

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

## REPORT #3

---

## SENTENCING AND POLICY ADVISORY COMMISSION MEMBERSHIP

---

**Hon. Charlie Brown, Chairman**  
*District Court Judge*

**Natalia Botella**  
*Attorney General's Office*

**Hon. Charles Miller**  
*State Representative*

**Hon. Danny Britt, Jr.**  
*State Senator*

**Hon. James Mixson, III**  
*Association of Clerks of Superior Court*

**Hon. Warren Daniel**  
*State Senator*

**Hon. Mujtaba Mohammed**  
*State Senator*

**Hon. James Gailliard**  
*Private Citizen, Governor's Appointee*

**Luther Moore**  
*Retail Merchants' Association*

**Lindsey Granados**  
*Advocates for Justice*

**Hon. Fred Morrison, Jr.**  
*Justice Fellowship*

**Hon. Dudley Greene**  
*State Representative*

**Hon. Reece Pyrtle, Jr.**  
*State Representative*

**Tammera Hill**  
*Department of Adult Correction*

**Calvin Suber**  
*Commission Chairman's Appointee*

**Hon. R. Gregory Horne**  
*Conference of Superior Court Judges*

**Hon. Scott Ussery**  
*District Court Judges' Association*

**Joseph Houchin**  
*Lieutenant Governor's Appointee*

**Hon. Michael Waters**  
*Conference of District Attorneys*

**Hon. Darren Jackson**  
*Post-Release Supervision & Parole Commission*

**Elizabeth Watson**  
*Victim Assistance Network*

**Hon. Tracey Johnson**  
*Association of County Commissioners*

**Patrick Weede**  
*Bar Association*

**William Lassiter**  
*Department of Public Safety*

**Chief A.Z. Williams**  
*Association of Chiefs of Police*

**Sheriff Garry McFadden**  
*Sheriffs' Association*

**Hon. Valerie Zachary**  
*Court of Appeals*

**Vacant**  
*Academic Member*

**Vacant**  
*Community Colleges System*

---

## SENTENCING AND POLICY ADVISORY COMMISSION STAFF

---

**Michelle Hall**  
*Executive Director*

**Ginny Hevener**  
*Associate Director for Research*

**John Madler**  
*Associate Director for Policy, Staff Attorney*

**Tamara Flinchum**  
*Senior Research & Policy Associate*

**John King**  
*Senior Research & Policy Associate*

**Meghan Boyd Ward**  
*Research & Policy Associate*

**Julio Cazares**  
*Research & Policy Associate*

**Melissa Lugo**  
*Research & Policy Associate*

**Sierra Satterfield**  
*Research & Policy Associate*

**Dylan Saunders**  
*Research & Policy Associate*

**Shelley Kirk**  
*Administrative Secretary*

## **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 June 6, 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 June 6, 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"><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>

---

\* 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 #3 ON PROPOSED LEGISLATION – SUMMARY OF FINDINGS**  
June 6, 2025

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
HB 251	Disaster Response Funding/Nondiscrimination [Ed. 4]	G.S. 166A-19.4(a)	I	Inconsistent		<a href="#">1</a>
		G.S. 14-288.6(b)(1)	F	Consistent		<a href="#">2</a>
		G.S. 14-288.6(b)(1)	F	Consistent		<a href="#">4</a>
HB 535	Title Fraud Prevention Act [Ed. 2]	G.S. 14-122(b)	H	Consistent		<a href="#">6</a>
		G.S. 14-209	F	Consistent		<a href="#">7</a>
		G.S. 41-10.2(e)	G	Inconsistent	Would be consistent with a Class H felony.	<a href="#">8</a>
SB 164	Theft of Temporary Housing During Emergency [Ed. 3]	G.S. 14-288.6(b)(1)	F	Consistent		<a href="#">2</a>
		G.S. 14-288.6(b)(1)	F	Consistent		<a href="#">4</a>
SB 257	2025 Appropriations Act [Ed. 6]	G.S. 14-318.4(a4)	B2	Consistent		<a href="#">9</a>
		G.S. 14-33(c2)	I	Consistent		<a href="#">10</a>
SB 375	Harrison’s Law [Ed. 3]	G.S. 14-35(b)	I	Inconsistent	Would be consistent with a Class 1 misdemeanor.	<a href="#">11</a>
SB 423	Title Fraud Prevention [Ed. 3]	G.S. 14-209	F	Consistent		<a href="#">7</a>



Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
SB 429	2025 Public Safety Act [Ed. 2]	G.S. 14-318.7(b)	H	Consistent		<a href="#">14</a>
		G.S. 14-318.7(c)	E	Inconsistent	Would be consistent with a Class F felony.	<a href="#">15</a>
		G.S. 14-318.7(d)	D	Inconsistent	Would be consistent with a Class E felony.	<a href="#">16</a>
		G.S. 14-318.7(e)	C	Consistent		<a href="#">18</a>
		G.S. 14-318.7(f)	B1	Consistent		<a href="#">19</a>
		G.S. 14-415.1(a1)	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.	<a href="#">20</a>
		G.S. 14-415.1(a2)	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.	<a href="#">22</a>
		G.S. 14-415.1(a3)	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.	<a href="#">24</a>
		G.S. 14-202.3(a) and (c)(1)	G	Inconsistent	Would be consistent with a Class F felony.	<a href="#">26</a>
		G.S. 14-202.3(a) and (c)(1)	E	Inconsistent	The Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.	<a href="#">28</a>
		G.S. 14-202.3(a) and (c)(2)	D	Inconsistent	Would be consistent with a Class E felony.	<a href="#">30</a>
		G.S. 14-202(e1)	I	Consistent		<a href="#">32</a>

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 14-72.12(b)	H	Consistent		<a href="#">33</a>
		G.S. 14-86.6(a)(4) and (a2)(1)	H	Consistent		<a href="#">34</a>
		G.S. 14-86.6(a)(4) and (a2)(2)	G	Inconsistent		<a href="#">35</a>
		G.S. 14-86.6(a)(4) and (a2)(3)	F	Consistent		<a href="#">36</a>
		G.S. 14-86.6(a)(4) and (a2)(4)	C	Consistent		<a href="#">37</a>
		G.S. 14-86.6(a)(5) and (a2)(1)	H	Consistent		<a href="#">38</a>
		G.S. 14-86.6(a)(5) and (a2)(2)	G	Inconsistent	Would be consistent with a Class F felony.	<a href="#">39</a>
		G.S. 14-86.6(a)(5) and (a2)(3)	F	Consistent		<a href="#">40</a>
		G.S. 14-86.6(a)(5) and (a2)(4)	C	Consistent		<a href="#">41</a>
		G.S. 14-86.6(a)(6) and (a2)(1)	H	Consistent		<a href="#">42</a>
		G.S. 14-86.6(a)(6) and (a2)(2)	G	Inconsistent	Would be consistent with a Class F felony.	<a href="#">43</a>
		G.S. 14-86.6(a)(6) and (a2)(3)	F	Consistent		<a href="#">44</a>
		G.S. 14-86.6(a)(6) and (a2)(4)	C	Consistent		<a href="#">45</a>
		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.	<a href="#">46</a>

Bill	Short Title	Provision	Proposal	Finding	Commentary	Page
		G.S. 90-95(b)(1b)	F	N/A	The Offense Classification Criteria were not used in the classification of drug offenses. If the Offense Classification Criteria were applied to drug offenses, it would be consistent with a Class F felony.	<a href="#">47</a>
		G.S. 90-95(d)(2)	H	N/A	The Offense Classification Criteria were not used in the classification of drug offenses.	<a href="#">48</a>
		G.S. 90-95(h)(4c)a	E	N/A	The Offense Classification Criteria were not used in the classification of drug offenses and drug trafficking offenses are subject to mandatory minimum sentences.	<a href="#">49</a>
		G.S. 90-95(h)(4c)b	D	N/A	The Offense Classification Criteria were not used in the classification of drug offenses and drug trafficking offenses are subject to mandatory minimum sentences.	<a href="#">50</a>
		G.S. 90-95(h)(4c)c	C	N/A	The Offense Classification Criteria were not used in the classification of drug offenses and drug trafficking offenses are subject to mandatory minimum sentences.	<a href="#">51</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 251 – Disaster Response Funding/Nondiscrimination [Ed. 4]
--

**STATUTE**

§ 166A-19.4. Nondiscrimination in State disaster recovery assistance.

**DESCRIPTION**

Subsection (a):

A person who

1. is an employee or works for the State or its agencies
2. knowingly denies or discriminates against
3. a United States citizen, United States national, or qualified alien as defined in 8 U.S.C. § 1641
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))

The Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 251 [Ed. 1] and an identical provision in April 2025 in HB 251 [Ed. 3] and found it to be inconsistent 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 251 – Disaster Response Funding/Nondiscrimination [Ed. 4] (cont'd) / SB 164 – Theft of Temporary Housing During Emergency [Ed. 3]
--

**STATUTE**

§ 14-288.6. Looting; trespass during emergency.

**DESCRIPTION**

Subsection (b)(1):

A person who

1. enters the premises of another
2. without legal justification,
3. in an emergency area during a declared state of emergency,
4. when the usual security of the property is not effective due to the occurrence or aftermath of the emergency that prompted the declared state of emergency, and
5. without legal justification
6. obtains or exerts control over, damages, ransacks, or destroys
7. 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)

---

The Sentencing Commission reviewed an identical provision in March 2025 in SB 164 [Ed. 1] and in April 2025 in SB 365 [Ed. 1] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 251 – Disaster Response Funding/Nondiscrimination [Ed. 4] / SB 164 – Theft of Temporary Housing During Emergency [Ed. 3] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-288.6. Looting; trespass during emergency.

**DESCRIPTION**

Subsection (b)(1):

A person who

1. enters the premises of another
2. without legal justification,
3. in an emergency area during a declared state of emergency,
4. when the usual security of the property is not effective due to the occurrence or aftermath of the emergency that prompted the declared state of emergency, and
5. without legal justification
6. obtains or exerts control over, damages, ransacks, or destroys,
7. property of another that is taken from temporary housing.

**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 declared state of emergency is defined by G.S. 166A-19.3; An emergency area is defined by G.S. 14-288.1(4b); Temporary housing is defined by G.S. 14-288.1(11).

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))

Breaking or entering building generally:

- Any building with intent to commit any felony or larceny 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))

---

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:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b> HB 535 – Title Fraud Prevention Act [Ed. 2]
---

**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.

**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.

Forgery of deeds, wills, and certain other instruments is a Class H felony. (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.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 535 – Title Fraud Prevention Act [Ed. 2] (cont’d) / SB 423 – Title Fraud Prevention [Ed. 3]
--

**STATUTE**

§ 14-209. Punishment for perjury.

**DESCRIPTION**

A person who

1. knowingly and intentionally
2. makes a false statement under oath or affirmation
3. in an instrument as defined in G.S. 161-32 and presented to a register of deeds for registration.

**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.

In G.S. 161-32, an instrument is defined as any of the following:

- a. A transfer of title to real property by deed or devise or other instrument transferring title to real property.
- b. A deed of trust, mortgage, judgment, lien, encumbrance, financing statement, affidavit, notice, memorandum, or any other instrument that establishes a security interest in real property.
- c. A contract, right of refusal, lease, affidavit, memorandum, or any other instrument that purports to establish an interest, option, encumbrance, right, or any other claim relating to or interest in real property.

Other forms of perjury are Class F felonies (e.g., matter before a court, deposition, or oath or affirmation). (G.S. 14-209)

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))

Making false statement in a financial or other insurance 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.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 535 – Title Fraud Prevention Act [Ed. 2] (cont’d)

**STATUTE**

§ 41-10.2. Fraudulent instrument procedure.

**DESCRIPTION**

Subsection (e):

A person who

1. initiates an 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 235 [Ed. 1] and found it to be inconsistent with the Offense Classification Criteria for a Class G felony. The Commission noted that the offense 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:** 06/06/2025

**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 257 – 2025 Appropriations Act [Ed. 6]

**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))

The Sentencing Commission reviewed an identical provision in March 2025 in HB 182 [Ed. 1] and found it to be consistent with the Offense Classification Criteria for a Class B 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 257 – 2025 Appropriations Act [Ed. 6] (cont'd)

**STATUTE**

§ 14-33. Assaults, batteries, and affrays, simple and aggravated; punishments.

**DESCRIPTION**

Subsection (c2):

A person who

1. assaults
2. a school employee or school volunteer
  - a. when the employee or volunteer is discharging or attempting to discharge his or her duties as an employee or volunteer, or
  - b. as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer.

**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.

This offense is currently a Class A1 misdemeanor. (G.S. 14-33(c)(6))

No school personnel who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions.

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

Assault on an officer or employee of the State or any political subdivision of the State is a Class A1 misdemeanor. (G.S. 14-33(c)(4))

The Sentencing Commission reviewed an identical provision in April 2025 in HB 985 [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:** 06/06/2025

**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 375 – Harrison’s Law [Ed. 3]

**STATUTE**

§ 14-35. Hazing; definition and punishment.

**DESCRIPTION**

Subsection (b):

A person who

1. is a school personnel, teacher, school administrator, student teacher, school safety officer, or coach at a university, college, or school in this State
2. engages in hazing or aids or abets any other person in the commission of hazing.

**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.

For the purposes of this section, hazing is defined as follows: “subjecting a student to physical or serious psychological injury as part of an initiation, or as a prerequisite to membership, into any organized school group, including any society, athletic team, fraternity or sorority, or other similar group.” (G.S. 14-35(c))

Hazing (student engaging in/aiding or abetting) is a Class 2 misdemeanor. (G.S. 14-35(a))

- This bill would reclassify a violation of subsection (a) from a Class 2 misdemeanor to a Class A1 misdemeanor.

Assault inflicting serious injury 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.

The Commission noted the offense would be consistent with a Class 1 misdemeanor offense as the current offense is a Class 2 misdemeanor. 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.

**DATE OF REVIEW:** 06/06/2025

**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***

**SB 375 – HARRISON’S LAW [Ed. 2]**

**PREPARED: MAY 6, 2025**

**Estimated Prison Population Impact<sup>1</sup>**

**SECTION 2.**

This section amends G.S. 14-35, Hazing; definition and punishment, by reclassifying an existing misdemeanor offense and creating a new felony offense. Under subsection (a), it is unlawful for any student in attendance at any university, college, or school in this State to engage in hazing, or to aid or abet any other student in the commission of hazing. Violation is reclassified from a Class 2 misdemeanor to a Class A1 misdemeanor.

There were no convictions under G.S. 14-35 for this offense in FY 2024. In FY 2024, 39% of Class A1 misdemeanor convictions resulted in active sentences, with an average sentence length of 66 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, Class 2 misdemeanor convictions for this offense that would be reclassified to Class A1 misdemeanor convictions under this proposed bill 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 section enacts subsection (b). Under subsection (b), It is unlawful for any school personnel, including but not limited to, a teacher, school administrator, student teacher, school safety officer, or coach, at any university, college, or school in this State to engage in hazing, or to aid or abet any other person in the commission of this hazing. Violation is a Class I felony.

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 2024, 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.

---

<sup>1</sup> 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	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 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)**

<b>BILL NUMBER/SHORT TITLE:</b> SB 429 – 2025 Public Safety Act [Ed. 2]
---

**STATUTE**

§ 14-318.7. Exposing a child to a controlled substance.

**DESCRIPTION**

Subsection (b):

A person who

1. knowingly, intentionally, or with reckless disregard for human life
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.

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 a substantially similar provision in August 2023 in HB 748 [Ed. 3] and in March 2025 in HB 307 [Ed. 1] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
--

**STATUTE**

§ 14-318.7. Exposing a child to a controlled substance.

**DESCRIPTION**

Subsection (c):

A person who

1. knowingly, intentionally, or with reckless disregard for human life
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. (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 a substantially similar provision in August 2023 and in HB 748 [Ed. 3] in March 2025 in HB 307 [Ed. 1] 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:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-318.7. Exposing a child to a controlled substance.

**DESCRIPTION**

Subsection (d):

A person who

1. knowingly, intentionally, or with reckless disregard for human life
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 as defined in G.S. 14-318.4.

**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. (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.

Serious physical injury is defined as physical injury that causes great pain and suffering. The term includes serious mental injury. (G.S. 14-318.4(d)(2))

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 provision in August 2023 in HB 748 [Ed. 3] and in March 2025 in HB 307 [Ed. 1] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-318.7. Exposing a child to a controlled substance.

**DESCRIPTION**

Subsection (e):

A person who

1. knowingly, intentionally, or with reckless disregard for human life
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 as defined in G.S. 14-318.4.

**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. (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.

Serious bodily injury is defined 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. (G.S. 14-318.4(d)(1))

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 provision in March 2025 in HB 307 [Ed. 1] and found it to be consistent with the Offense Classification for a Class C 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:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-318.7. Exposing a child to a controlled substance.

**DESCRIPTION**

Subsection (f):

A person who

1. knowingly, intentionally, or with reckless disregard for human life
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 a substantially similar provision in August 2023 in HB 748 [Ed. 3] and in March 2025 in HB 307 [Ed. 1] and found it to 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.

**DATE OF REVIEW:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

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

**DESCRIPTION**

Subsection (a1):

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. possesses 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)

The Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 28 [Ed. 1] and an identical provision in April 2025 in HB 28 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class F felony with a note that 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.

## 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**



**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

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

**DESCRIPTION**

Subsection (a2):

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. possesses 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. 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)

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.

---

The Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 28 [Ed. 1] and an identical provision in April 2025 in HB 28 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class D felony with a note that 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.

---

#### **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 Class F felonies.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

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

**DESCRIPTION**

Subsection (a3):

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. possesses 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. 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)

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)

The Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 28 [Ed. 1] and an identical provision in April 2025 in HB 28 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class C felony with a note that 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.

---

**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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.

**DESCRIPTION**

Subsection (a) and subdivision (c)(1):

A person 16 years of age or older who

1. knowingly, with the intent to commit an unlawful sex act,
2. entices, advises, coerces, orders, or commands, by means of a computer or any other device capable of electronic data storage or transmission, any of the following:
  - a. a child who is less than 16 years of age and at least five years younger than the defendant to meet with the defendant or any other person
  - b. a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
  - c. a person the defendant believes to be the parent, guardian, or caretaker of a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
3. for the purpose of committing an unlawful sex act.

**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.

1st degree sexual exploitation of a minor is a Class C felony. (G.S. 14-190.16(a)(1)-(4))

2nd degree sexual exploitation of a minor is a Class E felony. (G.S. 14-190.17)

3rd degree sexual exploitation of a minor is a Class H felony. (G.S. 14-190.17A)

The Sentencing Commission reviewed an identical provision proposed as a Class E felony in April 2025 in HB 449 [Ed. 1] and found it to be inconsistent with the Offense Classification Criteria for a Class E felony.

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.

---

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.

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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
--

**STATUTE**

§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.

**DESCRIPTION**

Subsection (a) and subdivision (c)(1):

A person 16 years of age or older who

1. knowingly, with the intent to commit an unlawful sex act,
2. entices, advises, coerces, orders, or commands, by means of a computer or any other device capable of electronic data storage or transmission, any of the following:
  - a. a child who is less than 16 years of age and at least five years younger than the defendant to meet with the defendant or any other person
  - b. a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
  - c. a person the defendant believes to be the parent, guardian, or caretaker of a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
3. for the purpose of committing an unlawful sex act.

**PROPOSED OFFENSE CLASS**

Class E felony, second or subsequent violation of this section, or a first violation of this section committed when the defendant had a prior conviction in any federal or state court in the United States that is substantially similar to the offense set forth in this section.

**ANALYSIS**

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

1st degree sexual exploitation of a minor is a Class C felony. (G.S. 14-190.16(a)(1)-(4))

2nd degree sexual exploitation of a minor is a Class E felony. (G.S. 14-190.17)

3rd degree sexual exploitation of a minor is a Class H felony. (G.S. 14-190.17A)

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

The Sentencing Commission reviewed an identical provision proposed as a Class D felony in April 2025 in HB 449 [Ed. 1] and found it to be inconsistent with the Offense Classification Criteria for a Class D felony, with a note that 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.

#### **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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**



**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-202.3. Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act.

**DESCRIPTION**

Subsection (a) and subdivision (c)(2):

A person 16 years of age or older who

1. knowingly, with the intent to commit an unlawful sex act,
2. entices, advises, coerces, orders, or commands, by means of a computer or any other device capable of electronic data storage or transmission, any of the following:
  - a. a child who is less than 16 years of age and at least five years younger than the defendant to meet with the defendant or any other person
  - b. a person the defendant believes to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
  - c. a person the defendant believes to be the parent, guardian, or caretaker of a child who is less than 16 years of age and who the defendant believes to be at least five years younger than the defendant, to meet with the defendant or any other person
3. for the purpose of committing an unlawful sex act.
4. and the person or any other person for whom the defendant arranged the meeting actually appears.

**OFFENSE CLASS**

**CURRENT:** Class G felony.

**PROPOSED:** Class D 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 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.

1st degree sexual exploitation of a minor is a Class C felony. (G.S. 14-190.16(a)(1)-(4))

2nd degree sexual exploitation of a minor is a Class E felony. (G.S. 14-190.17)

3rd degree sexual exploitation of a minor is a Class H felony. (G.S. 14-190.17A)

---

The Sentencing Commission reviewed an identical provision proposed as a Class C felony in April 2025 in HB 449 [Ed. 1] 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 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
--

**STATUTE**

§ 14-202. Secretly peeping into room occupied by another person.

**DESCRIPTION**

Subsection (e1):

A person who

1. with the intent to create a photographic image of a private area of an individual
2. without the individual's consent
3. knowingly does so under circumstances in which the individual has a reasonable expectation of privacy.

**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 circumstances in which that individual has a reasonable expectation of privacy. – Means either of the following:

- a. Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that a photographic image of a private area of the individual was being created.
- b. Circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

Currently, any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent is guilty of a Class I felony. (G.S. 14-202(e)) The bill would repeal subsection (e).

**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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
--

**STATUTE**

§ 14-72.12. Larceny of gift cards.

**DESCRIPTION**

Subsection (b):

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)

The Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-86.6. Organized retail theft.

**DESCRIPTION**

Subsection (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-86.6. Organized retail theft.

**DESCRIPTION**

Subsection (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class G 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-86.6. Organized retail theft.

**DESCRIPTION**

Subsection (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 14-86.6. Organized retail theft.

**DESCRIPTION**

Subsection (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] in April 2025 in HB 315 [Ed. 2] and found it to be consistent with the Offense Classification Criteria for a Class C 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**



**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class G and noted it would be consistent with the Offense Classification 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.

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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] and found it to be consistent with the Offense Classification Criteria for a Class C 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] and found it to be inconsistent with the Offense Classification Criteria for a Class G felony and noted it 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.

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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (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 gift card value exceeds \$100,000 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.

The Sentencing Commission reviewed an identical provision in March 2025 in HB 315 [Ed. 1] and in April 2025 in HB 315 [Ed. 2] and found it to be consistent with the Offense Classification Criteria for a Class C 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**



**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
--

**STATUTE**

§ 14-54. Breaking or entering buildings generally.

**DESCRIPTION**

Subsection (b1):

A person who

1. with the intent to commit an unlawful act
2. enters any area of a building
  - a. that is commonly reserved for personnel of a commercial business where money or other property is kept or
  - b. 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 Sentencing Commission reviewed a substantially similar provision in March 2025 in HB 315 [Ed. 1] and an identical provision in April 2025 in HB 315 [Ed. 2] and found them inconsistent with the Offense Classification Criteria for Class I felony because 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.

**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:** 06/06/2025

**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)**

<b>BILL NUMBER/SHORT TITLE:</b>	SB 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 90-95. Violations; penalties.

**DESCRIPTION**

Subsection (b)(1b):

A person who

1. a. manufactures, sells or delivers, or  
b. possesses with intent to manufacture, sell or deliver,
2. a controlled substance that is fentanyl or carfentanil, or any salt, compound, derivative, or preparation thereof, or any mixture containing any of these substances.

**PROPOSED OFFENSE CLASS**

Class F felony.

**ANALYSIS**

The Offense Classification Criteria were not used in the classification of drug offenses.

Fentanyl is a Schedule II controlled substance. (G.S. 90-90(2))

Fentanyl derivatives are Schedule I controlled substances. (G.S. 90-89(1a))

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))

**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.

Note: If the Sentencing Commission applied the Offense Classification Criteria to drug offenses, the offense could 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:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 90-95. Violations; penalties.

**DESCRIPTION**

Subsection (d)(2):

A person who

1. possess a controlled substance and
2. the controlled substance is fentanyl or carfentanil, or any salt, compound, derivative, or preparation thereof, or any mixture containing any of these substances.

**PROPOSED OFFENSE CLASS**

Class H felony.

**ANALYSIS**

The Offense Classification Criteria were not used in the classification of drug offenses.

Fentanyl is a Schedule II substance. (G.S. 90-90(2))

Fentanyl derivatives are Schedule I controlled substances. (G.S. 90-89(1a))

Possession of a Schedule I controlled substance is a Class I felony. (G.S. 90-95(d)(1))

Possession of a Schedule II controlled substance is a Class 1 misdemeanor. (G.S. 9-95(d)(2))

Possession of the following Schedule II controlled substances are Class I felonies:

- Possession of more than 100 dosage units of a Schedule II, III, or IV Controlled Substance.
- Possession of more than four tablets, capsules, or dosage units of hydromorphone.
- Possession of any amount of methamphetamine, amphetamine, phencyclidine, cocaine, fentanyl, or carfentanil, or derivative thereof. (G.S. 90-95(d)(2))

**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.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 90-95. Violations; penalties.

**DESCRIPTION**

Subsection (h)(4c)a:

A person who

1. sells, manufactures, delivers, transports, or possesses
2. fentanyl or carfentanil, or any salt, compound, derivative, or preparation of such substance, or any mixture containing such substance, and
3. the quantity of such controlled substance or mixture involved is four grams or more, but less than 14 grams.

**PROPOSED OFFENSE CLASS**

Class E felony and sentenced to a minimum term of 90 months and a maximum term of 120 months.

**ANALYSIS**

The Offense Classification Criteria were not used in the classification of drug offenses.

Currently, any person who sells, manufactures, delivers, transports, or possesses four grams or more, but less than 14 grams of fentanyl or carfentanil is guilty of a Class F felony and sentenced to a minimum term of 70 months and a maximum term of 93 months. (G.S. 90-95(h)(4)a) This bill would remove fentanyl from G.S. 90-95(h)(4)a.

Trafficking methamphetamine, 200 grams or more but less than 400 grams, is a Class E felony. (G.S. 90-95(h)(3b)b)

Trafficking amphetamine, 400 grams or more, is a Class E felony. (G.S. 90-95(h)(3c)c)

Trafficking substituted cathinone, 200 grams or more but less than 400 grams, is a Class E felony. (G.S. 90-95(h)(3d)a)

**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 and drug trafficking offenses are subject to mandatory minimum sentences.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

**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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 90-95. Violations; penalties.

**DESCRIPTION**

Subsection (h)(4c)b:

A person who

1. sells, manufactures, delivers, transports, or possesses
2. fentanyl or carfentanil, or any salt, compound, derivative, or preparation of such substance, or any mixture containing such substance, and
3. the quantity of such controlled substance or mixture involved is 14 grams or more, but less than 28 grams.

**PROPOSED OFFENSE CLASS**

Class D felony and sentenced to a minimum term of 175 months and a maximum term of 222 months.

**ANALYSIS**

The Offense Classification Criteria were not used in the classification of drug offenses.

Currently, any person who sells, manufactures, delivers, transports, or possesses 14 grams or more, but less than 28 grams of fentanyl or carfentanil is guilty of a Class E felony and sentenced to a minimum term of 90 months and a maximum term of 120 months. (G.S. 90-95(h)(4)b) This bill would remove fentanyl from G.S. 90-95(h)(4)b.

Trafficking marijuana, 10,000 pounds or more, is a Class D felony. (G.S. 90-95(h)(1)d)

Trafficking synthetic cannabinoids, 3,750 dosage units or more, is a Class D felony. (G.S. 90-95(h)(1a)d)

Trafficking methaqualone, 10,000 dosage units or more, is a Class D felony. (G.S. 90-95(h)(2)c)

Trafficking cocaine, 400 grams or more, is a Class D felony. (G.S. 90-95(h)(3)c)

Trafficking Lysergic Acid Diethylamide, 1,000 dosage units or more, is a Class D felony. (G.S. 90-95(h)(4a)c)

Trafficking MDA/MDMA, 1,000 tablets, capsules, or other dosage units or more, is a Class D felony. (G.S. 90-95(h)(4b)c)

**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 and drug trafficking offenses are subject to mandatory minimum sentences.

**DATE OF REVIEW:** 06/06/2025

**BILL CONTINUED ON NEXT PAGE**

50 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 429 – 2025 Public Safety Act [Ed. 2] (cont'd)
---------------------------------	--

**STATUTE**

§ 90-95. Violations; penalties.

**DESCRIPTION**

Subsection (h)(4)c:

A person who

1. sells, manufactures, delivers, transports, or possesses
2. fentanyl or carfentanil, or any salt, compound, derivative, or preparation of such substance, or any mixture containing such substance, and
3. the quantity of such controlled substance or mixture involved is 28 grams or more.

**PROPOSED OFFENSE CLASS**

Class C felony and sentenced to a minimum term of 225 months and a maximum term of 282 months.

**ANALYSIS**

The Offense Classification Criteria were not used in the classification of drug offenses.

Currently, any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of fentanyl or carfentanil is guilty of a Class C felony and sentenced to a minimum term of 225 months and a maximum term of 282 months. (G.S. 90-95(h)(4)c) This bill would remove fentanyl from G.S. 90-95(h)(4)c.

Trafficking methamphetamine, 400 grams or more, is a Class C felony. (G.S. 90-95(h)(3b)c)

Trafficking substituted cathinone, 400 grams or more, is a Class C felony. (G.S. 90-95(h)(3d)c)

**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 and drug trafficking offenses are subject to mandatory minimum sentences.

**DATE OF REVIEW:** 06/06/2025

**IMPACT ANALYSIS ON NEXT PAGE**

**NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION**

**SB 429 – 2025 PUBLIC SAFETY ACT [Ed. 2]**

**PREPARED: APRIL 25, 2025**

**Estimated Prison Population Impact<sup>2</sup>**

**SECTION 1.(a)** This section enacts G.S. 14-318.7, Exposing a child to a controlled substance, which creates five new felony offenses.

Under subsection (b), a person who knowingly, recklessly, or intentionally causes or permits a child to be exposed to a controlled substance is guilty of a Class H 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 2024, 36% of Class H convictions 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

Under subsection (c), a person who knowingly, recklessly, or intentionally causes or permits a child to be exposed to a controlled substance and, as a result, the child ingests the controlled substance is guilty of a Class E 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 2024, 57% of Class E convictions resulted in active sentences, with an average estimated time served of 26 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 were 2 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.

---

<sup>2</sup> 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	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
2	1	3	3	3	3
20	12	25	29	29	29

Under subsection (d) a person who knowingly, recklessly, or intentionally causes or permits a child to be exposed to a controlled substance and, as a result, the child ingests the controlled substance, resulting in serious physical injury as defined in G.S. 14-318.4, is guilty of a Class D 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. Under Structured Sentencing, all Class D offenders are required to receive an active sentence.<sup>3</sup> In FY 2024, the average estimated time served for an offender convicted of a Class D offense was 60 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	20	41	61	81	102

Under subsection (e), a person who knowingly, recklessly, or intentionally causes or permits a child to be exposed to a controlled substance and, as a result, the child ingests the controlled substance, resulting in serious bodily injury as defined in G.S. 14-318.4, is guilty of a Class C 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. Under Structured Sentencing, all Class C offenders are required to receive an active sentence.<sup>4</sup> In FY 2024, the average estimated time served for an offender convicted of a Class C offense was 83 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.

<sup>3</sup> 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).

<sup>4</sup> 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	20	41	61	81	102

Under subsection (f), a person who knowingly, recklessly, or intentionally causes or permits a child to be exposed to a controlled substance and, as a result, the child ingests the controlled substance, and the ingestion is the proximate cause of death, is guilty of a Class B1 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. Under Structured Sentencing, all Class B1 offenders are required to receive an active sentence. In FY 2024, the average estimated time served for an offender convicted of a Class B1 offense was 231 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	20	41	61	81	102

**SECTION 2.(a)** This section amends G.S. 14-415.1, Possession of firearms, etc., by felon prohibited, creating three new felony offenses.

Subsection (a1) makes it a Class F felony for any person who violates subsection (a) and possesses a firearm or a 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 (a2) makes it a Class D felony if a person violates subsection (a) and brandishes the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes.

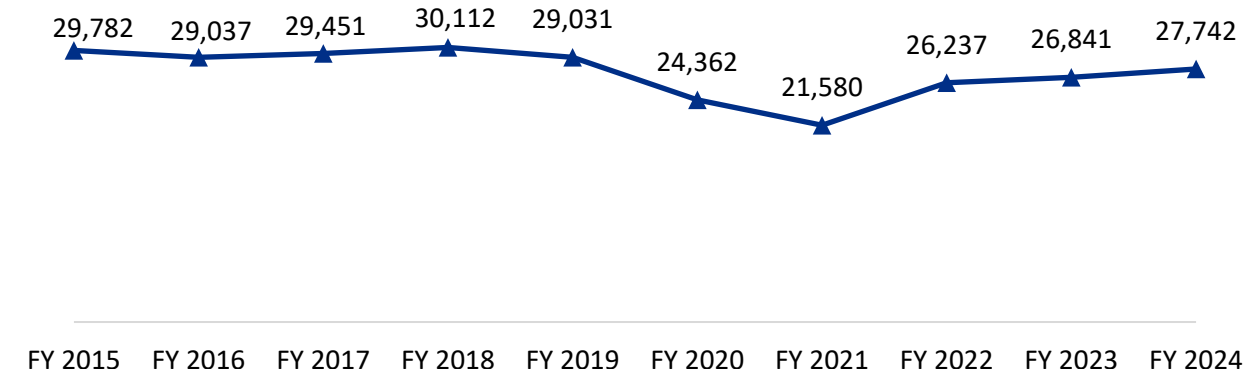
Subsection (a3) makes it a Class C felony if a person violates subsection (a) and discharges the firearm or weapon of mass death and destruction during the commission or attempted commission of the felony under (i) Chapter 14 or (ii) Article 5 of Chapter 90 of the General Statutes.

### 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 one 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.

**Figure 1: Felony Convictions**



SOURCE: NC Sentencing and Policy Advisory Commission, FY 2015 - FY 2024 Structured Sentencing Simulation Data

Since the proposed bill creates three new felony offenses (Class F, Class D, and Class C), 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 2024 convictions. The second analysis uses an eligible pool of FY 2024 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

### *Class F*

In FY 2024, 54% 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 were 2 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
2	1	2	2	2	2
20	12	19	21	21	21

### *Class D*

Under Structured Sentencing, all Class D offenders are required to receive an active sentence.<sup>5</sup> In FY 2024, the average estimated time served for an offender convicted of a Class D offense was 60 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	20	41	61	81	102

### *Class C*

Under Structured Sentencing, all Class C offenders are required to receive an active sentence.<sup>6</sup> In FY 2024, the average estimated time served for an offender convicted of a Class C offense was 83 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	20	41	61	81	102

### **Eligible Pool Analysis**

Table 1 shows how many convictions occurred for Chapter 14 and Article 5 of Chapter 90 felony offenses in FY 2024 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).<sup>7</sup>

<sup>5</sup> 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).

<sup>6</sup> 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).

<sup>7</sup> 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 2024 that 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 18,516 felony sentences imposed in FY 2024 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 18,516 felony sentences imposed, 1,652 also had a Possession of a Firearm by a Felon conviction. These 1,652 cases represent the eligible pool of convictions in FY 2024 that met all three criteria.<sup>8</sup>

**Table 1: FY 2024 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	
	#	Eligible Pool: # with Co-Occurring PFBF Conviction	#	Eligible Pool: # with Co-Occurring PFBF Conviction	#	Eligible Pool
A	36	10	0	0	36	10
VHF	4	1	0	0	4	1
B1	196	28	0	0	196	28
B2	103	21	0	0	103	21
C	458	161	34	9	492	170
D	518	81	14	4	532	85
E	1,086	173	134	27	1,220	200
F	1,143	101	535	84	1,678	185
G	1,149	493	744	452	1,893	945
H	5,695	4	1,490	1	7,185	5
I	1,024	0	4,153	2	5,177	2
<b>Total</b>	<b>11,412<sup>9</sup></b>	<b>1,073<sup>10</sup></b>	<b>7,104</b>	<b>579</b>	<b>18,516</b>	<b>1,652</b>

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 2024 Structured Sentencing Simulation Data

<sup>8</sup> 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 1,490 additional Possession of Firearm by Felon convictions in FY 2024 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.

<sup>9</sup> 1,310 of the 11,412 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.

<sup>10</sup> 246 of the 1,073 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.

## 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 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 F*

The proposed subsection (a1) 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 possesses a firearm or a weapon of mass death and destruction 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 (a1).<sup>11</sup> 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	# Convictions	Estimated Prison Bed Impact				
			Year 1	Year 2	Year 3	Year 4	Year 5
Class G	25	237	32	54	68	68	69
	50	473	62	107	135	135	137
	100	945	124	212	269	270	274
Class H	Threshold	4	1	2	2	2	2
	Example	20	6	9	11	11	11
Class I	Threshold	9	5	7	8	8	8
	Example	20	9	14	16	16	16

### *Class D*

The proposed subsection (a2) 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 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

---

<sup>11</sup> The eligible pool contains only 5 Class H convictions and 2 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.

example, 25%, 50%, and the entire eligible pool added Class D convictions under the proposed subsection (a2).<sup>12</sup> 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	50	21	39	79	130	180
	50	100	42	76	156	257	359
	100	200	85	154	315	517	720
Class F	25	47	21	51	96	144	192
	50	93	42	100	190	284	379
	100	185	84	200	377	565	754
Class G	25	237	139	310	552	791	1,035
	50	473	277	618	1,100	1,579	2,063
	100	945	554	1,235	2,198	3,156	4,124
Class H	Threshold	4	3	6	10	14	18
	Example	20	14	31	51	71	92
Class I	Threshold	9	8	17	26	35	44
	Example	20	17	36	56	76	97

### *Class C*

The proposed subsection (a3) 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 (a3).<sup>13</sup> 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.

<sup>12</sup> The eligible pool contains only 5 Class H convictions and 2 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.

<sup>13</sup> The eligible pool contains only 5 Class H convictions and 2 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.

	% of Convictions	# Convictions	Estimated Prison Bed Impact				
			Year 1	Year 2	Year 3	Year 4	Year 5
Class D	25 50 100	22 43 85	Due to the sentence lengths involved, impact will occur outside the 5-year projection period.				
Class E	25 50 100	50 100 200	21 42 85	39 76 154	79 156 315	130 257 517	180 359 720
Class F	25 50 100	47 93 185	21 42 84	51 100 200	96 190 377	144 284 565	192 379 754
Class G	25 50 100	237 473 945	139 277 554	310 618 1,235	552 1,100 2,198	791 1,579 3,156	1,035 2,063 4,124
Class H	Threshold Example	4 20	3 14	6 31	10 51	14 71	18 92
Class I	Threshold Example	9 20	8 17	17 36	26 56	35 76	44 97

**SECTION 4.(a)** Amends G.S. 14-202.3, Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act, reclassifying two existing offenses and establishing a new offense for a second or subsequent violation of the section. In subdivision (c)(1) the bill reclassifies the existing Class H felony to a Class G felony. Additionally, subdivision (c)(1) is amended to add a Class E felony for a second or subsequent violation of this section, or a first violation of this section committed when the defendant had a prior conviction in any federal or state court in the United States that is substantially similar to the offense set forth in this section. Subsection (c)(2) is amended to raise the existing classification from a Class G to a Class D felony.

In FY 2024, there were 20 convictions under G.S. 14-202.3(c)(1). Impact on the prison population will occur if Class H convictions become Class G convictions under the proposed section because of the higher rate of active sentences (41% for Class G compared to 36% for Class H) and longer average estimated time served (15 months for Class G compared to 10 months for Class H). The following table shows the estimated annual impact if 4 convictions (threshold) for this offense per year or 20 convictions (all FY 2024 convictions) for this offense per year 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. In addition, there will be some impact on post-release supervision caseloads since Class E requires an additional three months of supervision.

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

In FY 2024, there were 20 convictions under G.S. 14-202.3(c)(1); 18 of the 20 convictions had two or more prior convictions indicating possible qualification as repeat offenders under the proposed statute.

However, it is not known how many would qualify. While the Administrative Office of the Courts (AOC) database contains information on the number of prior record points, it does not contain information about the specific offenses that are used to calculate the number of prior record points or the dates that they occurred. Impact on the prison population will occur if Class H convictions become Class E convictions under the proposed section because of the higher rate of active sentences (57% for Class E compared to 36% for Class H) and longer average estimated time served (26 months for Class E compared to 10 months for Class H). The following table shows the estimated annual impact if 4 convictions (threshold) for this offense per year, 18 convictions (FY 2024 convictions with two or more prior convictions), or 20 convictions (all FY 2024 convictions) for this offense per year would be reclassified from Class H to Class E. 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 since Class E requires an additional three months of supervision.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
4	1	3	4	4	4
18	5	13	17	17	18
20	6	15	19	19	19

In FY 2024, there were 18 convictions under G.S. 14-202.3(c)(2). Impact on the prison population will occur if Class G convictions become Class D convictions under the proposed section because of the higher rate of active sentences (100% for Class D compared to 41% for Class G) and longer average estimated time served (60 months for Class D compared to 15 months for Class G). The following table shows the estimated annual impact if 3 convictions (threshold) for this offense per year or 18 convictions (all FY 2024 convictions) for this offense per year would be reclassified from Class G 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. In addition, there will be some impact on post-release supervision caseloads since Class D requires an additional three months of supervision.

# Convictions	Estimated Prison Bed Impact				
	Year 1	Year 2	Year 3	Year 4	Year 5
3	2	4	7	10	13
18	10	24	42	60	79

**Section 9.(a)** Amends G.S. 14-202, Secretly peeping into room occupied by another person, to repeal subsection (e) and create a felony in subsection (e1). Subsection (e) was a Class I felony when a person secretly or surreptitiously used any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent. Subsection (e1) makes it a Class I felony when a person with the intent to create a photographic image of a private area of an individual without the individual's consent, knowingly does so under circumstances in which the individual has a reasonable expectation of privacy.

The proposed subsection (e1) covers conduct currently under subsection (e). In FY 2024, there were 10 Class I convictions under G.S. 14-202 subsection (e). These convictions would likely qualify for conviction



under the proposed subsection (e1) and would remain Class I felonies. It is not known how many additional convictions may result from the broadened conduct covered under subsection (e1). In FY 2024, 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 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

This section also amends subsection (l) removing the reference to subsection (e) and now requiring the sentencing court to consider whether a person who violates subsection (e1) is a danger to the community and whether requiring the person to register as a sex offender under Article 27A, Sex Offender and Public Protection Registration Programs, would further the purposes stated in that Article. 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 152 convictions for failure to register as a sex offender and 290 for failure to report a new addresses as a sex offender in FY 2024. It is not known whether the 442 Class F convictions under G.S. 14-208.11 subsection (e) would include additional convictions under the proposed subsection (e1). In FY 2024, 54% 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 were 2 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
2	1	2	2	2	2
20	12	19	21	21	21

**Section 11.(a)** This section enacts G.S. 14-72.12, Larceny of gift cards; receiving stolen gift cards or possessing stolen gift cards. Subsection (b) makes it an offense if a person does any of the following:

1. Acquires or retains possession of a gift card or gift card redemption information without the consent of the cardholder or card issuer.
2. 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.
3. Alters or tampers with a gift card or its packaging with intent to defraud another.

Violation 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 \$1,000 or less. Any other violation of this section is a Class H felony.

**Class 1 Impact for Gift Card Value \$1,000 or Less:** 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, 39% of Class 1 misdemeanor convictions resulted in active sentences, with an average sentence length of 39 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 All Other Gift Card Violations:** 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 2024, 36% of Class H convictions 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

This conduct could currently be punished under the following offenses:

G.S. Number	Description	Offense Class	FY 2024 Convictions
14-159.13(b)(1)	14-72 (Larceny of property)	Class 1 misdemeanor (value of property ≤ \$1,000)	8,430
		Class H felony (value of property > \$1,000)	970
14-159.13(b)(2)	14-100 (Obtaining property by false pretenses)	Class H felony (amount involved < \$100,000)	966
		Class C felony (amount involved ≥ \$100,000)	2
14-159.13(b)(3)	None		0

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

**Class 1 to Proposed Class 1 Impact:** Since the current offense (G.S. 14-159.13(b)(1)) and the proposed offense are the same class (Class 1), it would not be expected to result in the need for additional prison beds.

**Class H to Proposed Class H Impact:** Since the current offense (G.S. 14-159.13(b)(1) or (2)) and the proposed offense are the same class (Class H), it would not be expected to result in the need for additional prison beds.

**Class H to Proposed Class 1 Impact:** It is not known whether any of the 966 Class H convictions under G.S. 14-159.13(b)(2) involved conduct covered by the proposed Class 1 offense (gift card with a value of \$1,000 or less). However, since the proposed conduct may also be covered by a more serious offense, it may be prosecuted as the more serious offense.

**Class C to Proposed Class H Impact:** It is not known whether any of the 2 Class C convictions under G.S. 14-159.13(b)(2) involved conduct covered by the proposed Class H offense. However, since the proposed conduct may also be covered by a more serious offense, it may be prosecuted as the more serious offense.

**Section 11.(c)** This section amends G.S. 14-86.6, Organized retail theft, by adding three new offenses. Under subsection (a), a person commits the offense of organized retail theft if the person does any of the following:

- (4) Conspires with another person to acquire or retain possession of a gift card or gift card redemption information without the consent of the cardholder or card issuer.
- (5) Devises a scheme with one or more persons to obtain a gift card or gift card redemption information from a cardholder or card issuer by means of false or fraudulent pretenses, representations, or promises.
- (6) Conspires with another person to alter or tamper with a gift card or its packaging with intent to defraud another.

Under subsection (a2), violations are punished as follows:

- (1) An offense when the gift card value exceeds \$1,500 aggregated over a 90-day period is a Class H felony.
- (2) An offense when the gift card value exceeds \$20,000 aggregated over a 90-day period is a Class G felony.
- (3) An offense when the gift card value exceeds \$50,000 aggregated over a 90-day period is a Class F felony.
- (4) An offense when the gift card value exceeds \$100,000 aggregated over a 90-day period is a Class C felony.

**Class H Impact:** Since the proposed section creates three new offenses, the Sentencing Commission does not have any historical data 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. The following estimate would apply to *each* offense *separately*, but, for brevity, is noted once. In FY 2024, 36% of Class H convictions 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 these proposed offenses 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

**Class G Impact:** Since the proposed section creates three new offenses, the Sentencing Commission does not have any historical data 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. The following estimate would apply to *each* offense *separately*, but, for brevity, is noted once. In FY 2024, 41% of Class G convictions resulted in active sentences, with an average estimated time served of 15 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 these proposed offenses 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	15

**Class F Impact:** Since the proposed section creates three new offenses, 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 these new offenses. The following estimate would apply to *each* offense *separately*, but, for brevity, is noted once. In FY 2024, 54% 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 were 2 convictions (threshold) or 20 convictions (example) for these proposed offenses 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
2	1	2	2	2	2
20	12	19	21	21	21

**Class C Impact:** Since the proposed section creates three new offenses, the Sentencing Commission does not have any historical data 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. Under Structured Sentencing, all Class C offenders are required to receive an active sentence.<sup>14</sup> The following estimate would apply to *each* offense *separately*, but, for brevity, is noted once. In FY 2024, the average estimated time served for an offender convicted of a Class C offense was 83 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 these proposed offenses 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	20	41	61	81	102

**Section 12.(a)** This section amends G.S. 14-54, breaking or entering building generally, by adding subsection (b1). Under subsection (b1), any person who 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 is guilty of a Class 1 misdemeanor for a first offense and a Class I felony for a second or subsequent offense.

**Class 1 Impact for First Offense:** 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, 39% of Class 1 misdemeanor convictions resulted in active sentences, with an average sentence length of 39 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.

<sup>14</sup> 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).

**Class H Impact for Second or Subsequent Offense:** 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 2024, 36% of Class H convictions 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

The conduct listed in subdivision (ii) could currently be punished under G.S. 14-159.13, Second degree trespass, subdivision (a)(2). Violation is a Class 3 misdemeanor.

There were 3,628 Class 3 convictions in FY 2024; however, no data are available to indicate how many involved conduct covered under the proposed subdivision (ii) since the Administrative Office of the Courts (AOC) offense code includes violations of subdivisions (a)(1) and (2).

**Class 3 to Proposed Class 1 Impact:** In FY 2024, 39% of Class 1 misdemeanor convictions resulted in active sentences, with an average sentence length of 39 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, Class 3 misdemeanor convictions for this offense that would be reclassified to Class 1 misdemeanor convictions under this proposed bill 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 3 to Proposed Class H Impact:** In FY 2024, 18% of Class 3 convictions resulted in active sentences, with an average estimated time served of 8 days. The following table shows the estimated annual impact if, for example, there were 4 convictions (threshold) and 20 convictions (example) that would be reclassified from Class 3 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. In addition, there will be some impact on post-release supervision (PRS) caseloads since nine months of PRS is required for offenders convicted of Class H felonies.

# 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

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