

# 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 May 13, 2024. 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 one page 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 as specified in G.S. 164-41 (see following page for a description of the criteria). Following the summary is an analysis of the projected impact of the bill (a more detailed impact analysis is provided to the Fiscal Research Division). The impact estimates assume an effective date of December 1, 2024.

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 May 15, 2024.

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

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

**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**  
**REPORT #1 ON PROPOSED LEGISLATION – SUMMARY OF FINDINGS**  
**May 15, 2024**

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
HB 908	Decriminalize Reproductive Health [Ed. 1]	G.S. 14-277.9(a)(1)	H	Inconsistent		<a href="#">1</a>
		G.S. 14-277.9(a)(2)	H	Inconsistent		<a href="#">2</a>
		G.S. 14-277.9(a)(3)	H	Consistent		<a href="#">3</a>
		G.S. 14-277.9(a)(4)	H	Inconsistent		<a href="#">4</a>
HB 966	Expedited Removal of Unauthorized Persons [Ed. 1]	G.S. 14-127	H	Consistent		<a href="#">5</a>
		G.S. 14-117.8(a)	C	Inconsistent	Would be consistent with a Class C felony if \$100,000 or more, Class H felony if less than \$100,000.	<a href="#">6</a>
		G.S. 14-117.8(b)	H	Consistent		<a href="#">7</a>
HB 971	Hotel Operation and Personnel Education Act. [Ed. 1]	G.S. 14-205.1(a)	I	Consistent		<a href="#">8</a>
SB 848	Protect Reproductive Health [Ed. 1]	G.S. 14-277.9(a)(1)	H	Inconsistent		<a href="#">1</a>
		G.S. 14-277.9(a)(2)	H	Inconsistent		<a href="#">2</a>
		G.S. 14-277.9(a)(3)	H	Consistent		<a href="#">3</a>
		G.S. 14-277.9(a)(4)	H	Inconsistent		<a href="#">4</a>



Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
SB 849	Increase Safe Use of Firearms [Ed. 1]	G.S. 14-409.50(e)	F	Inconsistent	Would be consistent with a Class H felony.	<a href="#">9</a>
		G.S. 14-409.50(e)	F	Consistent		<a href="#">10</a>
		G.S. 14-409.51	F	Inconsistent	Would be consistent with a Class H felony.	<a href="#">11</a>
		G.S. 14-315.1(a)	D	Inconsistent	Would be consistent with a Class A1 misdemeanor.	<a href="#">12</a>
		G.S. 14-315.1(a1)	D	Inconsistent		<a href="#">13</a>
SB 852	NC Universal Background Checks [Ed. 1]	G.S. 14-409.50(e)	F	Inconsistent	Would be consistent with a Class H felony.	<a href="#">9</a>
		G.S. 14-409.50(e)	F	Consistent		<a href="#">10</a>
		G.S. 14-409.51	F	Inconsistent	Would be consistent with a Class H felony.	<a href="#">11</a>
SB 886	Expedited Removal of Unauthorized Persons [Ed.1]	G.S. 14-127	H	Consistent		<a href="#">5</a>
		G.S. 14-117.8(a)	C	Inconsistent	Would be consistent with a Class C felony if \$100,000 or more, Class H felony if less than \$100,000.	<a href="#">6</a>
		G.S. 14-117.8(b)	H	Consistent		<a href="#">7</a>
SB 889	Protecting First Responders Act [Ed. 1]	G.S. 14-34.6	H	Consistent		<a href="#">14</a>
		G.S. 14-286.3(b)	H	Consistent		<a href="#">15</a>
		G.S. 14-286.3(c)	G	Inconsistent	Would be consistent with a Class F felony.	<a href="#">16</a>

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-286.3(d)	I	Inconsistent		<a href="#">17</a>
SB 890	Hate Crimes Prevention Act [Ed. 1]	14-34.11(b)	F	Consistent		<a href="#">18</a>
		G.S. 14-34.11(d)(1)	E	Inconsistent	Would be consistent with a Class B felony.	<a href="#">19</a>
		G.S. 14-34.11(d)(2)	E	Consistent		<a href="#">20</a>
SB 893	Guarding Freedoms & Public Safety Act [Ed. 1]	G.S. 14-269.2(b)	H	Consistent		<a href="#">21</a>
		G.S. 14-269.2(b)	E	Inconsistent	Would be consistent with a Class D felony.	<a href="#">22</a>
		G.S. 14-269.2(c)	H	Consistent		<a href="#">23</a>
		G.S. 14-269.2(f)	I	Inconsistent		<a href="#">24</a>
		G.S. 14-269.4	I	Inconsistent	Would be consistent with a Class H felony.	<a href="#">25</a>
		G.S. 14-415.21(a)	I	Consistent		<a href="#">26</a>
		G.S. 14-277.2(a)	I	Consistent		<a href="#">27</a>
		G.S. 14-269.3(a)	I	Consistent		<a href="#">28</a>

**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**

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

<b>BILL NUMBER/SHORT TITLE:</b>	HB 908 – Decriminalize Reproductive Health [Ed. 1]/SB 848 – Protect Reproductive Health [Ed. 1]
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**STATUTE**

§ 14-277.9. Interference with individuals seeking abortion.

**DESCRIPTION**

Subdivision (a)(1):

A person who

1. obstructs, blocks, or otherwise interferes with,
2. another individual's access to or egress from, or from the common areas of,
3. a healthcare facility
4. that performs abortions.

**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 obstruction of health care facilities is a Class 2 misdemeanor for a first offense, Class 1 misdemeanor for a second offense within three years of the first offense, and a Class I felony for a subsequent offense within three years of the second offense. (G.S. 14-277.4(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:** 05/15/2024

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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)**

<b>BILL NUMBER/SHORT TITLE:</b>	HB 908 Decriminalize Reproductive Health [Ed. 1]/SB 848 Protect Reproductive Health [Ed. 1] (cont'd)
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**STATUTE**

§ 14-277.9. Interference with individuals seeking abortion.

**DESCRIPTION**

Subdivision (a)(2):

A person who

1. injures,
2. or threatens to injure,
3. another individual who is seeking an abortion.

**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.

Obstruction of health care facilities by injuring or threatening to injure a person is a Class 2 misdemeanor for a first offense, Class 1 misdemeanor for a second offense within three years of the first offense, and a Class I felony for a subsequent offense within three years of the second offense. (G.S. 14-277.4(b))

Simple assault is a Class 2 misdemeanor. (G.S. 14-33(a))

Communicating threats is a Class 1 misdemeanor. (G.S. 14-277.1)

**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:** 05/15/2024

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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)**

<b>BILL NUMBER/SHORT TITLE:</b>	HB 908 Decriminalize Reproductive Health [Ed. 1]/SB 848 Protect Reproductive Health [Ed. 1] (cont'd)
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**STATUTE**

§ 14-277.9. Interference with individuals seeking abortion.

**DESCRIPTION**

Subdivision (a)(3):

A person who

1. willfully harasses, without any legal purpose,
2. an individual seeking an abortion.

**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.

**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:** 05/15/2024

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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)**

<b>BILL NUMBER/SHORT TITLE:</b>	HB 908 Decriminalize Reproductive Health [Ed. 1]/SB 848 Protect Reproductive Health [Ed. 1] (cont'd)
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**STATUTE**

§ 14-277.9. Interference with individuals seeking abortion.

**DESCRIPTION**

Subdivision (a)(4):

A person who

1. publishes, discloses, or otherwise misuses,
2. the personal information of an individual seeking an abortion.

**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.

Stalking is a Class A1 misdemeanor. (G.S. 14-277.3A)

Cyberstalking is a Class 2 misdemeanor. (G.S. 14-196.3)

**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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> HB 966/SB 886 – Expedited Removal of Unauthorized Persons [Ed. 1]
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**STATUTE**

§ 14-127. Willful and wanton injury to real property.

**DESCRIPTION**

A person who

1. willfully and wantonly
2. damages, injures, or destroys
3. the residential real property of another, and
4. that damage, injury, or destruction results in damages valued at \$1,000 or more.

**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.

Willful and wonton injury to real property is a Class 1 misdemeanor regardless of amount. (G.S. 14-127)  
If the damages to residential real property are valued at less than \$1,000, it would be a Class 1 misdemeanor under the existing offense.

**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:** 05/15/2024

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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)**

<b>BILL NUMBER/SHORT TITLE:</b> HB 966/SB 886 – Expedited Removal of Unauthorized Persons [Ed. 1] (cont'd)
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**STATUTE**

§ 14-117.8. Fraudulent advertisements and transactions involving residential real property.

**DESCRIPTION**

Subsection (a):

A person who

1. unlawfully rents or leases
2. residential real property
3. to another person
4. knowing that the renter or lessor has no lawful ownership in the property or leasehold interest in the property.

**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.

Contribution tax return preparer aiding or assisting in filing false or fraudulent tax return to evade unemployment insurance contributions and the amount involved is \$100,000 or more is a Class C felony. (G.S. 96-18(b1)) Income tax return preparer aiding or assisting in filing fraudulent tax returns and the amount is \$100,000 or more is a Class C felony. (G.S. 105-236(a)(9a)(a.)) Embezzlement of property received by virtue of office or employment and the amount involved is \$100,000 or more is a Class C felony. (G.S. 14-90) Obtaining property by false pretenses and the amount involved is \$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 C and H felony if the amount involved was \$100,000 more, or less than \$100,000, respectively. The Sentencing Commission recommends classifying offenses that cause serious long-term personal injury or serious long-term or widespread societal injury as Class C felonies. The Sentencing Commission recommends classifying offenses that cause 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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> HB 966/SB 886 – Expedited Removal of Unauthorized Persons [Ed. 1] (cont'd)
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**STATUTE**

§ 14-117.8. Fraudulent advertisements and transactions involving residential real property.

**DESCRIPTION**

Subsection (b):

A person who

1. unlawfully lists or advertises
2. residential real property for rent, lease, or sale
3. knowing that the purported renter, lessor, or seller has no legal title or authority to rent, lease, or sell the property.

**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.

Aiding or assisting in filing fraudulent tax returns is a Class H felony. (G.S. 105-236(a)(9a)(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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> HB 971 – Hotel Operation and Personnel Education Act. [Ed. 1]
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**STATUTE**

§ 14-205.1. Solicitation of prostitution.

**DESCRIPTION**

Subsection (a):

A person who

1. solicits another
2. for the purpose of prostitution.

**OFFENSE CLASS**

**CURRENT:** Class 1 misdemeanor for the first offense.

**PROPOSED:** Class I felony for the first 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.

Currently, a person who commits a second or subsequent offense is guilty of a Class H felony. This punishment is not changed in this bill.

**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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 849 – Increase Safe Use of Firearms [Ed.1]; SB 852 – NC Universal Background Checks [Ed.1]
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**STATUTE**

§ 14-409.50. Background checks for the sales of firearms- federally licensed firearm dealers.

**DESCRIPTION**

Subsection (e):

A person who

1. is a federally licensed firearm dealer
2. and sells, transfers, or delivers
3. any firearm to any person in violation of Article 53D (Universal Background Check).

**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. 14-409.49 defines a federally licensed firearm dealer as a person who is licensed pursuant to 18 U.S.C. § 923 to engage in the business of dealing in firearms.

G.S. 14-409.50(d) makes it unlawful for a federally licensed firearm dealer to sell, transfer, or deliver any firearm to any other person if a National Instant Criminal Background Check System (NICS) check reveals that the possession of any firearm by the person would violate state or federal law or if the federally licensed firearm dealer knows or has reason to know that the private person is prohibited from possessing any firearm by state or federal law.

The Sentencing Commission reviewed an identical provision in SB 496 and HB 705/SB 713 in April 2023 and found it to be inconsistent with the Offense Classification Criteria for a Class F felony but noted that the provision would 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.

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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 849 – Increase Safe Use of Firearms [Ed.1]; SB 852 – NC Universal Background Checks [Ed.1] (cont'd)
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**STATUTE**

§ 14-409.50. Background checks for the sales of firearms- federally licensed firearm dealers.

**DESCRIPTION**

Subsection (e):

A person who

1. provides any materially false information
2. to a federally licensed firearm dealer
3. with the intent to obtain a firearm in violation of state or federal law.

**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. 14-409.49 defines a federally licensed firearm dealer as a person who is licensed pursuant to 18 U.S.C. § 923 to engage in the business of dealing in firearms.

G.S. 14-409.50(d) makes it unlawful for a federally licensed firearm dealer to sell, transfer, or deliver any firearm to any other person if a National Instant Criminal Background Check System (NICS) check reveals that the possession of any firearm by the person would violate state or federal law or if the federally licensed firearm dealer knows or has reason to know that the private person is prohibited from possessing any firearm by state or federal law.

Solicit unlawful purchase of firearm (transfer of firearms or ammunition under circumstances known to violate state or federal laws), is a Class F felony (G.S. 14-408.1(b))

Solicit unlawful purchase of firearm (provide dealer or seller with false information with intent to deceive), is a Class F felony. (G.S. 14-408.1(c))

The Sentencing Commission reviewed an identical provision in SB 496 and HB 705/SB 713 in April 2023 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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 849 – Increase Safe Use of Firearms [Ed.1]; SB 852 – NC Universal Background Checks [Ed.1] (cont'd)
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**STATUTE**

§ 14-409.51. Background checks required for the sales of firearms - private persons.

**DESCRIPTION**

A person who

1. transfers any firearm to any other private person
2. without conducting a background check of that person
3. through a federally licensed firearm dealer as provided by G.S. 14-409.50(c) and the federally licensed firearm dealer verifying that the transfer would not violate state or federal law.

**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. 14-409.49 defines a federally licensed firearm dealer as a person who is licensed pursuant to 18 U.S.C. § 923 to engage in the business of dealing in firearms. With some exceptions, G.S. 14-409.51(c), defines "transfer" to mean assigning, pledging, leasing, loaning, selling, giving away, or otherwise disposing of any firearm.

Solicit unlawful purchase of firearm (transfer of firearms or ammunition under circumstances known to violate state or federal laws), is a Class F felony (G.S. 14-408.1(b))

Solicit unlawful purchase of firearm (provide dealer or seller with false information with intent to deceive), is a Class F felony. (G.S. 14-408.1(c))

The Sentencing Commission reviewed an identical provision in SB 496 and HB 705/SB 713 in April 2023 and found it to be inconsistent with the Offense Classification Criteria for a Class F felony but noted that the provision would 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.

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:** 05/15/2024

**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:** SB 849 – Increase Safe Use of Firearms [Ed.1] (cont'd)

**STATUTE**

§ 14-315.1. Safe storage of firearms.

**DESCRIPTION**

Subsection (a):

A person who

1. resides in the same premises as a minor,
2. owns or possesses a firearm,
3. and stores or leaves the firearm
  - a. in a condition that the firearm can be discharged and
  - b. in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm.

**OFFENSE CLASS**

**CURRENT:** Class 1 misdemeanor.

**PROPOSED:** 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. 14-315.1(d) defines a minor as a person under 18 years of age who is not emancipated.

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

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))

Child abuse a misdemeanor, is a Class A1 misdemeanor. (G.S. 14-318.2)

The Sentencing Commission reviewed an identical provision in SB 496 and HB 705/SB 713 in April 2023 and found it to be inconsistent with the Offense Classification Criteria for a Class D felony but noted that the provision would be consistent with the Offense Classification Criteria for a Class A1 misdemeanor.

**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 a Class A1 misdemeanor.

**DATE OF REVIEW:** 05/15/2024

**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:** SB 849 – Increase Safe Use of Firearms [Ed.1] (cont'd)

**STATUTE**

§ 14-315.1. Safe storage of firearms.

**DESCRIPTION**

Subsection (a1):

A person who

1. resides in the same premises as an unauthorized person,
2. owns or possesses a firearm,
3. and stores or leaves the firearm without having securely locked the firearm in an appropriate safe storage depository or rendered it incapable of being fired if the unauthorized person gains access to the firearm and does any of the following:
  - a. Possesses it in violation of G.S. 14-269.2(b).
  - b. Exhibits it in a public place in a careless, angry, or threatening manner.
  - c. Causes personal injury or death with it not in self-defense.
  - d. Uses it in the commission of a crime.

**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. 14-315.1(d) defines an unauthorized person as a person who is not authorized to purchase a firearm under State or federal law.

To possess a firearm on educational property or to a curricular or extracurricular activity sponsored by a school (discharging a firearm) is a Class F felony. (G.S. 14-269.2(b))

The Sentencing Commission reviewed an identical provision in SB 496 and HB 705/SB 713 in April 2023 and found it to be inconsistent with the Offense Classification Criteria for a Class D 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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 889 – Protecting First Responders Act [Ed. 1]
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**STATUTE**

§ 14-34.6. Assault or affray on a firefighter, an emergency medical technician, medical responder, and hospital personnel.

**DESCRIPTION**

A person who

1. commits an assault or affray
2. causing physical injury on any of the following persons who are discharging or attempting to discharge their official duties:
  - a. An emergency medical technician or other emergency health care provider.
  - b. A medical responder.
  - c. Hospital employee, medical practice employee, licensed health care provider, or individual under contract to provide services at a hospital or medical practice.
  - d. Repealed.
  - e. A firefighter.
  - f. Hospital security personnel.

**OFFENSE CLASS**

**CURRENT:** Class I felony.

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

**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:** 05/15/2024

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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 889 – Protecting First Responders Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-286.3. Exposing certain emergency responders to fentanyl or other harmful drug or chemical agent; failure to notify certain emergency responders of presence of fentanyl or other harmful drug or chemical agent.

**DESCRIPTION**

Subsection (b):

A person who

1. unlawfully and intentionally
2. possesses fentanyl or any other harmful drug or chemical agent and
3. exposes an emergency responder to the fentanyl or other harmful drug or chemical agent.

**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.

An emergency responder is defined in G.S. 14-286.3(a)(1) as an emergency medical technician or other emergency health care provider, medical responder, firefighter, and law enforcement officer. Additionally, exposure is defined as creating a risk of skin contact, inhalation, ingestion, or contact with a needlestick or a mucus membrane, including the mouth, eyes, or nose (G.S. 14-286.3(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:** 05/15/2024

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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 889 – Protecting First Responders Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-286.3. Exposing certain emergency responders to fentanyl or other harmful drug or chemical agent; failure to notify certain emergency responders of presence of fentanyl or other harmful drug or chemical agent.

**DESCRIPTION**

Subsection (c):

A person who

1. unlawfully and intentionally
2. possesses fentanyl or any other harmful drug or chemical agent and
3. exposes an emergency responder to the fentanyl or other harmful drug or chemical agent
4. and the emergency responder suffers serious bodily injury as a result of the exposure.

**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.

An emergency responder is defined in G.S. 14-286.3(a)(1) as an emergency medical technician or other emergency health care provider, medical responder, firefighter, and law enforcement officer. Additionally, exposure is defined as creating a risk of skin contact, inhalation, ingestion, or contact with a needlestick or a mucus membrane, including the mouth, eyes, or nose (G.S. 14-286.3(a)(2)).

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

Assault or affray on a firefighter, emergency medical technician, medical responder, and medical practice and hospital personnel (inflicting serious bodily injury) 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 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:** 05/15/2024

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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 889 – Protecting First Responders Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-286.3. Exposing certain emergency responders to fentanyl or other harmful drug or chemical agent; failure to notify certain emergency responders of presence of fentanyl or other harmful drug or chemical agent.

**DESCRIPTION**

Subsection (d):

A person who

1. knows fentanyl or other harmful drugs or chemical agents are unlawfully present at a location an emergency responder is responding to and
2. willfully fails to notify the emergency responder of the presence of the fentanyl or other harmful drug or chemical agent
3. within a reasonable time prior to the emergency responder arriving at the location.

**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.

An emergency responder is defined in G.S. 14-286.3(a)(1) as an emergency medical technician or other emergency health care provider, medical responder, firefighter, and law enforcement officer.

Assault or affray on a firefighter, an emergency medical technician, medical responder, and medical practice and hospital personnel (causing physical injury) is Class I felony. G.S. 14-34.6(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:** 05/15/2024

**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 890 – Hate Crimes Prevention Act [Ed. 1]

**STATUTE**

§ 14-34.11. Felonious assault as a hate crime.

**DESCRIPTION**

Subsection (b):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or  
(b) attempts to assault a person and inflict serious bodily injury to the person
2. in whole or in part because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person or a person or group associated with that person.

**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.

Assault inflicting serious bodily injury is a Class F felony (G.S. 14-32.4). Serious bodily injury is defined by statute as bodily injury that creates a substantial risk of death, or that causes 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.

It is currently an aggravating factor if the offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin (G.S. 15A-1340.16(d)(17)).

Unless another classification is explicitly stated by statute, a felony attempt is punished at one class lower than the offense the offender attempted to commit (G.S. 14-2.5). In *State v. Floyd*, the NC Supreme Court held that attempted assault is a crime. See 369 N.C. 329, 794 S.E.2d 460 (2016).

The Sentencing Commission reviewed an identical provision in June 2018 in SB 794, April 2019 in HB 312/SB 209, April 2021 in HB 354/SB 439, and April 2023 in HB 596/SB 437 and each time 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:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 890 – Hate Crimes Prevention Act [Ed. 1] (cont’d)
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**STATUTE**

§ 14-34.11. Felonious assault as a hate crime.

**DESCRIPTION**

Subsection (d)(1):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or  
(b) attempts to assault a person and inflict serious bodily injury to the person
2. in whole or in part because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person or a person or group associated with that person and
3. death results from the offense.

**PROPOSED OFFENSE CLASS**

Class E felony.

**ANALYSIS**

The Sentencing Commission classified offenses which result in an unintentional killing by criminal or culpable negligence with aggravating circumstances as Class E felonies.

Voluntary manslaughter is a Class D felony (G.S. 14-18).

Involuntary manslaughter is a Class F felony (G.S. 14-18).

The Sentencing Commission reviewed an identical provision in June 2018 in SB 794, April 2019 in HB 312/SB 209, April 2021 in HB 354/SB 439, and April 2023 in HB 596/SB 437 and each time found it to be inconsistent with the Homicide Offense Classification Criteria for a Class E felony. The Commission noted each time that the provision would be consistent with the Homicide Offense Classification Criteria for a Class B 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.

This offense would be consistent with the Homicide Offense Classification Criteria for a Class B felony. The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

**DATE OF REVIEW:** 05/15/2024

**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:** SB 890 – Hate Crimes Prevention Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-34.11. Felonious assault as a hate crime.

**DESCRIPTION**

Subsection (d)(2):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or  
(b) attempts to assault a person and inflict serious bodily injury to the person
2. in whole or in part because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person or a person or group associated with that person and
3. the offense includes a violation or attempted violation of any of the following:
  - a. G.S. 14-39 (kidnapping).
  - b. G.S. 14-27.21 (first degree forcible rape).
  - c. G.S. 14-27.22 (second degree forcible rape).
  - d. G.S. 14-27.26 (first degree forcible sexual offense).
  - e. G.S. 14-27.27 (second degree forcible sexual offense).

**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.

Assault inflicting serious bodily injury is a Class F felony (G.S. 14-32.4). Serious bodily injury is defined by statute as bodily injury that creates a substantial risk of death, or that causes 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. It is currently an aggravating factor if the offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin (G.S. 15A-1340.16(d)(17)).

Unless another classification is explicitly stated by statute, a felony attempt is punished at one class lower than the offense the offender attempted to commit (G.S. 14-2.5). In *State v. Floyd*, the NC Supreme Court held that attempted assault is a crime. See 369 N.C. 329, 794 S.E.2d 460 (2016).

The Sentencing Commission reviewed an identical provision in June 2018 in SB 794, April 2019 in HB 312/SB 209, April 2021 in HB 354/SB 439, and April 2023 in HB 596/SB 437 and each time found it to 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.

**DATE OF REVIEW:** 05/15/2024

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1]
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**STATUTE**

§ 14-269.2. Weapons on campus or other educational property.

**DESCRIPTION**

Subsection (b):

A person who

1. knowingly
2. possesses or carries, whether openly or concealed,
3. any gun, rifle, pistol, or other firearm of any kind
4. on educational property or to a curricular or extracurricular activity sponsored by a school.

**OFFENSE CLASS**

**CURRENT:** Class I felony.

**PROPOSED:** Class H 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.

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 subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

Possess weapon on certain State property and in courthouses is a Class 1 misdemeanor. (G.S. 14-269.4)  
Discharging certain barreled weapons or a firearm at or into certain unoccupied emergency vehicles is a Class H felony. (G.S. 14-34.1A)  
Larceny of property; receiving or possessing stolen goods (firearm) is a Class H felony. (G.S. 14-72(b)(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:** 05/15/2024

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

**BILL NUMBER/SHORT TITLE:** SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-269.2. Weapons on campus or other educational property.

**DESCRIPTION**

Subsection (b):

A person who

1. willfully
2. discharges a firearm of any kind
3. on educational property.

**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.

This subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

Discharging certain barreled weapons or a firearm at or into certain unoccupied emergency vehicles is a Class H felony. (G.S. 14-34.1A)

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

Discharging a firearm from within an enclosure is a Class E felony. (G.S. 14-34.9)

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

**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 D felony. 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.

**DATE OF REVIEW:** 05/15/2024

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

<b>BILL NUMBER/SHORT TITLE:</b> SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)
---

**STATUTE**

§ 14-269.2. Weapons on campus or other educational property.

**DESCRIPTION**

Subsection (c):

A person who

1. causes, encourages, or aids
2. a minor who is less than 18 years old
3. to possess or carry, whether openly or concealed,
4. any gun, rifle, pistol, or other firearm of any kind
5. on educational property.

**OFFENSE CLASS**

**CURRENT:** Class I felony.

**PROPOSED:** Class H 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.

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 subsection does not apply to a BB gun, stun gun, air rifle, or air pistol.

Aiding a minor to possess explosives on educational property is a Class G felony. (G.S. 14-269.2(c1))

Selling or giving weapons to minors (sale of handguns) is a Class H felony. (G.S. 14-315(a1))

**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:** 05/15/2024

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

<b>BILL NUMBER/SHORT TITLE:</b> SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)
---

**STATUTE**

§ 14-269.2. Weapons on campus or other educational property.

**DESCRIPTION**

Subsection (f):

A person who

1. knowingly
2. possesses or carries, whether openly or concealed,
3. any gun, rifle, pistol, or other firearm of any kind
4. on educational property or to a curricular or extracurricular activity sponsored by a school
5. and the following conditions are met:
  - a. The person is not a student attending school on the educational property or an employee employed by the school working on the educational property; and
  - b. The person is not a student attending a curricular or extracurricular activity sponsored by the school at which the student is enrolled or an employee attending a curricular or extracurricular activity sponsored by the school at which the employee is employed; and
  - c. The firearm is not loaded, is in a motor vehicle, and is in a locked container or a locked firearm rack.

**OFFENSE CLASS**

**CURRENT:** Class 1 misdemeanor.

**PROPOSED:** 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.

Possess weapon on campus or other educational property is a Class I felony. (G.S. 14-269.2(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:** 05/15/2024

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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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)
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**STATUTE**

§ 14-269.4. Weapons on certain State property and in courthouses.

**DESCRIPTION**

A person who

1. possesses, or carries, whether openly or concealed,
2. a firearm,
3. not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice.

**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.

Currently, a violation under this section for any dangerous weapon is a Class 1 misdemeanor. Violations for any dangerous weapon other than a firearm would remain a Class 1 misdemeanor.

Possess weapon on campus or other educational property is a Class I felony. (G.S. 14-269.2(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 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:** 05/15/2024

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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 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-415.21. Punishment for violations of this Article.

**DESCRIPTION**

Subsection (a):

A person who

1. has been issued a valid (concealed handgun) permit, as required by G.S. 14-415.11,
2. who is found to be carrying a concealed handgun in violation of G.S. 14-415.11(c).

**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.

G.S. 14-415.11, provides the permitting requirements for a person to carry a concealed handgun including the scope of that permit. Subsection (c) lists areas in which a person may not carry a concealed handgun regardless of a valid permit. For instance, a concealed handgun may not be brought to campuses or educational properties (G.S. 14-269.2), certain state properties (G.S. 14-269.4), or where prohibited by federal law (18 U.S.C. § 922). It is not clear how this proposed offense would affect the existing offenses referenced in subsection (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:** 05/15/2024

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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 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-277.2. Weapons at parades, etc., prohibited.

**DESCRIPTION**

Subsection (a):

A person who

1. participates in, affiliated with, or present as a spectator at
2. any parade, funeral procession, picket line, or demonstration upon any private health care facility or upon any public place owned or under the control of the State or any of its political subdivisions to
3. willfully or intentionally
4. possess or have immediate access to
5. any firearm.

**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.

Currently, a violation under this section for any dangerous weapon is a Class 1 misdemeanor. Violations for any dangerous weapon other than a firearm would remain a Class 1 misdemeanor.

Possess weapon on certain State property and in courthouses is a Class 1 misdemeanor. (G.S. 14-269.4)  
Possess weapon on campus or other educational property is a Class I felony. (G.S. 14-269.2(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:** 05/15/2024

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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:** SB 893 – Guarding Freedoms & Public Safety Act [Ed. 1] (cont'd)

**STATUTE**

§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed.

**DESCRIPTION**

Subsection (a):

A person who

1. carries any gun, rifle, or pistol
2. into
  - a. any assembly where a fee has been charged for admission thereto, or
  - b. any establishment in which alcoholic beverages are sold and consumed.

**OFFENSE CLASS**

**CURRENT:** Class 1 misdemeanor.

**PROPOSED:** 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.

Possess weapon on certain State property and in courthouses is a Class 1 misdemeanor. (G.S. 14-269.4)

Possess weapon on campus or other educational property is a Class I felony. (G.S. 14-269.2(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:** 05/15/2024

**IMPACT ANALYSIS NOT REQUESTED YET**