Bill is **consistent** with the Offense Classification Criteria.

☐

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(6) and (a2)(2):

A person who

1. conspires with another person
2. to alter or tamper with a gift card or its packaging
3. with intent to defraud another.

PROPOSED OFFENSE CLASS

Class G felony if the value of the retail property exceeds \$20,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss from the person or from the person's dwelling as Class G felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(3), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(6) and (a2)(3):

A person who

1. conspires with another person
2. to alter or tamper with a gift card or its packaging
3. with intent to defraud another.

PROPOSED OFFENSE CLASS

Class F felony if the value of the retail property exceeds \$50,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(3), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 315 – Gift Card Theft & Unlawful Business Entry [Ed. 1] (cont'd)
--

STATUTE

§ 14-86.6. Organized retail theft.

DESCRIPTION

Subdivisions (a)(6) and (a2)(4):

A person who

1. conspires with another person
2. to alter or tamper with a gift card or its packaging
3. with intent to defraud another.

PROPOSED OFFENSE CLASS

Class C felony if the value of the retail property exceeds \$100,000 aggregated over a 90-day period.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

Under Structured Sentencing, conspiracy to commit a felony is punished one class lower than the felony they conspired to commit. This conduct could be charged as conspiracy to commit 14-72.12(b)(3), Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: SB 161 – The Jenesis Firearm Accountability Act [Ed. 1]

STATUTE

§ 14-409.13. Report of loss or theft of firearm.

DESCRIPTION

Subsection(d):

A person who

1. owns, possesses, or otherwise controls a firearm
2. that is lost or stolen and
3. fails to report the loss or theft to a law enforcement agency within 48 hours of discovering the firearm is lost or stolen and
4. the firearm is used in the commission of a violent felony or misdemeanor, as defined in G.S. 15A-145.6.

PROPOSED OFFENSE CLASS

Guilty of the same level of offense as the offense in which the firearm was used unless the person demonstrates to the court a reasonable inability to have complied with the requirements of this section.

ANALYSIS

Failure to report the loss or theft of the firearm as required is an infraction.

A violent felony as defined in G.S. 15A-145.6(a)(2) is a Class A through G felony or a Class A1 misdemeanor that includes assault as an essential element of the offense.

Currently, a person who aids or abets a crime is guilty of that crime and is punishable as provided for that crime.

Storing a firearm where a minor gains access to the firearm without the lawful permission of the minor's parents or a person having charge of the minor and the minor:

- (1) Possesses it in violation of G.S. 14-269.2(b);
- (2) Exhibits it in a public place in a careless, angry, or threatening manner;
- (3) Causes personal injury or death with it not in self defense; or
- (4) Uses it in the commission of a crime;

Is a Class 1 misdemeanor. (G.S. 14-315.1)

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

☒

Bill is **inconsistent** with the Offense Classification Criteria.

☐

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: SB 164 – Theft of Temporary Housing During Emergency [Ed. 1]
--

STATUTE

§ 14-288.6. Looting; trespass during emergency.

DESCRIPTION

Subsection (b1):

A person who

1. enters the premises of another
2. without legal justification,
3. in a county located in an emergency area during a state of emergency, and,
4. without legal justification
5. obtains or exerts control over, damages, ransacks, or destroys
6. the temporary housing of another.

PROPOSED OFFENSE CLASS

Class F Felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

An emergency area is defined by G.S. 166A-19.3; A state of emergency is defined by G.S. 166A-19.3; Temporary housing is defined by G.S. 14-288.6(b1)(3).

Looting; trespass during emergency:

- Entering the premises of another without legal justification when the usual security of property is not effective due to the occurrence or aftermath of riot, insurrection, invasion, storm, fire, explosion, flood, collapse, or other disaster or calamity during an emergency is a Class 1 misdemeanor. (G.S. 14-288.6(a))
- Trespassing during emergency and, without legal justification, obtaining or exerting control over, damaging, ransacking, or destroying the property of another is a Class H felon. (G.S. 14-288.6(b))

Willful and wonton injury to real property:

- Damaging, injuring, or destroying the residential real property of another resulting in damages valued at \$1,000 or more is guilty a Class I felony. (G.S. 14-127)
- Damaging, injuring or destroying any real property whatsoever, either of a public or private nature, is a Class 1 misdemeanor. (G.S. 14-127)

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: SB 244 – January 6 Riot/Attempt Overthrow of Gov’t [Ed. 1]
--

STATUTE

§ 14-288.2. Riot; inciting to riot; punishments.

DESCRIPTION

Subsection (c3):

A person who

1. willfully engages in a riot (as defined in subsection (a)) and
2. in the course of the riot
3. attempts to overthrow the government of the United States, the State of North Carolina, or any political subdivision thereof.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

G.S. 14-288.2(a) defines a riot as “a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.”

Engaging in a riot is a Class 1 misdemeanor. (G.S. 14-288.2(b))

- brandishing a dangerous weapon/using a dangerous substance is a Class H felony. (G.S. 14-288.2(c))
- resulting in property damage in excess of \$2,500 or serious bodily injury is a Class F felony. (G.S. 14-288.2(c1))
- causing a death is a Class E felony. (G.S. 14-288.2(c2))

The Sentencing Commission reviewed an identical provision in March 2023 in HB 249 and found it to be consistent with the Offense Classification Criteria for a Class F felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: SB 244 – January 6 Riot/Attempt Overthrow of Gov’t [Ed. 1] (cont’d)
--

STATUTE

§ 14-288.2. Riot; inciting to riot; punishments.

DESCRIPTION

Subsection (e2):

A person who

1. willfully incites or urges another to engage in a riot (as defined in subsection (a)), and
2. such inciting or urging is a contributing cause of a riot in which a person attempts to overthrow the government of the United States, the State of North Carolina, or any political subdivision thereof.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

G.S. 14-288.2(a) defines a riot as “a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.”

Inciting another to engage in a riot so that a riot occurs or is directly and imminently likely to produce a riot is a Class A1 misdemeanor. (G.S. 14-288.2(d))

- which is a contributing cause of a riot in which there is property damage in excess of \$2,500 or serious bodily injury is a Class E felony. (G.S. 14-288.2(e))
- which is a contributing cause of a riot in which there is a death is a Class D felony. (G.S. 14-288.2(e1))

The Sentencing Commission reviewed an identical provision in March 2023 in HB 249 and found it to be consistent with the Offense Classification Criteria for a Class F felony.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET

A finding that a bill is either consistent or inconsistent with the Sentencing Commission’s Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1]
--

STATUTE

§ 90-210.29C. Unlawful sale of embalming fluid.

DESCRIPTION

A person who

1. is a funeral director, embalmer, or resident trainee
2. knowingly gives, sells, permits to be sold, offers for sale, or displays for sale, other than for purposes within the general scope of their activities as a funeral director, embalmer, or resident trainee,
3. embalming fluid
4. to another person
5. with actual knowledge that the person is not a funeral director, embalmer, or resident trainee.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Embalming fluid is a compound of formaldehyde, methanol, ethanol (ethyl alcohol), and other solvents. (US DOJ)

Sale of Schedule I or II Controlled Substance is a Class G felony. (G.S. 90-95(b)(1))

Sale of a Schedule III, IV, V, or VI Controlled Substance is a Class H felony. (G.S. 90-95(b)(2))

The Sentencing Commission reviewed an identical provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable. The Commission noted that this offense would be similar to drug offenses classified as Class H felonies.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

The Offense Classification Criteria were not used in the classification of drug offenses; however, this offense would be similar to drug offenses classified as Class H felonies.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(1) and (c)(1):

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k), and
4. the violation involves less than 28 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

The following are Class I felonies:

- Possession of a Schedule I Controlled Substance. (G.S. 90-95(d)(1))
- Possession of more than 100 dosage units of a Schedule II, III, or IV Controlled Substance. (G.S. 90-95(d)(2))
- Possession of any amount of methamphetamine, amphetamine, phencyclidine, cocaine, fentanyl, or carfentanil, or derivative thereof. (G.S. 90-95(d)(2))
- Possession of more than 1.5 ounces of Marijuana or .15 ounces of Hashish. (G.S. 90-95(d)(4))

The Sentencing Commission reviewed a substantially similar provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS



Bill is **consistent** with the Offense Classification Criteria.



Bill is **inconsistent** with the Offense Classification Criteria.



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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A finding that a bill is either consistent or inconsistent with the Sentencing Commission's Offense Classification Criteria does not imply either support for or opposition to the bill itself.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(1) and (c)(2):

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k), and
4. the violation involves 28 grams but less than 200 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed a substantially similar provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(1) and (c)(3):

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k), and
4. the violation involves 200 grams but less than 400 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed a substantially similar provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(1) and (c)(4):

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k), and
4. the violation involves 400 grams or more of embalming fluid.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed a substantially similar provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
---------------------------------	--

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(2) and (c)(1):

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves less than 28 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Sale of Schedule I or II Controlled Substance is a Class G felony. (G.S. 90-95(b)(1))

Manufacture, deliver, or possess with intent to manufacture, sell, or deliver a Schedule I or II Controlled Substance is a Class H felony. (G.S. 90-95(b)(1))

Sale of a Schedule III, IV, V or VI Controlled Substance is a Class H felony. (G.S. 90-95(b)(2))

Manufacture, deliver, or possess with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance is a Class I felony. (G.S. 90-95(b)(2))

The Sentencing Commission reviewed an identical provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

☐

Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackleford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(2) and (c)(2):

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves 28 grams but less than 200 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed an identical provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

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Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
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BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
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STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(2) and (c)(3):

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves 200 grams but less than 400 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed an identical provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

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Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

BILL CONTINUED ON NEXT PAGE

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CREATE A NEW OFFENSE
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE:	SB 245 – The Rakim Shackelford Embalming Fluid Act [Ed. 1] (cont'd)
---------------------------------	--

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

Subdivisions (b)(2) and (c)(4):

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves 400 grams or more of embalming fluid.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Offense Classification Criteria were not used in the classification of drug offenses.

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

Weight	Cocaine	Methamphetamine	Amphetamine
28 > 200 grams	G	F	H
200 > 400 grams	F	E	G
400+ grams	D	C	E

The Sentencing Commission reviewed an identical provision in April 2023 in HB 278 and found the Offense Classification Criteria to be not applicable.

FINDINGS

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Bill is **consistent** with the Offense Classification Criteria.

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Bill is **inconsistent** with the Offense Classification Criteria.

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Offense Classification Criteria are not applicable.

DATE OF REVIEW: 03/07/2025

IMPACT ANALYSIS NOT REQUESTED YET