

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

REPORT #2

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

This report by the Sentencing Commission includes all bills introduced or amended through April 28, 2023. The report is submitted in conformance with the following requirements of G.S. 164-43:

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

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

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

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

A one page summary is included for each bill (or each relevant section of a bill) which either creates a new crime, changes the classification of an existing crime, or prescribes a new range of punishments. The summary provides the bill number, the short title, and a brief description. At the bottom of the summary is an analysis and a finding of whether the bill appears consistent with the Commission's classification criteria as specified in G.S. 164-41 (see following page for a description of the criteria). Following the summary is an analysis of the projected impact of the bill (a more detailed impact analysis is provided to the Fiscal Research Division). The impact estimates assume an effective date of December 1, 2023.

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 April 28, 2023.

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

THE OFFENSE CLASSIFICATION CRITERIA

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

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

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

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

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

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

FELONY OFFENSE CLASSIFICATION CRITERIA*

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

* Personal injury includes both physical and mental injury.

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

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

HOMICIDE OFFENSE CLASSIFICATION CRITERIA

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION
REPORT #2 ON PROPOSED LEGISLATION – SUMMARY OF FINDINGS
April 28, 2023

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|-----------------------------------|----------|--------------|--|--------------------|
| HB 278 | The Rakim Shackelford Embalming Fluid Act [Ed. 2] | G.S. 90-210.29C | Class I | N/A | The Offense Classification Criteria were not used in the classification of drug offenses; this offense would be similar to other drug offenses classified as a Class H felony. | 1 |
| | | G.S. 90-113.107 (b)(1) and (c)(1) | Class I | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 2 |
| | | G.S. 90-113.107 (b)(1) and (c)(2) | Class G | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 3 |
| | | G.S. 90-113.107 (b)(1) and (c)(3) | Class F | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 4 |
| | | G.S. 90-113.107 (b)(1) and (c)(4) | Class D | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 5 |
| | | G.S. 90-113.107 (b)(2) and (c)(1) | Class I | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 6 |
| | | G.S. 90-113.107 (b)(2) and (c)(2) | Class G | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 7 |
| | | G.S. 90-113.107 (b)(2) and (c)(3) | Class F | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 8 |
| | | G.S. 90-113.107 (b)(2) and (c)(4) | Class D | N/A | The Offense Classification Criteria were not used in the classification of drug offenses. | 9 |
| HB 289 | Gun Violence Prevention Act [Ed. 1] | G.S. 14-409A | Class I | Consistent | | 10 |
| | | G.S. 14-409.13(a) | Class I | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 11 |
| | | G.S. 14-409.61(b) | Class I | Consistent | | 12 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|-------------------------------|----------|--------------|--|--------------------|
| | | G.S. 14-409B | Class I | Inconsistent | Would be consistent with a Class H felony. | 13 |
| HB 293 | Freedom to Vote [Ed. 1] | G.S. 163-275.1(b)(1) | Class H | Inconsistent | Would be consistent with a Class I felony. | 14 |
| | | G.S. 163-275.1(b)(2) | Class H | Inconsistent | Would be consistent with a Class I felony. | 16 |
| | | G.S. 163-275.1(b)(3) | Class H | Inconsistent | Would be consistent with a Class I felony. | 17 |
| | | G.S. 163-275.1(b)(4) | Class H | Inconsistent | Would be consistent with a Class I felony. | 18 |
| | | G.S. 163-275.1(c)(1) | Class H | Inconsistent | Would be consistent with a misdemeanor. | 19 |
| | | G.S. 163-275.1(c)(2) | Class H | Inconsistent | | 20 |
| HB 298 | Criminal Falsification of Medical Records [Ed. 2] | G.S. 90-413 (a)(1) and (b)(1) | Class H | Consistent | | 21 |
| | | G.S. 90-413 (a)(2) and (b)(2) | Class I | Consistent | | 22 |
| HB 347 | Sports Wagering [Ed. 3] | G.S. 18C-918(c) | Class G | Inconsistent | Would be consistent with a Class H felony. | 23 |
| | | G.S. 18C-918(d) | Class I | Consistent | | 24 |
| HB 358 | Increased Security/Privacy for NC Legislators [Ed. 1] | G.S. 120-138.7 | Class C | Inconsistent | Would be consistent with a Class F felony. | 25 |
| HB 362 | Fix Our Democracy [Ed. 1] | G.S. 163-82.19(a)(4) | Class I | Consistent | | 27 |
| | | G.S. 163-82.20(b)(4) | Class I | Consistent | | 28 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|----------------------|----------|--------------|---|--------------------|
| | | G.S. 163-82.20(i) | Class I | Consistent | | 29 |
| HB 372 | Safeguard Fair Elections Act [Ed. 1] | G.S. 163-275.1(b)(1) | Class H | Inconsistent | Would be consistent with a Class I felony. | 14 |
| | | G.S. 163-275.1(b)(2) | Class H | Inconsistent | Would be consistent with a Class I felony. | 16 |
| | | G.S. 163-275.1(b)(3) | Class H | Inconsistent | Would be consistent with a Class I felony. | 17 |
| | | G.S. 163-275.1(b)(4) | Class H | Inconsistent | Would be consistent with a Class I felony. | 18 |
| | | G.S. 163-275.1(c)(1) | Class H | Inconsistent | Would be consistent with a misdemeanor. | 19 |
| | | G.S. 163-275.1(c)(2) | Class H | Inconsistent | | 20 |
| HB 399 | The North Carolina Judicial Privacy Act [Ed. 1] | G.S. 7A-410.5G | Class C | Inconsistent | Would be consistent with a Class F felony. | 30 |
| HB 415 | Stop Addiction Fraud Ethics Act of 2023 [Ed. 2] | G.S. 90-113.151(c) | Class G | Inconsistent | Would be consistent with a Class I felony. | 32 |
| | | G.S. 90-113.151(d) | Class G | Inconsistent | Would be consistent with a Class I felony. | 33 |
| | | G.S. 90-113.152(a) | Class G | Inconsistent | Would be consistent with a Class I felony. | 34 |
| HB 425 | Stop Counterfeit Pills Act [Ed. 1] | G.S. 90-108(12a) | Class D | Inconsistent | Would be consistent with a Class H or I felony. | 35 |
| | | G.S. 90-108(12b) | Class D | Inconsistent | Would be consistent with a Class H or I felony. | 36 |
| HB 429 | Make Street Takeovers Unlawful [Ed. 1] | G.S. 20-141.10(c) | Class H | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 37 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|--|-----------------------------|-------------|--------------|---|--------------------|
| | | G.S. 20-141.10(f) | Class H | Consistent | | 38 |
| HB 495 | Aggregation of Multiple Financial Crimes [Ed. 1] | G.S. 15A-1340.16F | Enhancement | Inconsistent | | 39 |
| HB 512 | Forgivable Loans/HBCU Supplemental Funding [Ed. 1] | G.S. 18C-244(a) | Class H | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 41 |
| | | G.S. 18C-244(a) | Class G | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 42 |
| | | G.S. 18C-244(b) | Class G | Inconsistent | Would be consistent with a Class I felony. | 43 |
| | | G.S. 18C-244(b) | Class F | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 44 |
| | | G.S. 18C-244(c) | Class G | Inconsistent | Would be consistent with a Class H felony. | 45 |
| | | G.S. 18C-244(d) | Class G | Inconsistent | Would be consistent with a Class H felony. | 46 |
| HB 533 | Human Life Protection Act of 2023 [Ed. 1] | G.S. 14-45.2 | Class B2 | Inconsistent | | 47 |
| | | G.S. 14-45.2 | Class B1 | Inconsistent | | 48 |
| HB 534 | Protecting School Employees [Ed. 1] | G.S. 14-33 | Class G | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 49 |
| HB 545 | Willful or Wanton Gun Discharge/Expand Scope [Ed. 1] | G.S. 14-34.1(a1) | Class E | Inconsistent | Discharging a weapon on the property of another without permission would be consistent with a misdemeanor and the remaining provisions would be consistent with a Class F felony. | 50 |
| HB 590 | Increase Punishment for Cargo Theft [Ed. 1] | G.S. 14-56(a2)(1) | Class H | Inconsistent | | 51 |
| | | G.S. 14-56(a2)(1) (a.)-(c.) | Class H | Consistent | | 53 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|--|---------------------|----------|--------------|---|--------------------|
| | | G.S. 14-56(a2)(2) | Class G | Inconsistent | | 55 |
| | | G.S. 14-56(a2)(3) | Class F | Inconsistent | | 56 |
| | | G.S. 14-56(a2)(4) | Class C | Inconsistent | Would be consistent with a Class D felony. | 57 |
| HB 596 | Hate Crimes Prevention Act [Ed. 1] | G.S. 14-34.11(b) | Class F | Consistent | | 59 |
| | | G.S. 14-34.11(d)(1) | Class E | Inconsistent | Would be consistent with a Class B felony. | 60 |
| | | G.S. 14-34.11(d)(2) | Class E | Consistent | | 61 |
| HB 626 | Cannabis Legalization and Regulation [Ed. 1] | G.S. 18D-405(a) | Class E | Consistent | | 63 |
| | | G.S. 18D-405(b) | Class E | Consistent | | 64 |
| HB 641 | No Soliciting Certain Funds/Elections Boards [Ed. 1] | G.S. 163-29(b) | Class I | Consistent | | 65 |
| | | G.S. 163-37.2(b) | Class I | Consistent | | 66 |
| HB 648 | Faithful Article V Commissioner Act. [Ed. 1] | G.S. 120-272.100 | Class I | Inconsistent | | 67 |
| HB 671 | Protect Public Infrastructure [Ed. 1] | G.S. 14-150.2 | Class F | Inconsistent | Would be consistent with a Class F felony if it included the element of impairing functionality. | 68 |
| HB 673 | Clarify Regulations on Adult Entertainment [Ed. 1] | G.S. 14-190.15A | Class I | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 69 |
| HB 698 | Codify/Replace Comm. Law Obstruct. of Justice [Ed. 1] | G.S. 14-222.1 | Class I | Consistent | | 70 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|-------------------|----------|--------------|---|--------------------|
| HB 705 | Build Safer Communities and Schools Act [Ed.1] | G.S. 14-409.50(e) | Class F | Inconsistent | Would be consistent with a Class H felony. | 88 |
| | | G.S. 14-409.50(e) | Class F | Consistent | | 89 |
| | | G.S. 14-409.51 | Class F | Inconsistent | Would be consistent with a Class H felony. | 90 |
| | | G.S. 14-315.1(a) | Class D | Inconsistent | Would be consistent with a Class A1 misdemeanor. | 91 |
| | | G.S. 14-315.1(a1) | Class D | Inconsistent | | 93 |
| HB 707 | Assaults on First Responders & Social Workers [Ed. 1] | G.S. 14-34.5 | Class B1 | Inconsistent | Would be consistent with a Class D felony. | 71 |
| | | G.S. 14-34.5 | Class B1 | Inconsistent | Would be consistent with a Class D felony. | 73 |
| | | G.S. 14-16.6 | Class E | Inconsistent | Would be consistent with a Class E felony if it included the element of use of a deadly weapon. | 75 |
| HB 748 | Felony Child Abuse/Expand Scope [Ed. 2] | G.S. 14-318.4(a4) | Class B2 | Consistent | | 77 |
| SB 206 | Stop Counterfeit Pills Act [Ed. 4] | G.S. 90-108(12a) | Class E | Inconsistent | Would be consistent with a Class H or I felony. | 78 |
| SB 210 | Gun Violence Prevention Act [Ed. 1] | G.S. 14-409A | Class I | Consistent | | 10 |
| | | G.S. 14-409.13(a) | Class I | Inconsistent | The felony punishment chart takes a defendant's prior record into account through the Prior Record Level. | 11 |
| | | G.S. 14-409.61(b) | Class I | Consistent | | 12 |
| | | G.S. 14-409B. | Class I | Inconsistent | Would be consistent with a Class H felony. | 13 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|----------------------|----------|--------------|--|--------------------|
| SB 226 | Freedom to Vote [Ed. 1] | G.S. 163-275.1(b)(1) | Class H | Inconsistent | Would be consistent with a Class I felony. | 14 |
| | | G.S. 163-275.1(b)(2) | Class H | Inconsistent | Would be consistent with a Class I felony. | 16 |
| | | G.S. 163-275.1(b)(3) | Class H | Inconsistent | Would be consistent with a Class I felony. | 17 |
| | | G.S. 163-275.1(b)(4) | Class H | Inconsistent | Would be consistent with a Class I felony. | 18 |
| | | G.S. 163-275.1(c)(1) | Class H | Inconsistent | Would be consistent with a misdemeanor. | 19 |
| | | G.S. 163-275.1(c)(2) | Class H | Inconsistent | | 20 |
| SB 267 | Restrict Detached Catalytic Purchases [Ed. 1] | G.S. 66-429(a)(1) | Class I | Consistent | | 80 |
| SB 306 | Fix Our Democracy [Ed. 1] | G.S. 163-82.19(a)(4) | Class I | Consistent | | 27 |
| | | G.S. 163-82.20(b)(4) | Class I | Consistent | | 28 |
| | | G.S. 163-82.20(i) | Class I | Consistent | | 29 |
| SB 313 | Safeguard Fair Elections Act [Ed. 1] | G.S. 163-275.1(b)(1) | Class H | Inconsistent | Would be consistent with a Class I felony. | 14 |
| | | G.S. 163-275.1(b)(2) | Class H | Inconsistent | Would be consistent with a Class I felony. | 16 |
| | | G.S. 163-275.1(b)(3) | Class H | Inconsistent | Would be consistent with a Class I felony. | 17 |
| | | G.S. 163-275.1(b)(4) | Class H | Inconsistent | Would be consistent with a Class I felony. | 18 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|---|-----------------------------|----------|--------------|---|--------------------|
| | | G.S. 163-275.1(c)(1) | Class H | Inconsistent | Would be consistent with a misdemeanor. | 19 |
| | | G.S. 163-275.1(c)(2) | Class H | Inconsistent | | 20 |
| SB 346 | Cannabis Legalization and Regulation [Ed. 1] | G.S. 18D-405(a) | Class E | Consistent | | 63 |
| | | G.S. 18D-405(b) | Class E | Consistent | | 64 |
| SB 361 | Stop Addiction Fraud Ethics Act of 2023 [Ed. 1] | G.S. 90-113.151(c) | Class G | Inconsistent | Would be consistent with a Class I felony. | 32 |
| | | G.S. 90-113.151(d) | Class G | Inconsistent | Would be consistent with a Class I felony. | 33 |
| | | G.S. 90-113.152(a) | Class G | Inconsistent | Would be consistent with a Class I felony. | 34 |
| SB 373 | Felony Liability for Operating Unlicensed ACH [Ed. 1] | G.S. 131D-2.6(b) | Class H | Inconsistent | Would be consistent with a Class 1 misdemeanor. | 81 |
| SB 409 | Increase Punishment for Cargo Theft [Ed. 1] | G.S. 14-56(a2)(1) | Class H | Inconsistent | | 51 |
| | | G.S. 14-56(a2)(1) (a.)-(c.) | Class H | Consistent | | 53 |
| | | G.S. 14-56(a2)(2) | Class G | Inconsistent | | 55 |
| | | G.S. 14-56(a2)(3) | Class F | Inconsistent | | 56 |
| | | G.S. 14-56(a2)(4) | Class C | Inconsistent | Would be consistent with a Class D felony. | 57 |
| SB 437 | Hate Crimes Prevention Act [Ed. 1] | G.S. 14-34.11(b) | Class F | Consistent | | 59 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|--|------------------------------|----------|--------------|--|--------------------|
| | | G.S. 14-34.11(d)(1) | Class E | Inconsistent | Would be consistent with a Class B felony. | 60 |
| | | G.S. 14-34.11(d)(2) | Class E | Consistent | | 61 |
| SB 452 | NC Department of Insurance Omnibus [Ed. 3] | G.S. 58-2-161 (b) and (c)(1) | Class H | Consistent | | 82 |
| | | G.S. 58-2-161 (b) and (c)(2) | Class C | Consistent | | 83 |
| SB 457 | Amend Animal Fighting & Welfare Laws [Ed. 1] | G.S. 14-362.2(a) | Class G | Inconsistent | Would be consistent with a Class H felony. | 84 |
| | | G.S. 14-362.2(b) | Class G | Inconsistent | Would be consistent with a Class H or I felony. | 86 |
| SB 496 | Increase Safe Use of Firearms [Ed. 1] | G.S. 14-409.50(e) | Class F | Inconsistent | Would be consistent with a Class H felony. | 88 |
| | | G.S. 14-409.50(e) | Class F | Consistent | | 89 |
| | | G.S. 14-409.51 | Class F | Inconsistent | Would be consistent with a Class H felony. | 90 |
| | | G.S. 14-315.1(a) | Class D | Inconsistent | Would be consistent with a Class A1 misdemeanor. | 91 |
| | | G.S. 14-315.1(a1) | Class D | Inconsistent | | 93 |
| SB 577 | DMV Proposed Legislative Changes [Ed. 1] | G.S. 20-79.1, G.S. 20-111(2) | Class I | Inconsistent | | 94 |
| | | G.S. 20-79.1, G.S. 20-111(6) | Class I | Inconsistent | | 95 |
| SB 579 | Prevent Harm to Children [Ed. 1] | G.S. 14-190.1 | Class H | Inconsistent | Would be consistent with a Class I felony. | 96 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|--|----------------------|----------|--------------|--|---------------------|
| SB 582 | North Carolina Farm Act of 2023 [Ed. 4] | G.S. 15A-300.4(c)(1) | Class D | Inconsistent | Would be consistent with a Class E felony. | 97 |
| | | G.S. 15A-300.4(c)(2) | Class E | Inconsistent | Would be consistent with a Class F felony. | 98 |
| | | G.S. 15A-300.4(c)(3) | Class F | Consistent | | 99 |
| | | G.S. 15A-300.4(c)(4) | Class G | Inconsistent | Would be consistent with a Class H felony. | 100 |
| | | G.S. 15A-300.4(c)(5) | Class H | Inconsistent | Would be consistent with a Class I felony. | 102 |
| | | G.S. 15A-300.4(c)(6) | Class I | Consistent | | 104 |
| | | G.S. 14-135(a)(3) | Class G | Inconsistent | Would be consistent with a Class H felony. | 105 |
| | | G.S. 14-135(a)(4) | Class G | Inconsistent | Would be consistent with a Class H felony. | 106 |
| SB 648 | Protect Critical Infrastructure II [Ed. 1] | G.S. 14-159.1(b) | Class C | Consistent | | 107 |
| | | G.S. 14-159.1(c) | Class C | Inconsistent | Would be consistent with a Class C felony if it included the element of impairing functionality. | 108 |
| | | G.S. 62-323 | Class C | Inconsistent | Would be consistent with a Class C felony if it included the element of impairing functionality. | 110 |
| SB 650 | Gun Violence Prevention Act [Ed. 2] | G.S. 14-415.1A(c)(1) | Class D | Consistent | | 112 |
| | | G.S. 14-415.1A(c)(2) | Class F | Consistent | | 113 |
| | | G.S. 14-415.1A(c)(3) | Class G | Inconsistent | Would be consistent with a Class E or F felony. | 114 |

| Bill | Short Title | Provision | Proposal | Finding | Commentary | Page |
|--------|--|-------------------|----------|--------------|--|---------------------|
| SB 654 | Revise Animal Fighting Laws [Ed. 1] | G.S. 14-362(a) | Class I | Consistent | | 115 |
| | | G.S. 14-362(b) | Class I | Consistent | | 116 |
| | | G.S. 14-362.2(a) | Class H | Inconsistent | Would be consistent with a Class I felony. | 117 |
| SB 713 | Build Safer Communities and Schools Act [Ed.1] | G.S. 14-409.50(e) | Class F | Inconsistent | Would be consistent with a Class H felony. | 88 |
| | | G.S. 14-409.50(e) | Class F | Consistent | | 89 |
| | | G.S. 14-409.51 | Class F | Inconsistent | Would be consistent with a Class H felony. | 90 |
| | | G.S. 14-315.1(a) | Class D | Inconsistent | Would be consistent with a Class A1 misdemeanor. | 91 |
| | | G.S. 14-315.1(a1) | Class D | Inconsistent | | 93 |

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 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]

STATUTE

§ 90-210.29C. Unlawful sale of embalming fluid.

DESCRIPTION

A person who

1. is a funeral director, embalmer, or resident trainee
2. knowingly
3. gives, sells, permits to be sold, offers for sale, or displays for sale, other than for purposes within the general scope of their activities as a funeral director, embalmer, or resident trainee,
4. embalming fluid
5. to another person
6. with actual knowledge that the person is not a funeral director, embalmer, or resident trainee.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

Embalming fluid is a compound of formaldehyde, methanol, ethanol (ethyl alcohol), and other solvents. (US DOJ)

Sale of Schedule I or II Controlled Substance is a Class G felony. (G.S. 90-95(b)(1))

Sale of a Schedule III, IV, V, or VI Controlled Substance is a Class H felony. (G.S. 90-95(b)(2))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

Drug offenses are not sentenced under Structured Sentencing; however, this offense would be similar to drug offenses classified as Class H felonies.

DATE OF REVIEW: 04/28/2023

BILL CONTINUED ON NEXT PAGE

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|--|
| BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2] (cont'd) |
|--|

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity, and
4. the violation involves less than 28 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

The following are Class I felonies:

- Possession of a Schedule I Controlled Substance. (G.S. 90-95(d)(1))
- Possession of more than 100 dosage units of a Schedule II, III, or IV Controlled Substance. (G.S. 90-95(d)(2))
- Possession of any amount of methamphetamine, amphetamine, phencyclidine, cocaine, fentanyl, or carfentanil, or derivative thereof. (G.S. 90-95(d)(2))
- Possession of more than 1.5 ounces of Marijuana or .15 ounces of Hashish. (G.S. 90-95(d)(4))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity, and
4. the violation involves 28 grams but less than 200 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity, and
4. the violation involves 200 grams but less than 400 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. possesses
2. embalming fluid
3. for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity, and
4. the violation involves 400 grams or more of embalming fluid.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|--|
| BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2] (cont'd) |
|--|

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves less than 28 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

Sale of Schedule I or II Controlled Substance is a Class G felony. (G.S. 90-95(b)(1))

Manufacture, deliver, or possess with intent to manufacture, sell, or deliver a Schedule I or II Controlled Substance is a Class H felony. (G.S. 90-95(b)(1))

Sale of a Schedule III, IV, V or VI Controlled Substance is a Class H felony. (G.S. 90-95(b)(2))

Manufacture, deliver, or possess with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance is a Class I felony. (G.S. 90-95(b)(2))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves 28 grams but less than 200 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy, and
5. the violation involves 200 grams but less than 400 grams of embalming fluid.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 278 – The Rakim Shackelford Embalming Fluid Act [Ed. 2]
(cont'd)

STATUTE

§ 90-113.107. Criminal possession of embalming fluid.

DESCRIPTION

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

A person who

1. sells, delivers, or otherwise distributes
2. embalming fluid
3. to another person
4. with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy , and
5. the violation involves 400 grams or more of embalming fluid.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

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

Schedule II Drug Trafficking Offenses (sell, manufacture, deliver, transport, or possess) (G.S. 90-95(h))

| Weight | Cocaine | Methamphetamine | Amphetamine |
|-----------------|---------|-----------------|-------------|
| 28 > 200 grams | G | F | H |
| 200 > 400 grams | F | E | G |
| 400+ grams | D | C | E |

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 289/SB 210 – Gun Violence Prevention Act [Ed. 1]

STATUTE

§ 14-409A. Bump stocks and trigger cranks prohibited.

DESCRIPTION

A person, firm, or corporation who

1. manufactures, sells, gives away, transfers, uses, or possesses
2. bump stocks, trigger cranks, or any other similar device or instrument added to a firearm by a person other than the manufacturer that is designed to increase the rate of fire achievable by the firearm.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

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

The term “weapon of mass death and destruction” includes [in part]:

1. any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; or
2. any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

The Sentencing Commission reviewed a substantially similar provision in June 2018 in HB 1070/SB 737 and in March 2019 in HB 86 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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 289/SB 210 – Gun Violence Prevention Act. [Ed. 1] (cont'd)

STATUTE

§ 14-409.13. Report of loss or theft of firearm.

DESCRIPTION

Subsection (a):

A person who

1. is an owner of a firearm, as defined in G.S. 14-408.1(a) and
2. fails to report the loss or theft of the firearm within 48 hours after the discovery of the loss or theft to either:
 - a. the local law enforcement agency having jurisdiction over the location where the loss or theft of the firearm occurred or
 - b. the State Bureau of Investigation.

PROPOSED OFFENSE CLASS

Class I felony, second and subsequent offenses.

ANALYSIS

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

A first violation of this provision is a Class 3 misdemeanor.

The Sentencing Commission reviewed a substantially similar provision in May 2017 in HB 723 and in March 2019 in HB 86 and found it to be inconsistent with the Offense Criteria for a Class I felony because the Structured Sentencing punishment chart takes a defendant's prior record into account through the Prior Record Level.

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 289/SB 210 – Gun Violence Prevention Act [Ed. 1] (cont'd)

STATUTE

§ 14-409.61. Large-capacity magazines prohibited; penalties; exceptions.

DESCRIPTION

Subsection (b):

A person who

1. possesses
2. a large-capacity magazine
3. during the commission of a felony.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

A large-capacity magazine includes all of the following:

1. a fixed or detachable magazine box, drum, feed strip, or similar device capable of accepting, or that is designed to be readily converted to accept, more than 15 rounds of ammunition
2. a fixed or detachable magazine that is capable of accepting more than eight shotgun shells
3. a detachable magazine, tube, box, drum, feed strip, or similar device that is capable of accepting more than eight shotgun shells when combined with a fixed magazine.

It is a Class 2 misdemeanor for a person to sell, transfer, or possess a large-capacity magazine; it is a Class 1 misdemeanor upon the second or subsequent offense (G.S. 14-409.61(a))

It is an aggravating factor to be armed with or use a deadly weapon at the time of the commission of a crime (G.S. 15A-1340.16(d)(10)).

The Sentencing Commission reviewed a substantially similar provision in May 2017 in HB 723 and in March 2019 in HB 86 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: 04/28/2023

BILL CONTINUED ON NEXT PAGE

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 289/SB 210 – Gun Violence Prevention Act [Ed. 1] (cont'd)

STATUTE

§ 14-409B. Ghost guns prohibited.

DESCRIPTION

A person, firm, or corporation who

1. manufactures, sells, gives away, transfers, uses, or possesses
2. a ghost gun.

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.

"Ghost gun" is defined as a firearm, including a frame or receiver, that lacks a unique serial number engraved or cased in metal alloy on the frame or receiver by a licensed manufacturer, maker, or importer under federal law or markings in accordance with 27 C.F.R. § 479.102.

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 significant societal injury as Class H felonies.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| | |
|---------------------------------|---|
| BILL NUMBER/SHORT TITLE: | HB 293/SB 226 – Freedom to Vote [Ed. 1] HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
|---------------------------------|---|

STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (b)(1):

A person who

1. Threatens or attempts to threaten any person
 - a. for voting or attempting to vote,
 - b. for voting or attempting to vote for or against a particular candidate,
 - c. for registering to vote,
 - d. for urging or aiding any individuals to vote or attempting to vote, as allowed by law, or
 - e. for exercising any lawful powers or duties as an election official or enlisting another person to do the same,
2. when they knew or reasonably should have known that their actions would produce that effect.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

For the purposes of this section, threaten is defined as to express an intention to harm another. (G.S. 163-275.1(a)(3))

An assault on any chief judge, judge of election or other election officer while in the discharge of duties in the registration of voters or in conducting any primary or election, is a Class I felony. (G.S. 163-275(10))

Threaten, menace or in any other manner, to intimidate or attempt to intimidate any chief judge, judge of election or other election officer in the discharge of duties in the registration of voters or in conducting any primary or election, is a Class I felony. (G.S. 163-275(11))

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

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| | |
|---------------------------------|--|
| BILL NUMBER/SHORT TITLE: | HB 293/SB 226 – Freedom to Vote [Ed. 1] (cont'd) HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
|---------------------------------|--|

STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (b)(2):

A person who

1. knowingly challenges
2. a person's right to vote
3. on fraudulent or spurious grounds.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

To falsely make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting, including declarations made under this Chapter, G.S. 130A-93.1(c), and G.S. 161-10(a)(8), is a Class I felony. (G.S. 163-275(13))

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

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|--|
| BILL NUMBER/SHORT TITLE: HB 293/SB 226 – Freedom to Vote [Ed. 1] (cont’d) HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
|--|

STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (b)(3):

A person who

1. engages in mass, indiscriminate, and groundless challenging of voters
2. solely for the purpose of preventing voters from
 - a. voting or
 - b. to delay the process of voting or
 - c. the lawful and orderly administration of an election.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

To directly or indirectly, misrepresent the law to the public through mass mailing or any other means of communication where the intent and the effect is to intimidate or discourage potential voters from exercising their lawful right to vote, is a Class I felony. (G.S. 163-275(17))

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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| BILL NUMBER/SHORT TITLE: | HB 293/SB 226 – Freedom to Vote [Ed. 1] (cont’d) HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
|---------------------------------|--|

STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (b)(4):

A person who

1. fraudulently advises any person that the person
 - a. is not eligible to vote or
 - b. is not registered to vote
2. when in fact that person is eligible or registered to vote.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

When any person, with intent to commit a fraud to register or vote at more than one precinct or more than one time, or to induce another to do so, in the same primary or election, or to vote illegally at any primary or election, commits a Class I felony. (G.S. 163-275(7))

When any person, knowing that a person is not a citizen of the United States, instructs or coerces that person to register to vote or to vote, commits a Class I felony. (G.S. 163-275(18))

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|--|
| BILL NUMBER/SHORT TITLE: HB 293/SB 226 – Freedom to Vote [Ed. 1] (cont’d) HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
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STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (c)(1):

An employer, whether a corporation or natural person, or any other person who employs,

1. in paying its employees the salary or wages due the employees,
2. enclosed the employees' pay in pay envelopes upon which or in which there is written or printed
 - a. the name of any candidate or
 - b. any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees.

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.

For the purposes of this section, threaten is defined as to express an intention to harm another. (G.S. 163-275.1(a)(3))

Intimidation of voters by officers (person holding any office, position, or employment in state or local government), is a Class 2 misdemeanor. (G.S. 163-271)

When a person, directly or indirectly, discharges or threatens to discharge from employment, or otherwise intimidates or opposes any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which that voter may have failed to cast, is a Class 2 misdemeanor. (G.S. 163-274(7))

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 as a misdemeanor offense.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|--|
| BILL NUMBER/SHORT TITLE: HB 293/SB 226 – Freedom to Vote [Ed. 1] (cont’d) HB 372/SB 313 – Safeguard Fair Elections Act [Ed. 1] |
|--|

STATUTE

§ 163-275.1. Voter intimidation, threats, or coercion.

DESCRIPTION

Subdivision (c)(2):

An employer, whether a corporation or natural person, or any other person who employs,

1. in paying its employees the salary or wages due the employees,
2. in any way, express or implied, communicates that the employees' pay or continued employment is conditioned on
 - a. voting or not voting, or
 - b. voting or not voting for a specific candidate.

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.

Intimidation of voters by officers (person holding any office, position, or employment in state or local government), is a Class 2 misdemeanor. (G.S. 163-271)

When a person, directly or indirectly, discharges or threatens to discharge from employment, or otherwise intimidates or opposes any legally qualified voter on account of any vote such voter may cast or consider or intend to cast, or not to cast, or which that voter may have failed to cast, commits a Class 2 misdemeanor. (G.S. 163-274(7))

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 298 – Criminal Falsification of Medical Records. [Ed. 2]

STATUTE

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

DESCRIPTION

Subdivisions (a)(1) and (b)(1):

A person who

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

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

A violation of this statute done for the purpose of concealing any material fact not covered under subdivision (a)(1) relating to a potential claim or cause of action is a Class A1 misdemeanor. (G.S. 90-413(a)(3) and (b)(3))

Altering, destroying, or stealing evidence of criminal conduct is a Class I felony. (G.S. 14-221.1)

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 298 – Criminal Falsification of Medical Records. [Ed. 2] (cont'd) |
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STATUTE

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

DESCRIPTION

Subdivisions (a)(2) and (b)(2):

A person who

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

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 347 – Sports Wagering [Ed. 3]

STATUTE

§ 18C-918. Criminal penalties.

DESCRIPTION

Subsection (c):

A person who

1. knowingly
2. attempts to
3. suborn, collude, or otherwise conspire
4. to influence the outcome of any competition or aspect of any competition that is the subject of sports wagering pursuant to Article 9 of Chapter 18C of the General Statutes.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

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

Obtaining property by false pretenses is Class C felony (amount involves \$100,000 or more) or a Class H felony (amount involves less than \$100,000). G.S. 14-100.

Obtaining property or services from slot machines by false coins or tokens is a Class 2 misdemeanor. G.S. 14-108.

Manufacturing, selling, or gifting devices for cheating slot machines is a Class 2 misdemeanor. G.S. 14-109.

The Sentencing Commission reviewed an identical provision in April 2021 in SB 688/HB 631 and found it to be inconsistent with the Offense Classification Criteria for a Class G felony. The Commission noted that the provision would be consistent with the Offense Classification Criteria for a Class H felony.

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 347 – Sports Wagering [Ed. 3] (cont’d)

STATUTE

§ 18C-918. Criminal penalties.

DESCRIPTION

Subsection (d):

A person who

1. applies for an interactive sports wagering license, a service provider license, or sports wagering supplier license and
2. willfully
3. furnishes, supplies, or otherwise gives
4. false information on the interactive sports wagering license application.

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.

Willfully giving false information on a voter registration application at the Division of Motor Vehicles is a Class I felony. G.S. 163-82.19(b).

The Sentencing Commission reviewed an identical provision in April 2021 in SB 688/HB 631 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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 358 – Increased Security/Privacy for NC Legislators [Ed. 1]

STATUTE

§ 120-138.7. Unlawful publication of personal information.

DESCRIPTION

A person who

1. knowingly and publicly
2. posts on the internet
3. the personal information of a legislator or member of the legislator's immediate family if
 - a. the person knows or reasonably should know that publicly posting the personal information poses an imminent and serious threat to the health and safety of the legislator or member of the legislator's immediate family and
 - b. the violation of this Article is a proximate cause of bodily injury or death of the legislator or a member of the legislator's immediate family.

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 Sentencing Commission did not recommend classifying homicide offenses as Class C felonies.

Assault with a deadly weapon on executive, legislative, or court officer (or another person in retaliation) is a Class F felony. (G.S. 14-16.6(c))

Adulterated or misbranded food, drugs, etc.; intent to cause serious injury or death, is a Class C felony. (G.S. 14-34.4)

Dry-cleaning solvents; knowing and willful violation, place person in danger of serious bodily injury or death is a Class C felony. (G.S. 143-215.104Q(c))

Violations of Article 14B - Amusement Device Safety Act of North Carolina, resulting in serious injury or death, is a Class E felony. (G.S. 95-111.13(j))

Violations of Article 15 – Passenger Tramway Safety, resulting in serious injury or death, is a Class E felony. (G.S. 95-125.3(g))

Approach of law enforcement, fire department or rescue squad vehicles or ambulances; etc. (cause serious injury or death) is a Class F felony. (G.S. 20-157(i))

25 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.

Counterfeit supplemental restraint system components and nonfunctional airbags (contributes to a person's physical injury or death) is a Class H felony. (G.S. 20-136.2)

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 362/SB 306 – Fix Our Democracy [Ed. 1]

STATUTE

§ 163-82.19. Automatic voter registration at drivers license offices; coordination on data interface.

DESCRIPTION

Subdivision (a)(4):

A person who

1. willfully and knowingly
2. and with fraudulent intent
3. gives false information on the application.

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.

Voter registration at drivers license offices; coordination on data interface (willfully give false information on application), is a Class I felony. G.S. 163-82.19(b)

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 362/SB 306 – Fix Our Democracy [Ed. 1]

STATUTE

§ 163-82.20. Voter registration at other public agencies; automatic voter registration.

DESCRIPTION

Subdivision (b)(4):

A person who

1. willfully and knowingly
2. and with fraudulent intent
3. gives false information on the application.

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.

Voter registration at drivers license offices; coordination on data interface (willfully give false information on application), is a Class I felony. G.S. 163-82.19(b)

FINDINGS



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



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



Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 362/SB 306 – Fix Our Democracy [Ed. 1]

STATUTE

§ 163-82.20. Voter registration at other public agencies; automatic voter registration.

DESCRIPTION

Subsection (i):

A person who

1. willfully and knowingly
2. and with fraudulent intent
3. gives false information on a voter registration application distributed by another public agency along with an application for service or assistance.

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.

Voter registration at drivers license offices; coordination on data interface (willfully give false information on application), is a Class I felony. G.S. 163-82.19(b)

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 399 – The North Carolina Judicial Privacy Act [Ed. 1]

STATUTE

§ 7A-410.5G. Unlawful publication of personal information.

DESCRIPTION

A person who

1. knowingly and publicly
2. posts on the internet
3. the personal information of a judicial official or member of the judicial official's immediate family if
 - a. the person knows or reasonably should know that publicly posting the personal information poses an imminent and serious threat to the health and safety of the judicial official or member of the judicial official's immediate family and
 - b. the violation of this Article is a proximate cause of bodily injury or death of the judicial official or a member of the judicial official's immediate family.

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.

Assault with a deadly weapon on executive, legislative, or court officer (or another person in retaliation) is a Class F felony. (G.S. 14-16.6(c))

Adulterated or misbranded food, drugs, etc.; intent to cause serious injury or death, is a Class C felony. (G.S. 14-34.4)

Dry-cleaning solvents; knowing and willful violation, place person in danger of serious bodily injury or death is a Class C felony. (G.S. 143-215.104Q(c))

Violations of Article 14B - Amusement Device Safety Act of North Carolina, resulting in serious injury or death, is a Class E felony. (G.S. 95-111.13(j))

Violations of Article 15 – Passenger Tramway Safety, resulting in serious injury or death, is a Class E felony. (G.S. 95-125.3(g))

Approach of law enforcement, fire department or rescue squad vehicles or ambulances; etc. (cause serious injury or death) is a Class F felony. (G.S. 20-157(i))

Counterfeit supplemental restraint system components and nonfunctional airbags (contributes to a person's physical injury or death) is a Class H felony. (G.S. 20-136.2)

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: 04/28/2023

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)**

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|---|
| BILL NUMBER/SHORT TITLE: HB 415/SB 361 – Stop Addiction Fraud Ethics Act of 2023 [Ed. 2/Ed. 1] |
|---|

STATUTE

§ 90-113.151. Truth in marketing.

DESCRIPTION

Subsection (c):

A person who

1. is a treatment provider, treatment facility, recovery residence, or third party providing services to any treatment provider, treatment facility, or recovery residence
2. knowingly does any of the following:
 - a. Make a materially false or misleading statement, or provide false or misleading information, about the nature, identity, or location of substance use disorder treatment services or a recovery residence in advertising materials, on a call line, on an internet website, or in any other marketing materials.
 - b. Make a false or misleading statement about the following:
 - i. The treatment provider's status as an in-network or out-of-network provider.
 - ii. The credentials, qualifications, or experiences of persons providing treatment or services.
 - iii. The rate of recovery or success in providing services.

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.

Bank examiner making a false report (to aid or abet bank in committing violations of Chapter 53C) is a Class H felony. (G.S. 53C-8-7)

Bank examiner making a false report (to aid or abet continuing to operate an insolvent bank) is a Class I felony. (G.S. 14-233)

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

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

DATE OF REVIEW: 04/28/2023

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)**

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|--|
| BILL NUMBER/SHORT TITLE: HB 415/SB 361 – Stop Addiction Fraud Ethics Act of 2023 [Ed. 2/Ed. 1] (cont'd) |
|--|

STATUTE

§ 90-113.151. Truth in marketing.

DESCRIPTION

Subsection (d):

A person or entity who

1. knowingly does any of the following:
 - a. Provide, or direct any other person or entity to provide, false or misleading information about the identity of, or contact information for, any treatment provider.
 - b. Include false or misleading information about the internet website of any treatment provider, or surreptitiously direct or redirect the reader to another internet website.
 - c. Suggest or imply that a relationship with a treatment provider exists, unless the treatment provider has provided express, written consent to indicate such a relationship.
 - d. Make a materially false or misleading statement about substance use disorder treatment services.

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.

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

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|--|
| BILL NUMBER/SHORT TITLE: HB 415/SB 361 – Stop Addiction Fraud Ethics Act of 2023 [Ed. 2/Ed. 1] (cont'd) |
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STATUTE

§ 90-113.152. Patient brokering and kickbacks.

DESCRIPTION

Subsection (a):

A person or entity who does any of the following:

1. Offer or pay anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a treatment provider or laboratory.
2. Solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a treatment provider or laboratory.
3. Solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility.
4. Aid or abet any conduct that violates subdivisions (1) through (3) of this subsection.

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.

Under subsection (c) of this statute, liability exists regardless of if a person has actual knowledge of this section or specific intent to commit a violation of this section.

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

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 425 – Stop Counterfeit Pills Act [Ed. 1]

STATUTE

§ 90-108. Prohibited acts; penalties.

DESCRIPTION

Subdivision (12a):

A person who

1. possesses
2. any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material
3. which may be used to manufacture a controlled substance or listed chemical,
4. knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance.

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.

Possessing an immediate precursor chemical with intent to manufacture a controlled substance is a Class H felony, with the intent to manufacture methamphetamine is a Class F felony. (G.S. 90-95(d1)(1))

Manufacturing, delivering, or possessing 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))

Manufacturing, delivering, or possessing with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance is a Class I felony. (G.S. 90-95(b)(2))

Trafficking MDA/MDMA of 1,000 or more tablets, capsules, or other dosage units, or 400 grams 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.

This offense would be consistent with the Offense Classification Criteria for a Class H or I felony. The Sentencing Commission classified offenses which reasonable tend to result or do result 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 societal injury as Class I felonies.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 425 – Stop Counterfeit Pills Act [Ed. 1] (cont'd)

STATUTE

§ 90-108. Prohibited acts; penalties.

DESCRIPTION

Subdivision (12b):

A person who

1. manufactures, distributes, exports, or imports
2. any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material
3. which may be used to manufacture a controlled substance or listed chemical,
4. knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance.

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.

Possessing an immediate precursor chemical with intent to manufacture a controlled substance is a Class H felony, with the intent to manufacture methamphetamine is a Class F felony. (G.S. 90-95(d1)(1))

Manufacturing, delivering, or possessing 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))

Manufacturing, delivering, or possessing with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance is a Class I felony. (G.S. 90-95(b)(2))

Trafficking MDA/MDMA of 1,000 or more tablets, capsules, or other dosage units, or 400 grams 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.

This offense would be consistent with the Offense Classification Criteria for a Class H or I felony. The Sentencing Commission classified offenses which reasonable tend to result or do result 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 societal injury as Class I felonies.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 429 – Make Street Takeovers Unlawful [Ed. 1]

STATUTE

§ 20-141.10. Street takeover.

DESCRIPTION

Subsection (c):

A person who

1. operates a motor vehicle
2. in a street takeover.

PROPOSED OFFENSE CLASS

Class H felony for a second or subsequent violation within a 24-month 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.

“Street takeover” is defined as the taking over of a portion of highway, street, or public vehicular area by blocking or impeding the regular flow of traffic with a motor vehicle to perform a motor vehicle stunt, contest, or exhibition. (G.S. 20-141.10(a)(8))

A first violation of this subsection is a Class A1 misdemeanor.

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 429 – Make Street Takeovers Unlawful [Ed. 1] (cont'd)

STATUTE

§ 20-141.10. Street takeover.

DESCRIPTION

Subsection (f):

A person who

1. operates a motor vehicle
2. in a street takeover and
3. either
 - a. assaults a law enforcement officer or
 - b. knowingly and willfully threatens a law enforcement officer.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

“Street takeover” is defined as the taking over of a portion of highway, street, or public vehicular area by blocking or impeding the regular flow of traffic with a motor vehicle to perform a motor vehicle stunt, contest, or exhibition. (G.S. 20-141.10(a)(8))

Assault on a law enforcement officer inflicting physical injury is a Class I felony. (G.S. 14-34.7(c)(1))

Assault on a law enforcement officer is a Class A1 misdemeanor. (G.S. 14-33(c)(4))

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

**ANALYSIS OF BILL TO CHANGE THE PUNISHMENT RANGE FOR A CRIME/CLASS
(PREPARED PURSUANT TO G.S. 164-43)**

BILL NUMBER/SHORT TITLE: HB 495 – Aggregation of Multiple Financial Crimes [Ed. 1]

STATUTE

§ 15A-1340.16F. Aggregation of multiple financial crime offenses.

DESCRIPTION

A person who

1. is convicted of two or more of the same financial crime offenses (as defined by statute) and
2. both of the following conditions are met:
 - a. The person committed the financial crime offenses against more than one victim or in more than one county.
 - b. The financial crime offenses are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a common scheme or plan.

PUNISHMENT RANGE

CURRENT: Each offense is sentenced according to the class of the felony offense for which the person was convicted.

PROPOSED: One Class H felony if the aggregated value of the money, goods, property, services, chose in action, or other thing of value exceeds \$1,500.

One Class G felony if the aggregated value of the money, goods, property, services, chose in action, or other thing of value exceeds \$20,000.

One Class F felony if the aggregated value of the money, goods, property, services, chose in action, or other thing of value exceeds \$50,000.

One Class C felony if the aggregated value of the money, goods, property, services, chose in action, or other thing of value exceeds \$100,000.

ANALYSIS

For purposes of this statute, “financial crime offense” is defined as any of the following:

| Citation | Class |
|--|-------|
| Acts of embezzlement punishable under Article 18 of Chapter 14 of the General Statutes. | |
| Embezzlement of property received by virtue of office or employment. (G.S. 14-90) | |
| Value of property is \$100,000 or more | C |
| Value of property is less than \$100,000 | H |
| Embezzlement of State property by public officers and employees. (G.S. 14-91) | |
| Value of property is \$100,000 or more | C |
| Value of property is less than \$100,000 | F |

| | | |
|--|---|---|
| Embezzlement of funds by public officers and trustees. (G.S. 14-92) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | F |
| Embezzlement by treasurers of charitable and religious organizations. (G.S. 14-93) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | H |
| Embezzlement by officers of railroad companies. (G.S. 14-94) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | H |
| Appropriation of partnership funds by partner to personal use. (G.S. 14-97) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | H |
| Embezzlement by surviving partner. (G.S. 14-98) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | H |
| Embezzlement of taxes by officers. (G.S. 14-99) | | |
| | Value of property is \$100,000 or more | C |
| | Value of property is less than \$100,000 | F |
| Acts of false pretenses punishable under G.S. 14-100. | | |
| | Value of the money, goods, property, services, chose in action \$100,000 or more | C |
| | Value of the money, goods, property, services, chose in action less than \$100,000 | H |
| Acts of exploitation of an older adult punishable under G.S. 14-112.2. | | |
| (b) Position of trust | | |
| | Funds, assets, property valued at \$100,00 or more ((d)(1)) | F |
| | Funds, assets, property valued at \$20,000 or more but less than \$100,000 ((d)(2)) | G |
| | Funds, assets, property valued at less than \$20,000 ((d)(3)) | H |
| (c) Lacks capacity to consent | | |
| | Funds, assets, property valued at \$100,00 or more ((e)(1)) | G |
| | Funds, assets, property valued at \$20,000 or more but less than \$100,000 ((e)(2)) | H |
| | Funds, assets, property valued at less than \$20,000 ((e)(3)) | I |

FINDINGS

- Bill is **consistent** with G.S. 164-41.
- Bill is **inconsistent** with G.S. 164-41.
- G.S. 164-41 is not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1]

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (a):

A person who

1. tampers with a video gaming terminal
2. with the intent to interfere with the proper operation of the video gaming terminal.

PROPOSED OFFENSE CLASS

Class H felony for a second offense.

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 first offense is a Class 1 misdemeanor.

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1] (cont'd) |
|---|

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (a):

A person who

1. tampers with a video gaming terminal
2. with the intent to interfere with the proper operation of the video gaming terminal.

PROPOSED OFFENSE CLASS

Class G felony for a third or subsequent offense.

ANALYSIS

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

The first offense is a Class 1 misdemeanor, the second offense is a Class H felony.

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1] (cont'd) |
|---|

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (b):

A person who

1. with the intent to manipulate the outcome, payoff, or operation of a video gaming terminal
2. manipulates the outcome, payoff, or operation of a video gaming terminal
3. by physical tampering or any other means.

PROPOSED OFFENSE CLASS

Class G felony for the first offense.

ANALYSIS

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

Common law robbery is a Class G felony. (G.S. 14-87.1)

Second degree burglary is a Class G felony. (G.S. 14-51)

Obtaining property or services from slot machines, etc., by false coins or tokens is a Class 2 misdemeanor. (G.S. 14-109)

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1] (cont'd) |
|---|

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (b):

A person who

1. manipulates the outcome, payoff, or operation of a video gaming terminal
2. by physical tampering or any other means
3. with the intent to manipulate the outcome, payoff, or operation of a video gaming terminal.

PROPOSED OFFENSE CLASS

Class F felony for any subsequent offense.

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.

Obtaining property or services from slot machines, etc., by false coins or tokens is a Class 2 misdemeanor. (G.S. 14-109)

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1] (cont'd) |
|---|

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (c):

A person who

1. is a video gaming merchant or operator and who
2. falsely reports or fails to report
3. the amount due required by the Commission.

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.

Common law robbery is a Class G felony. (G.S. 14-87.1)

Second degree burglary is a Class G felony. (G.S. 14-51)

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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: HB 512 – Forgivable Loans/HBCU Supplemental Funding [Ed. 1] (cont'd) |
|---|

STATUTE

§ 18C-244. Criminal offenses.

DESCRIPTION

Subsection (d):

A person who

1. is a video gaming merchant and who
2. pays a prize to any person in the amount less than the specified prize won.

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.

Common law robbery is a Class G felony. (G.S. 14-87.1)

Second degree burglary is a Class G felony. (G.S. 14-51)

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 533 – Human Life Protection Act of 2023 [Ed. 1]

STATUTE

§ 14-45.2. Abortion prohibited.

DESCRIPTION

A person who

1. knowingly
2. performs, induces, or attempts an abortion.

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.

G.S. 14-44. Using drugs or instruments to destroy unborn child, a Class H felony, would be repealed.

G.S. 14-45. Using drugs or instruments to produce miscarriage or injure pregnant woman, a Class I felony, would be repealed.

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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 533 – Human Life Protection Act of 2023 [Ed. 1] (cont'd)

STATUTE

§ 14-45.2. Abortion prohibited.

DESCRIPTION

A person who

1. knowingly
2. performs, induces, or attempts an abortion
3. that results in the death of an unborn child.

PROPOSED OFFENSE CLASS

Class B1 felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with malice as Class B felonies.

G.S. 14-44. Using drugs or instruments to destroy unborn child, a Class H felony, would be repealed.

G.S. 14-45. Using drugs or instruments to produce miscarriage or injure pregnant woman, a Class I felony, would be repealed.

Murder of an unborn child (willful and malicious with intent to cause death of the child) is a Class A felony. (G.S. 14-23.2(a)(1))

Murder of an unborn child (fetal death caused by act that is inherently dangerous to life and done so recklessly and wantonly to reflect disregard for life) is a Class B2 felony. (G.S. 14-23.2(a)(3))

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 534 – Protecting School Employees [Ed. 1]

STATUTE

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

DESCRIPTION

Subdivision (c)(6) and subsection (e):

A person who

1. assaults
2. a school employee or school volunteer
3.
 - 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 G felony for second or subsequent violation.

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 545 – Willful or Wanton Gun Discharge/Expand Scope [Ed. 1]

STATUTE

§ 14-34.1. Discharging certain barreled weapons or a firearm into occupied property (renamed “Willful or wanton discharge of certain barreled weapons or a firearm”).

DESCRIPTION

Subsection (a1):

A person who

1. willfully or wantonly
2. discharges a weapon described in subsection (a) of this statute (firearm or barreled weapon)
3.
 - a. in or on the property of another without the property owner's permission,
 - b. on a public street or highway, or
 - c. at any public place where persons other than the person who discharged the weapon are present.

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.

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

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

Trespass for purposes of hunting, etc., without written consent is a Class 2 misdemeanor. (G.S. 14-159.6(a))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

Discharging a weapon on the property of another without permission would be consistent with a misdemeanor offense. The remaining provisions would be consistent with 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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 590/SB 409 – Increase Punishment for Cargo Theft [Ed. 1]

STATUTE

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

DESCRIPTION

Subdivision (a2)(1):

A person who

1. a. with the intent to commit any felony or larceny therein
 - i. breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind,
 - ii. containing any goods, wares, freight, or other thing of value, or
- b. after having committed any felony or larceny therein
 - i. break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind
 - ii. containing any goods, wares, freight, or other thing of value
2. and the goods, wares, freight, or other thing of value taken has a value exceeding one thousand five hundred dollars (\$1,500), but no more than twenty thousand dollars (\$20,000), aggregated over a 90-day period.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

An offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection. (G.S. 14-56(a2)(5))

This offense is currently a Class I felony regardless of the value of the property. (G.S. 14-56(a))

Breaking or entering buildings, is a Class H felony. (G.S. 14-54(a))

Larceny pursuant to burglary, breaking or entering, or burglary with explosives; receiving or possessing stolen goods pursuant to these offenses, is a Class H felony. (G.S. 14-72(b)(2))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: HB 590/SB 409 – Increase Punishment for Cargo Theft [Ed. 1] (cont'd) |
|---|

STATUTE

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

DESCRIPTION

Subdivision (a2)(1)(a.)-(c.):

A person who

1. a. with the intent to commit any felony or larceny therein
 - i. breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind,
 - ii. containing any goods, wares, freight, or other thing of value, or
- b. after having committed any felony or larceny therein
 - i. break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind
 - ii. containing any goods, wares, freight, or other thing of value
2. and the following conditions are met:
 - a. The railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.
 - b. The person knows or reasonably should know that the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.
 - c. The offense does not involve the taking of goods, wares, freight, or any other thing of value that would be punishable under subdivision (2), (3), or (4) of this subsection.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

An offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection. (G.S. 14-56(a2)(5))

This offense is currently a Class H felony if the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States and the person knows or reasonably should know it. (G.S. 14-56(a) and (a1))

Breaking or entering buildings, is a Class H felony. (G.S. 14-54(a))

Larceny pursuant to burglary, breaking or entering, or burglary with explosives; receiving or possessing stolen goods pursuant to these offenses, is a Class H felony. (G.S. 14-72(b)(2))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: HB 590/SB 409 – Increase Punishment for Cargo Theft [Ed. 1] (cont'd) |
|---|

STATUTE

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

DESCRIPTION

Subdivision (a2)(2):

A person who

1. a. with the intent to commit any felony or larceny therein
 - i. breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind,
 - ii. containing any goods, wares, freight, or other thing of value, or
- b. after having committed any felony or larceny therein
 - i. break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind
 - ii. containing any goods, wares, freight, or other thing of value
2. and the goods, wares, freight, or other thing of value taken has a value exceeding twenty thousand dollars (\$20,000), but no more than fifty thousand dollars (\$50,000), aggregated over a 90-day period.

PROPOSED OFFENSE CLASS

Class G felony.

ANALYSIS

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

An offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection. (G.S. 14-56(a2)(5))

This offense is currently a Class I felony regardless of the value of the property. (G.S. 14-56(a))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 590/SB 409 – Increase Punishment for Cargo Theft [Ed. 1]
(cont'd)

STATUTE

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

DESCRIPTION

Subdivision (a2)(3):

A person who

1. a. with the intent to commit any felony or larceny therein
 - i. breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind,
 - ii. containing any goods, wares, freight, or other thing of value, or
- b. after having committed any felony or larceny therein
 - i. break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind
 - ii. containing any goods, wares, freight, or other thing of value
2. and the goods, wares, freight, or other thing of value taken has a value exceeding fifty thousand dollars (\$50,000), but no more than one hundred thousand dollars (\$100,000), aggregated over a 90-day period.

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 offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection. (G.S. 14-56(a2)(5))

This offense is currently a Class I felony regardless of the value of the property. (G.S. 14-56(a))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 590/SB 409 – Increase Punishment for Cargo Theft [Ed. 1] (cont'd) |
|---|

STATUTE

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.

DESCRIPTION

Subdivision (a2)(4):

A person who

1. a. with the intent to commit any felony or larceny therein
 - i. breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind,
 - ii. containing any goods, wares, freight, or other thing of value, or
- b. after having committed any felony or larceny therein
 - i. break out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind
 - ii. containing any goods, wares, freight, or other thing of value
2. and the goods, wares, freight, or other thing of value taken has a value exceeding one hundred thousand dollars (\$100,000) aggregated over a 90-day period.

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.

An offense is a Class I felony for any other offense under subsection (a) of this section that is not otherwise covered under subdivisions (1) through (4) of this subsection. (G.S. 14-56(a2)(5))

This offense is currently a Class I felony regardless of the value of the property. (G.S. 14-56(a))

Larceny by servants and other employees (amount involved \$100,000 or more), is a Class C felony. (G.S. 14-74)

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class D felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 596/SB 437 – Hate Crimes Prevention Act [Ed. 1]

STATUTE

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

DESCRIPTION

Subsection (b):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or
(b) attempts to assault a person and inflict serious bodily injury to the person
2. *in whole or in part* because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person *or a person or group associated with that person.* [Italics indicate words added in HB 596/SB 437.]

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

Assault inflicting serious bodily injury is a Class F felony (G.S. 14-32.4). Serious bodily injury is defined by statute as bodily injury that creates a substantial risk of death, or that causes permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ or that results in prolonged hospitalization.

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

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

The Sentencing Commission reviewed an identical provision in June 2018 in SB 794, April 2019 in HB 312/SB 209, and April 2021 in HB 354/SB 439 and each time found it to be consistent with the Offense Classification Criteria for a Class F felony.

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/23

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 596/SB 437 – Hate Crimes Prevention Act [Ed. 1] (cont’d)

STATUTE

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

DESCRIPTION

Subdivision (d)(1):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or (b) attempts to assault a person and inflict serious bodily injury to the person
2. *in whole or in part* because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person *or a person or group associated with that person* and [Italics indicate words added in HB 596/SB 437.]
3. death results from the offense.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

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

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

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

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

FINDINGS



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



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



Homicide Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/23

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 596/SB 437 – Hate Crimes Prevention Act [Ed. 1] (cont'd) |
|---|

STATUTE

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

DESCRIPTION

Subdivision (d)(2):

A person who

1. (a) assaults another person and inflicts serious bodily injury to the person or (b) attempts to assault a person and inflict serious bodily injury to the person
2. *in whole or in part* because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability, or sexual orientation of that person *or a person or group associated with that person and* [Italics indicate words added in HB 596/SB 437.]
3. the offense includes a violation or attempted violation of any of the following:
 - a. G.S. 14-39 (kidnapping).
 - b. G.S. 14-27.21 (first degree forcible rape).
 - c. G.S. 14-27.22 (second degree forcible rape).
 - d. G.S. 14-27.26 (first degree forcible sexual offense).
 - e. G.S. 14-27.27 (second degree forcible sexual offense).

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

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

Assault inflicting serious bodily injury is a Class F felony (G.S. 14-32.4). Serious bodily injury is defined by statute as bodily injury that creates a substantial risk of death, or that causes permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ or that results in prolonged hospitalization. It is currently an aggravating factor if the offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin (G.S. 15A-1340.16(d)(17)).

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

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

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

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/23

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 626/SB 346 – Cannabis Legalization and Regulation [Ed. 1]

STATUTE

§ 18D-405. Unlawful cannabis extraction; penalty.

DESCRIPTION

Subsection (a):

A person who

1. performs solvent-based extractions on cannabis
2. using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol and
3. is not a cannabis product manufacturing facility complying with Chapter 18D of the General Statutes and the Department of Public Safety.

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.

Marijuana is a Schedule VI controlled substance. G.S. 90-94. Possession, manufacture, sale, delivery, and possession with intent to manufacture, sell, or deliver marijuana are all unlawful pursuant to Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act. Use and possession of hemp extract is lawful if certain criteria are met. (G.S. 90-94.1)

Manufacturing, distributing, dispensing, delivering, purchasing, aiding, abetting, or conspiring to manufacture, distribute, dispense, deliver, purchase or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is a Class I felony. (G.S. 106-568.57)

The Sentencing Commission reviewed an identical provision in April 2021 in HB 576/SB 646 and HB 617 and found it to be consistent with the Offense Classification Criteria for a Class E felony.

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|--|
| BILL NUMBER/SHORT TITLE: HB 626/SB 346 – Cannabis Legalization and Regulation [Ed. 1] (cont'd) |
|--|

STATUTE

§ 18D-405. Unlawful cannabis extraction; penalty.

DESCRIPTION

Subsection (b):

A person who

1. extracts compounds
2. from cannabis
3. using ethanol
4. in the presence or vicinity of open flame.

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.

Marijuana is a Schedule VI controlled substance. G.S. 90-94. Possession, manufacture, sale, delivery, and possession with intent to manufacture, sell, or deliver marijuana are all unlawful pursuant to Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act. Use and possession of hemp extract is lawful if certain criteria are met. (G.S. 90-94.1)

Manufacturing, distributing, dispensing, delivering, purchasing, aiding, abetting, or conspiring to manufacture, distribute, dispense, deliver, purchase or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property use for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, is a Class I felony. (G.S. 106-568.57)

The Sentencing Commission reviewed an identical provision in April 2021 in HB 576/SB 646 and HB 617 and found it to be consistent with the Offense Classification Criteria for a Class E felony.

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 641 – No Soliciting Certain Funds/Elections Boards [Ed. 1]

STATUTE

§ 163-29. Solicitation or acceptance of private funds for election purposes prohibited.

DESCRIPTION

Subsection (b):

The State Board of Elections

1. solicits, takes, or otherwise accepts
2. from any person
3. any contribution, donation, or anything else of value
4. for purposes of conducting State or local elections in this State.

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.

It is a Class I felony for any person to compensate another, or accept compensation, based on the number of returned written requests for absentee ballots under G.S. 163-230.2. (G.S. 163-237(d4))

The Sentencing Commission reviewed an identical provision in May 2021 in HB 766 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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|---|
| BILL NUMBER/SHORT TITLE: HB 641 – No Soliciting Certain Funds/Elections Boards [Ed. 1] (cont'd) |
|---|

STATUTE

§ 163-37.2. Solicitation or acceptance of private funds for election purposes prohibited.

DESCRIPTION

Subsection (b):

The county board of commissioners, elected municipal officials, or county board of elections

1. solicits, takes, or otherwise accepts
2. from any person
3. any contribution, donation, or anything else of value
4. for purposes of conducting State or local elections in this State.

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.

It is a Class I felony for any person to compensate another, or accept compensation, based on the number of returned written requests for absentee ballots under G.S. 163-230.2. (G.S. 163-237(d4))

The Sentencing Commission reviewed an identical provision in May 2021 in HB 766 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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 648 – Faithful Article V Commissioner Act. [Ed. 1]

STATUTE

§ 120-272.100. Faithful Article V Commissioner Act.

DESCRIPTION

A person who

1. serves as a delegate at an interstate convention and
2. exceeds the scope of authority by voting for, voting to consider, or otherwise promoting any action of the convention not within the scope defined in subsection (f) of this statute.

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.

Subsection (f) Limitations on Commissioners' Powers. – No commissioner shall exceed the scope of authority granted by his or her commission or violate his or her instructions. In the case of a convention for proposing amendments, the scope of authority granted by any commission and instructions shall not be deemed to exceed the narrowest of (i) the scope of the congressional call, (ii) the scope of the narrowest application among those cited by Congress as mandating the convention call, or (iii) the actual terms of the application.

Interstate convention definition – A diplomatic meeting, however denominated, of committees from three or more states or state legislatures to consult upon and propose or adopt measures pertaining to one or more issues previously prescribed by applications, by the convention call, or by the commissioning authority.

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 671 – Protect Public Infrastructure [Ed. 1]

STATUTE

§ 14-150.2. Attack on public infrastructure.

DESCRIPTION

A person who

1. a. willfully or maliciously destroys, injures, or otherwise damages, or
b. attempts to destroy, injure, or otherwise damage,
2. a. a public infrastructure or
b. public transportation system.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

Public infrastructure. – Publicly or privately owned facilities, systems, functions, or assets, whether physical or virtual, providing or distributing services for the benefit of the public, including energy, fuel, water, agriculture, health care, finance, or communication. (G.S. 14-150.2(a)(1))

Public transportation system. – All facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of individuals or cargo. (G.S. 14-150.2(a)(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 required that the conduct impair the functionality of the public infrastructure. 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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 673 – Clarify Regulations on Adult Entertainment [Ed. 1]

STATUTE

§ 14-190.15A. Restrictions on adult live entertainment.

DESCRIPTION

A person who

1. engages in adult live entertainment
2. a. on public property or
b. in a location where the adult live entertainment is in the presence of an individual under the age of 18.

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 A1 misdemeanor.

The term "adult live entertainment" is defined as a performance featuring topless dancers, exotic dancers, strippers, or male or female impersonators who provide entertainment that appeals to a prurient interest, regardless of whether or not performed for consideration.

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 698 – Codify/Replace Comm. Law Obstruct. of Justice [Ed. 1]

STATUTE

§ 14-222.1. Obstruction of justice.

DESCRIPTION

A person who

1. with deceit and an intent to defraud,
2. unlawfully obstructs justice.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

This offense replaces the offense of common law felony obstruction of justice in North Carolina.

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 707 – Assaults on First Responders & Social Workers [Ed. 1]

STATUTE

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

DESCRIPTION

A person who

1. commits an assault with a firearm upon any of the following persons who are in the performance of their duties:
 - A law enforcement officer.
 - A probation officer.
 - A parole officer.
 - An employee of a detention facility operated under the jurisdiction of the State or a local government.

OFFENSE CLASS

CURRENT: Class D felony.

PROPOSED: Class B1 felony.

ANALYSIS

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

This offense was reclassified from a Class E felony to a Class D felony effective 12/1/19.

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

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

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

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

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class D felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

| |
|--|
| BILL NUMBER/SHORT TITLE: HB 707 – Assaults on First Responders & Social Workers [Ed. 1] (cont'd) |
|--|

STATUTE

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

DESCRIPTION

A person who

1. commits an assault with a firearm upon any of the following persons who are in the performance of their duties:
 - A member of the North Carolina National Guard.
 - An emergency medical technician or other emergency health care provider.
 - A medical responder.
 - A firefighter.

OFFENSE CLASS

CURRENT: Class E felony.

PROPOSED: Class B1 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.

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

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

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

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

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

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class D felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious infringements on property interest which also implicate physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling as Class D felonies.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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| BILL NUMBER/SHORT TITLE: HB 707 – Assaults on First Responders & Social Workers [Ed. 1] (cont'd) |
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STATUTE

§ 14-16.6. Assault on executive, legislative, or court officer.

DESCRIPTION

Subsection (c):

A person who

1. a. assaults
 - i. any legislative officer, executive officer, or court officer, or
 - ii. another person as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties, or
- b. makes a violent attack upon the residence, office, temporary accommodation or means of transport of any one of those officers or persons in a manner likely to endanger the officer or person,
2. and inflicts serious bodily injury.

OFFENSE CLASS

CURRENT: Class F felony.

PROPOSED: Class E felony.

ANALYSIS

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

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

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

Assault with deadly weapon inflicting serious injury is a Class E felony. (G.S. 14-32(b))

Assault with deadly weapon with intent to kill is a Class E felony. (G.S. 14-32(c))

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 if it required the use of a deadly weapon. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: HB 748 – Felony Child Abuse/Expand Scope [Ed. 2]

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. intentionally and routinely
 - a. inflicts physical injury on that child and
 - b. deprives that child of necessary food, clothing, shelter, or proper physical care
3. for the purpose of causing fear, emotional injury, or deriving sexual gratification.

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.

An eligible person who intentionally inflicts any serious physical injury upon or to the child or who intentionally commits an assault upon the child which results in any serious physical injury is guilty of a Class D felony. (G.S. 14-318.4(a))

“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)(3))

An eligible person who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a Class B2 felony. (G.S. 14-318.4(a3))

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: 04/28/2023

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)**

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| BILL NUMBER/SHORT TITLE: SB 206 – Stop Counterfeit Pills Act [Ed. 4] |
|---|

STATUTE

§ 90-108. Prohibited acts; penalties.

DESCRIPTION

Subdivision (12a):

A person who

1. possesses, manufactures, distributes, exports, or imports
2. any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical,
3. knowing, intending, or having reasonable cause to believe that it will be used to manufacture a 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 Offense Classification Criteria were not used in the classification of drug offenses.

This subdivision shall not apply to a pharmacy, a pharmacist, a pharmacy technician, or a pharmacy intern licensed or permitted under Article 4A of Chapter 90 of the General Statutes possessing any item included in this subdivision utilized in the compounding, dispensing, delivering, or administering of a controlled substance pursuant to a prescription.

Possessing an immediate precursor chemical with intent to manufacture a controlled substance is a Class H felony, with the intent to manufacture methamphetamine is a Class F felony. (G.S. 90-95(d1)(1))

Manufacturing, delivering, or possessing 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))

Manufacturing, delivering, or possessing with intent to manufacture, sell or deliver, a Schedule III, IV, V, or VI Controlled Substance is a Class I felony. (G.S. 90-95(b)(2))

Trafficking MDA/MDMA of 1,000 or more tablets, capsules, or other dosage units, or 400 grams 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.

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

DATE OF REVIEW: 04/28/2023

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 267 – Restrict Detached Catalytic Purchases [Ed. 1]

STATUTE

§ 66-429. Violations.

DESCRIPTION

Subdivision (a)(1):

A person who

1. knowingly and willingly violates any of the provisions of Part 3. Regulation of Sales and Purchases of Metals, of Article 45. Pawnbrokers, Metal Dealers, and Scrap Dealers, of Chapter 66
2. involving the sale or purchase of a catalytic converter.

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 conduct would currently be punished as a Class 1 misdemeanor for a first offense and a Class I felony for a second or subsequent violation.

Felony larceny of a catalytic converter is a Class I felony. (G.S. 14-72.8(a))

Purchase of vehicles for purposes of scrap or parts only is a Class I felony. (G.S. 20-62.1)

FINDINGS

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

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

Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 373 – Felony Liability for Operating Unlicensed ACH [Ed. 1]

STATUTE

§ 131D-2.6. Legal action by Department.

DESCRIPTION

Subsection (b):

A person or corporation who

1. establishes, conducts, manages, or operates
2. a facility subject to licensure under this section (adult care home)
3. without a license.

OFFENSE CLASS

CURRENT: Class 3 misdemeanor.

PROPOSED: Class H felony.

ANALYSIS

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

Certification of adult care programs; purpose; definition; penalty (harm/willful neglect of person under care), is a Class 1 misdemeanor. (G.S. 131D-6)

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with a Class 1 misdemeanor.

DATE OF REVIEW: 04/28/2023

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 452 – NC Department of Insurance Omnibus [Ed. 3]

STATUTE

§ 58-2-161. False statement to procure or deny benefit of insurance policy or certificate.

DESCRIPTION

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

A person who

1. with the intent to injure, defraud, or deceive an insurer or insurance claimant and do either of the following:
 - a. present or cause to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the claim, or
 - b. assist, abet, solicit, or conspire with another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the claim,
2. and the amount of the claim for payment or other benefit is less than one hundred thousand dollars (\$100,000).

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.

Embezzlement by insurance agents, brokers, or administrators (amount involved less than \$100,000), is a Class H felony. G.S. 58-2-162

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: 04/28/2023

BILL CONTINUED ON NEXT PAGE

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 452 – NC Department of Insurance Omnibus [Ed. 3] (cont'd)

STATUTE

§ 58-2-161. False statement to procure or deny benefit of insurance policy or certificate.

DESCRIPTION

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

A person who

1. with the intent to injure, defraud, or deceive an insurer or insurance claimant and do either of the following:
 - a. present or cause to be presented a written or oral statement, including computer-generated documents as part of, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning any fact or matter material to the claim, or
 - b. assist, abet, solicit, or conspire with another person to prepare or make any written or oral statement that is intended to be presented to an insurer or insurance claimant in connection with, in support of, or in opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false or misleading information concerning a fact or matter material to the claim,
2. and the amount of the claim for payment or other benefit is one hundred thousand dollars (\$100,000) or more.

PROPOSED OFFENSE CLASS

Class C felony.

ANALYSIS

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

Embezzlement by insurance agents, brokers, or administrators (amount involved \$100,000 or more), is a Class C felony. G.S. 58-2-162

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: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 457 – Amend Animal Fighting & Welfare Laws [Ed. 1]

STATUTE

§ 14-362.2. Dog fighting and baiting.

DESCRIPTION

Subsection (a):

A person who

1. instigates, promotes, conducts,
is employed at, provides a dog for, allows property under the person's ownership or control
to be used for, gambles on, or profits from
2.
 - a. an exhibition featuring the baiting of a dog or
 - b. the fighting of a dog with another dog or with another animal.

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 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 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.

Cockfighting, is a Class I felony. (G.S. 14-362)

Cruelty to animals (maliciously torturing), is a Class I felony. (G.S. 14-360(b))

Cruelty to animals (maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill), is a Class H felony. (G.S. 14-360(b))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: SB 457 – Amend Animal Fighting & Welfare Laws [Ed. 1] (cont'd) |
|---|

STATUTE

§ 14-362.2. Dog fighting and baiting.

DESCRIPTION

Subsection (b):

A person who

1. owns, breeds, possesses, or trains a dog
2. with the intent that the dog be used in an exhibition featuring
3.
 - a. the baiting of that dog or
 - b. the fighting of that dog with another dog or with another animal.

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 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 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.

Cockfighting, is a Class I felony. (G.S. 14-362)

Cruelty to animals (maliciously torturing), is a Class I felony. (G.S. 14-360(b))

Cruelty to animals (maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill), is a Class H felony. (G.S. 14-360(b))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class H or I 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. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

DATE OF REVIEW: 04/28/2023

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 496 – Increase Safe Use of Firearms [Ed. 1]; HB 705/SB 713 – Build Safer Communities and Schools Act [Ed.1]

STATUTE

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

DESCRIPTION

Subsection (e):

A person who

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

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

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

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

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: 04/28/2023

BILL CONTINUED ON NEXT PAGE

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

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 496 – Increase Safe Use of Firearms [Ed. 1]; HB 705/SB 713 – Build Safer Communities and Schools Act [Ed.1] (cont’d)

STATUTE

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

DESCRIPTION

Subsection (e):

A person who

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

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

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

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

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

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

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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 496 – Increase Safe Use of Firearms [Ed. 1]; HB 705/SB 713 – Build Safer Communities and Schools Act [Ed.1] (cont'd)

STATUTE

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

DESCRIPTION

A person who

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

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

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

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

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

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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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| BILL NUMBER/SHORT TITLE: SB 496 – Increase Safe Use of Firearms [Ed. 1]; HB 705/SB 713 – Build Safer Communities and Schools Act [Ed.1] (cont’d) |
|---|

STATUTE

§ 14-315.1. Safe storage of firearms.

DESCRIPTION

Subsection (a):

A person who

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

OFFENSE CLASS

CURRENT: Class 1 misdemeanor.

PROPOSED: Class D felony.

ANALYSIS

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

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

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

Child abuse (willful act or grossly negligent omission which shows a reckless disregard for human life and results in serious bodily injury to the child), is a Class E felony. (G.S. 14-318.4(a4))

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

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with a Class A1 misdemeanor.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

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|---|
| BILL NUMBER/SHORT TITLE: SB 496 – Increase Safe Use of Firearms [Ed. 1]; HB 705/SB 713 – Build Safer Communities and Schools Act [Ed.1] (cont'd) |
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STATUTE

§ 14-315.1. Safe storage of firearms.

DESCRIPTION

Subsection (a1):

A person who

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

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

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

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

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

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: 04/28/2023

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 577 – DMV Proposed Legislative Changes [Ed. 1]

STATUTE

§ 20-79.1. Use of temporary registration plates or markers by purchasers of motor vehicles in lieu of dealers' plates.

DESCRIPTION

A person who

1. violates subdivision (2) of G.S. 20-111,
2. involving a temporary registration plate or marker.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

Currently, under G.S. 20-111(2), it is a Class 3 misdemeanor to display or cause or permit to be displayed or to have in possession any registration card, certificate of title or registration number plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered, or to willfully display an expired license or registration plate on a vehicle knowing the same to be expired.

Altering or forging certificate of title, registration card or application, is a Class I felony. (G.S. 20-71)
Use of a dealer transporter or transporter plates in exchange for money, is a Class I felony. (G.S. 20-79.2)

The Sentencing Commission reviewed an identical provision in March 2023 in HB 199 and found it 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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 577 – DMV Proposed Legislative Changes [Ed. 1]

STATUTE

§ 20-79.1. Use of temporary registration plates or markers by purchasers of motor vehicles in lieu of dealers' plates.

DESCRIPTION

A person who

1. violates subdivision (6) of G.S. 20-111,
2. involving a temporary registration plate or marker.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

Currently, under G.S. 20-111(6), it is a Class 2 misdemeanor to give, lend, sell or obtain a certificate of title for the purpose of such certificate being used for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued.

Altering or forging certificate of title, registration card or application, is a Class I felony. (G.S. 20-71)
Use of a dealer transporter or transporter plates in exchange for money, is a Class I felony. (G.S. 20-79.2)

The Sentencing Commission reviewed an identical provision in March 2023 in HB 199 and found it 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: 04/28/2023

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 579 – Prevent Harm to Children [Ed. 1]

STATUTE

§ 14-190.1. Obscene literature and exhibitions.

DESCRIPTION

A person who

1. violates G.S. 14-190.1
2. knowingly in the presence of an individual under 18 years of age.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

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

Under G.S. 14-190.1, it is a Class I felony for any person, firm, or corporation to intentionally disseminate obscenity.

Employing or permitting minor to assist in obscenity offense, is a Class I felony. (G.S. 14-190.6)

Dissemination of obscene materials to minors under the age of 16 years, is a Class I felony. (G.S. 14-190.7)

Dissemination of obscene materials to minors under the age of 13 years, is a Class I felony. (G.S. 14-190.8)

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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

DATE OF REVIEW: 04/28/2023

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 582 – North Carolina Farm Act of 2023 [Ed. 4]

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(1):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use is the proximate cause of the death of another person.

PROPOSED OFFENSE CLASS

Class D felony.

ANALYSIS

The Sentencing Commission recommends classifying offenses that proscribe an intentional killing with a partial legal excuse as Class D felonies.

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

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

FINDINGS

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

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

Homicide Offense Classification Criteria are not applicable.

This offense would be consistent with the Homicide Offense Classification Criteria for a Class E felony. The Sentencing Commission recommends classifying offenses that proscribe an unintentional killing by criminal or culpable negligence with aggravating circumstances as Class E felonies.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(2):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use is the proximate cause of serious bodily injury to another person.

PROPOSED OFFENSE CLASS

Class E felony.

ANALYSIS

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

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

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(3):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use is the proximate cause of serious physical or mental injury to another person.

PROPOSED OFFENSE CLASS

Class F felony.

ANALYSIS

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

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

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

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(4):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use interferes with emergency operations
5. and such interference proximately causes damage to any real or personal property or any tree, wood, underwood, timber, garden, crops, vegetables, plants, lands, springs, or any other matter or thing growing or being on the land.

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.

Interfering with emergency communication, is a Class A1 misdemeanor. (G.S. 14-286.2)

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(5):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use interferes with emergency operations.

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.

Interfering with emergency communication, is a Class A1 misdemeanor. (G.S. 14-286.2)

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

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

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 15A-300.4. Use of an unmanned aircraft system near a forest fire prohibited.

DESCRIPTION

Subdivision (c)(6):

A person, entity, or State agency who

1. uses an unmanned aircraft system
2. within either a horizontal distance of 3,000 feet or a vertical distance of 3,000 feet
3. from any forest fire within the jurisdiction of the North Carolina Forest Service
4. and such use is the proximate cause of physical or mental injury to another person.

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.

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

Interference with manned aircraft by unmanned aircraft systems is a Class H felony. (G.S. 14-280.3)

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver a weapon to local confinement facility/State/federal correctional facility), is a Class H felony. (G.S. 15A-300.3(c)(1))

Use of an unmanned aircraft system near a confinement or correctional facility prohibited (delivers or attempts to deliver contraband to local confinement facility/State/federal correctional facility), is a Class I felony. (G.S. 15A-300.3(c)(2))

FINDINGS



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



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



Offense Classification Criteria are not applicable.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 14-135. Larceny of timber.

DESCRIPTION

Subdivision (a)(3):

A person who

1. knowingly and willfully
2. aids, hires, or counsels an individual to cut down, injure, or remove any timber owned by another person
3. without the consent of the owner of the land or the owner of the timber,
4. or without a lawful easement running with the land.

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.

A person is not guilty of an offense under subsection (a)(3) if the person is an electric power supplier, as defined in G.S. 62-133.8, and either of the following conditions is met:

- a. The person believed in good faith that consent of the owner had been obtained prior to aiding, hiring, or counseling the individual to cut down, injure, or remove the timber.
- b. The person believed in good faith that the cutting down, injuring, or removing of the timber was permitted by a utility easement or was necessary to remove a tree hazard.

Larceny of ungathered crops is a Class H felony. (G.S. 14-78)

Larceny of horses, mules, swine, or cattle is a Class H felony. (G.S. 14-81(a))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class 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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 582 – North Carolina Farm Act of 2023 [Ed. 4] (cont'd)

STATUTE

§ 14-135. Larceny of timber.

DESCRIPTION

Subdivision (a)(4):

A person who

1. knowingly and willfully
2. transports forest products that have been cut down, removed, obtained, or acquired from the property of a landowner
3. without the consent of the owner of the land or the owner of the timber,
4. or without a lawful easement running with the land.

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.

Larceny of ungathered crops is a Class H felony. (G.S. 14-78)

Larceny of horses, mules, swine, or cattle is a Class H felony. (G.S. 14-81(a))

FINDINGS

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

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

Offense Classification Criteria are not applicable.

This offense would be consistent with the Offense Classification Criteria for a Class 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: 04/28/2023

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 648 – Protect Critical Infrastructure II [Ed. 1]

STATUTE

§ 14-159.1. Contaminating or injuring a public water system; injuring a wastewater treatment facility.

DESCRIPTION

Subsection (b):

A person who

1. knowingly and willfully
 - a. stops, obstructs, impairs, weakens, destroys, injures, or otherwise damages, or
 - b. attempts to stop, obstruct, impair, weaken, destroy, injure, or otherwise damage,
2. the property or equipment of a public water system, as defined in G.S. 130A-313(10),
3. with the intent to impair the services of the public water system.

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.

Under G.S. 130A-313(10), "public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals.

Contaminating a public water system is a Class C felony. (G.S. 14-159.1)

Larceny by servants and other employees (amount involved \$100,000 or more) and G embezzlement of property received by virtue of office or employment (amount involved \$100,000 or more), are Class C felonies. (G.S. 14-74 and G.S. 14-90)

Unless another classification is explicitly stated by statute, a felony attempt is punished at one class lower than the offense the offender attempted to commit (G.S. 14-2.5).

FINDINGS

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

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

Offense Classification Criteria are not applicable.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 648 – Protect Critical Infrastructure II [Ed. 1] (cont'd)

STATUTE

§ 14-159.1. Contaminating or injuring a public water system; injuring a wastewater treatment facility.

DESCRIPTION

Subsection (c):

A person who

1. knowingly and willfully
 - a. stops, obstructs, impairs, weakens, destroys, injures, or otherwise damages, or
 - b. attempts to stop, obstruct, impair, weaken, destroy, injure, or otherwise damage,
2. the property or equipment of a wastewater treatment system that is owned or operated by a
 - a. public utility, as that term is defined under G.S. 62-3, or
 - b. local government unit, as defined in G.S. 159G-20(13).

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.

For purposes of subsection (c), the term "wastewater treatment facility" means the various facilities and devices used in the treatment of sewage, industrial waste, or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, nutrient removal equipment, pumping equipment, power and other equipment, and their appurtenances.

Contaminating a public water system, is a Class C felony. (G.S. 14-159.1)

Larceny by servants and other employees (amount involved \$100,000 or more) and embezzlement of property received by virtue of office or employment (amount involved \$100,000 or more), are Class C felonies. (G.S. 14-74 and G.S. 14-90)

Unless another classification is explicitly stated by statute, a felony attempt is punished at one class lower than the offense the offender attempted to commit (G.S. 14-2.5).

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 required the intent to impair functionality of the public water system. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious long-term personal injury or in serious long-term or widespread societal injury as Class C felonies.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 648 – Protect Critical Infrastructure II [Ed. 1] (cont'd)

STATUTE

§ 62-323. Willful injury to property of public utility a felony.

DESCRIPTION

A person who

1. willfully does or causes to be done any act or acts whatever
2. whereby any building, construction or work of any public utility, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed.

OFFENSE CLASS

CURRENT: Class 1 misdemeanor.

PROPOSED: 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 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.

G.S. 14-49.1, malicious damage of occupied property by use of explosive or incendiary, is a Class D felony.

G.S. 14-144, injuring houses, churches, fences and walls (if damage caused is more than \$5,000), is a Class I felony.

G.S. 14-151(d)(3), interfering with gas, electric and steam appliances or meters; penalties (resulting in significant property damage or public endangerment), is a Class F felony.

The Sentencing Commission reviewed a substantially similar provision in March 2023 in SB 58 [Ed. 2] and found it 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.

This offense would be consistent with the Offense Classification Criteria for a Class C felony if it required the intent to impair functionality of the public water system. 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: 04/28/2023

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 650 – Gun Violence Prevention Act [Ed. 2]

STATUTE

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

DESCRIPTION

Subdivision (c)(1):

A person who

1. has been convicted of a felony,
2. possesses a firearm or weapon of mass death and destruction, and
3. the person discharges the firearm or weapon of mass death and destruction
4. during the commission or attempted commission of a felony under
 - a. Chapter 14 or
 - b. Article 5 of Chapter 90 of the General Statutes (N.C. Controlled Substance Act).

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.

This bill uses firearm, as defined in G.S. 14-409.39, and weapon of mass death and destruction, as defined in G.S. 14-288.8.

Robbery with firearms or other dangerous weapons is a Class D felony. (G.S. 14-87)

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

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

Possession of a firearm or weapon of mass destruction by persons acquitted of certain crimes by reason of insanity or persons determined to be incapable to proceed, is a Class H felony. (G.S. 14-415.3)

Possession of firearms, etc., by felon is a Class G felony. (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.

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 650 – Gun Violence Prevention Act [Ed. 2] (cont’d)

STATUTE

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

DESCRIPTION

Subdivision (c)(2):

A person who

1. has been convicted of a felony,
2. possesses a firearm or weapon of mass death and destruction, and
3. the person brandishes the firearm or weapon of mass death and destruction during the commission or attempted commission of a felony under
 - a. this Chapter or
 - b. Article 5 of Chapter 90 of the General Statutes (N.C. Controlled Substance Act).

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.

This bill uses firearm, as defined in G.S. 14-409.39, and weapon of mass death and destruction, as defined in G.S. 14-288.8. The bill defines brandish as a display of 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.

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

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

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

Possession of a firearm or weapon of mass destruction by persons acquitted of certain crimes by reason of insanity or persons determined to be incapable to proceed, is a Class H felony. (G.S. 14-415.3)

Possession of firearms, etc., by felon is a Class G felony. (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.

DATE OF REVIEW: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 650 – Gun Violence Prevention Act [Ed. 2] (cont’d)

STATUTE

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

DESCRIPTION

Subdivision (c)(3):

A person who

1. has been convicted of a felony
2. and possesses a firearm or weapon of mass death and destruction
3. during the commission or attempted commission of a felony under
 - a. this Chapter or
 - b. Article 5 of Chapter 90 of the General Statutes (N.C. Controlled Substance Act).

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.

This bill uses firearm, as defined in G.S. 14-409.39, and weapon of mass death and destruction, as defined in G.S. 14-288.8.

Possession of a firearm or weapon of mass destruction by persons acquitted of certain crimes by reason of insanity or persons determined to be incapable to proceed, is a Class H felony. (G.S. 14-415.3)

Possession of firearms, etc., by felon is a Class G felony. (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 E or F felony. The Sentencing Commission classified offenses which reasonably tend to result or do result in serious personal injury as Class E felonies. The Sentencing Commission classified offenses which reasonably tend to result or do result in significant personal injury or serious societal injury as Class F felonies.

DATE OF REVIEW: 04/28/2023

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 654 – Revise Animal Fighting Laws [Ed. 1]

STATUTE

§ 14-362. Cockfighting.

DESCRIPTION

Subsection (a):

A person who

1. instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, causes a person under 18 years of age to be present at, or profits from
2. an exhibition featuring the fighting of a cock.

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.

Participating as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is a Class 2 misdemeanor (G.S. 14-362.1).

Participating as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is a Class H felony (G.S. 14-362.2).

The Sentencing Commission reviewed a substantially similar provision in April 2021 in HB 544 (age limit under 18) and in April 2019 in HB 507 (age limit under 16) 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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 654 – Revise Animal Fighting Laws [Ed. 1] (cont'd)

STATUTE

§ 14-362. Cockfighting.

DESCRIPTION

Subsection (b):

A person who

1. owns, possesses, trains, buys, sells, offers to buy or sell, or transports
2. a cock
3. with the intent that the cock be used in an exhibition featuring the fighting of that cock with another cock or another animal.

PROPOSED OFFENSE CLASS

Class I felony.

ANALYSIS

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

It is currently a Class 2 misdemeanor to own, possess, or train any animal other than a cock or dog with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal. G.S. 14-362.1(b).

The Sentencing Commission reviewed a substantially similar provision in April 2021 in HB 544 and April 2011 in HB 395 (owns, breeds, possesses, sells, or trains a rooster, gamecock, or other fighting bird) 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: 04/28/2023

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NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

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

BILL NUMBER/SHORT TITLE: SB 654 – Revise Animal Fighting Laws [Ed. 1] (cont'd)

STATUTE

§ 14-362.2. Dog fighting and baiting.

DESCRIPTION

Subsection (a):

A person who

1. instigates, promotes, conducts, is employed at, provides a dog for, causes or allows a minor under 18 years of age to be present at, allows property under the person's ownership or control to be used for, gambles on, or profits from
2. an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal.

PROPOSED OFFENSE CLASS

Class H felony.

ANALYSIS

The Sentencing Commission classified offenses which reasonably tend to result or do result in 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, or loss occasioned by breach of trust, formal or informal), personal injury, or significant societal injury as Class H felonies.

Any person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony (G.S. 14-362).

Participating as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is a Class 2 misdemeanor (G.S. 14-362.1).

The Sentencing Commission reviewed a substantially similar provision in April 2021 in HB 544 and in April 2019 in HB 507 (the age limit was under 16) and found it to be inconsistent 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 I felony. The Sentencing Commission recommends classifying offenses which reasonably tend to result or do result in serious property loss or societal injury as Class I felonies.

DATE OF REVIEW: 04/28/2023

IMPACT ANALYSIS NOT REQUESTED YET