

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 1316
SENATE BILL 1066

AN ACT TO AMEND AND POSTPONE THE EFFECTIVE DATE OF THE FAIR
SENTENCING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-1.1(a), to become effective July 1, 1980, is rewritten to read as follows:

"§ 14-1.1. **Punishment for felonies.** — (a) For felonies that occur on or after the effective date of Article 81A of Chapter 15A of the General Statutes, the following punishments shall be applicable:

- (1) a Class A felony shall be punishable by death or life imprisonment as provided by Article 100 of Chapter 15A of the General Statutes;
- (2) a Class B felony shall be punishable by life imprisonment;
- (3) a Class C felony shall be punishable by imprisonment up to 50 years, or a fine or both;
- (4) a Class D felony shall be punishable by imprisonment up to 40 years, or a fine or both;
- (5) a Class E felony shall be punishable by imprisonment up to 30 years, or a fine or both;
- (6) a Class F felony shall be punishable by imprisonment up to 20 years, or a fine or both;
- (7) a Class G felony shall be punishable by imprisonment up to 15 years, or a fine or both;
- (8) a Class H felony shall be punishable by imprisonment up to 10 years, or a fine or both;
- (9) a Class I felony shall be punishable by imprisonment up to five years, or a fine or both;
- (10) a Class J felony shall be punishable by imprisonment up to three years, or a fine or both."

Sec. 2. G.S. 14-3(b), as amended by Section 5, Chapter 760, Session Laws of 1979, to become effective July 1, 1980, is rewritten to read as follows:

"If a misdemeanor offense as to which no specific punishment is prescribed be infamous, done in secrecy and malice, or with deceit and intent to defraud, the offender shall, except where the offense is a conspiracy to commit a misdemeanor, be guilty of a Class H felony."

Sec. 3. G.S. 14-6, as amended by Chapter 760, Session Laws of 1979, to become effective July 1, 1980, is amended by deleting the second sentence of that section.

Sec. 4. G.S. 14-27.2 is amended in subsection (b), line two, by inserting "Class B" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 5. G.S. 14-27.3 is amended in subsection (b), line two, by inserting "Class D" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 6. G.S. 14-27.4 is amended, in subsection (b), line two, by inserting "Class B" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 7. G.S. 14-27.5 is amended in subsection (b), line two, by inserting "Class D" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 8. G.S. 14-27.6 is amended in line three by inserting "Class F" before "felony", a period after "felony", and deleting the remainder of the sentence. This section is further amended in line seven, by inserting "Class H" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 9. G.S. 14-27.7 is amended in line seven by inserting "Class G" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 10. G.S. 14-56 is amended in line seven by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence. That portion of Section 5, Chapter 760, Session Laws of 1979, which would have amended this section effective July 1, 1980, is repealed.

Sec. 11. G.S. 14-72(a), as amended by Section 5, Chapter 760, Public Laws of 1979, to become effective July 1, 1980, is rewritten to read as follows:

"Larceny of goods of the value of more than four hundred dollars (\$400.00) is a Class H felony. The receiving or possessing of stolen goods of the value of more than four hundred dollars (\$400.00) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than four hundred dollars (\$400.00), is a misdemeanor punishable under G.S. 14-3(a). In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen."

Sec. 12. G.S. 14-87(a) as it appears in the editor's note on page 452 of the 1979 Cumulative Supplement to Volume 1B of the General Statutes, to be effective July 1, 1980, is amended by deleting the words "felony and upon conviction thereof shall be punished by imprisonment for not less than seven years nor more than life imprisonment in the State's prison" and inserting in lieu thereof the words "Class D felony".

Sec. 13. G.S. 14-168.1 is amended in line eight by inserting "Class H" before "felony".

Sec. 14. G.S. 14-221.2 is amended in line three by inserting "Class H" before "felony".

Sec. 15. G.S. 14-225.2 is amended in subsection (a), line four, by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 16. G.S. 14-282, as set forth in Volume 1B (Replacement 1969) of the General Statutes, is amended in line four by inserting "Class H" before "felony", changing the comma after "felony" to a period, and deleting the remainder of the sentence.

Sec. 17. G.S. 14-284.2 is amended in subsection (a), line seven, by inserting "Class H" before "felony", changing the comma after "felony" to a period, deleting the remainder of the sentence, and inserting in lieu thereof:

"The fine authorized by G.S. 14-1.1(a)(8) for a conviction under this section may include a fine of up to one hundred thousand dollars (\$100,000) per day of violation."

Sec. 18. G.S. 14-318.4 is amended in subsection (a), line nine, by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 19. G.S. 14-454 is amended in subsection (a), line one, by inserting "Class H" before "felony".

Sec. 20. G.S. 14-455 is amended in subsection (a), line two, by inserting "Class H" before "felony".

Sec. 21. G.S. 14-457 is amended in line five by inserting "Class H" before "felony".

Sec. 22. G.S. 20-30 is amended in subdivision (7), line five, by inserting "Class J" before "felony", changing the comma after "felony" to a period, and deleting the remainder of the sentence.

Sec. 23. G.S. 21-42, as set forth in Volume 1D (Replacement 1965) of the General Statutes, is amended in line 13 by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 24. G.S. 108-48(b) is amended in line seven by inserting "Class I" before "felony", changing the comma after "felony" to a period, and deleting the remainder of the sentence.

Sec. 25. G.S. 108-61.5(c) is amended in line two by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 26. G.S. 108-61.6(b) is amended in line four by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 27. G.S. 163-275 is amended in line four by inserting "Class H" before "felony", inserting a period after "felony", and deleting the remainder of the sentence.

Sec. 28. G.S. 163-275 is amended in subdivision (14), line four, by inserting "Class H" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 29. G.S. 105-113.61(b), as it appears in Volume 2D (Replacement 1979) of the General Statutes of North Carolina, is amended in line four by inserting "Class I" before "felony", a period after "felony", and deleting the remainder of the sentence.

Sec. 30. G.S. 15A-1340.1(a) is rewritten to read as follows:

"This Article shall apply to the sentencing of all persons convicted of felonies, other than Class A or Class B felonies, that occur on or after March 1, 1981."

Sec. 31. G.S. 15A-1340.1(b) is repealed.

Sec. 32. G.S. 15A-1340.2(4) is amended by deleting the definition of "prior conviction", and inserting in lieu thereof:

"A person has received a prior conviction when he has been adjudged guilty of or has entered a plea of guilty or no contest to a criminal charge, and judgment has been entered thereon, and the time for appeal has expired, or the conviction has been finally upheld on direct appeal."

Sec. 33. G.S. 15A-1340.3 is amended in lines five and six by deleting "who have demonstrated a propensity to commit further crimes".

Sec. 34. G.S. 15A-1340.5 is transferred to G.S. Chapter 14, renumbered G.S. 14-2.2, and amended in line four by inserting, after the word "felony" and before the comma the words "in which a deadly weapon was used", and adding the following paragraphs at the end of the section:

"For the purpose of this section, the record or records of the prior felony conviction shall be admissible in evidence after conviction and before sentencing, but only for the purpose of proving that the person has been convicted of a previous felony. A judgment of a conviction or plea of guilty or no contest to such felony offense certified to a superior court in this State from the custodian of records of any other court of this State under the same name as that by which the defendant is charged shall be prima facie evidence that the identity of such person is the same as the defendant so charged and shall be prima facie evidence of the facts so certified.

For the purposes of this section, a felony committed before a person attains the age of 18 years does not constitute a previous felony conviction.

Pleas of guilty or no contest to or convictions of felony offenses prior to September 1, 1977, are not felony offenses within the meaning of this section. Any felony offense to which a pardon has been extended does not for the purpose of this section constitute a felony. The burden of proving a pardon rests with the defendant and the State is not required to disprove a pardon."

Sec. 35. G.S. 15A-1340.6 is repealed.

Sec. 36. G.S. 15A-1340.7(a) is amended by deleting the last sentence thereof.

Sec. 37. G.S. 15A-1340.7(b) is amended in line seven by deleting the word "read" and inserting in lieu thereof the word "explained", and by deleting the last sentence.

Sec. 38. G.S. 15A-1340.7(d) is amended in line five by changing the period at the end of the sentence to a comma, and inserting thereafter "and Article 85 of Chapter 15A of the General Statutes".

Sec. 39. G.S. 15A-1345(c) is amended in line six by deleting "four" and inserting "seven" in lieu thereof.

Sec. 40. G.S. 15A-1354(a), as amended by Chapter 760, Session Laws of 1979, effective July 1, 1980, is amended by deleting the last sentence thereof.

Sec. 41. G.S. 15A-1370.1 is rewritten to read as follows:

"This Article is applicable to all sentenced prisoners, including Class A and B felons and committed youthful offenders, who are not subject to Article 85A of this Chapter."

Sec. 42. G.S. 15A-1371 is amended by inserting therein after subsection (a) the following new subsection:

"(a1) A prisoner serving a term of life imprisonment with no minimum term is eligible for parole after serving 20 years. This subsection applies to offenses committed on and after March 1, 1981."

Sec. 43. G.S. 148-13(b), as enacted by Chapter 760, Session Laws of 1979, effective July 1, 1980, is amended by deleting the words "either for felonies that occurred before the effective date of Article 81A of Chapter 15A of the General Statutes, or for misdemeanors regardless of the date of occurrence", and inserting in lieu thereof "for offenses not subject to Article 81A of Chapter 15A of the General Statutes".

Sec. 44. G.S. 148-13(c), as enacted by Chapter 760, Session Laws of 1979, effective July 1, 1980, is amended by deleting "State prisoners serving prison terms", and inserting in lieu thereof "prisoners serving prison or jail terms"; by inserting "and local jail administrators" after "Secretary of Correction"; and by changing "section" to "subsection" in the last sentence.

Sec. 45. G.S. 148-13(d), as enacted by Chapter 760, Session Laws of 1979, effective July 1, 1980, is amended in the last sentence thereof by deleting "the rate of" in the two places these words appear in the proviso.

Sec. 46. G.S. 148-13(e), as enacted by Chapter 760, Session Laws of 1979, effective July 1, 1980, is rewritten to read as follows:

"The Secretary's regulations concerning time deductions authorized by this section and his regulations concerning prisoner conduct issued pursuant to G.S. 15A-1340.7 shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners."

Sec. 47. Section 6 of Chapter 760 of the Session Laws of 1979 is amended by deleting "July 1, 1980" and inserting in lieu thereof "March 1, 1981."

Sec. 48. Sections 1 through 46 of this act shall become effective on March 1, 1981, and shall apply to offenses committed on or after that date. The remaining sections of this act are effective upon ratification.

In the General Assembly read three times and ratified, this the 25th day of June, 1980.