

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1131
SENATE BILL 832

AN ACT PROVIDING FOR MANDATORY PRISON CONFINEMENT FOR ANY PERSON
CONVICTED OF MORE THAN ONE FELONY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is hereby amended by adding a new section immediately after G.S. 14-2 to be designated G.S. 14-2.1 and to read as follows:

"§ 14-2.1. Punishment of felonies; second or subsequent offenses. — Notwithstanding the provisions of G.S. 15-197, or any other provisions of law, any person who has been previously convicted of a felony where a deadly weapon was used in the commission of the crime in the courts of this State, upon conviction of a second felony where a deadly weapon was used in the commission of the crime within seven years of the date of the previous felony conviction, provided that the previous felony did not occur within 10 days of the second felony, shall be sentenced to imprisonment for a minimum period of seven years and shall, in every instance, serve the first seven calendar years of his sentence without benefit of parole, probation, suspended sentence, or any other judicial or administrative remedy for release from incarceration. Such term will be computed allowing credit for good behavior, credit for time served while incarcerated awaiting trial, and such other provisions as the Secretary of Correction might make pursuant to G.S. 148-11. Upon completion of service of such term, the prisoner will be eligible to have his case considered for parole if the requisites of G.S. 148-58 regarding time served have been satisfied. The power of the Governor to grant commutations, pardons, and reprieves, and the power of the courts to grant appropriate relief under Article 22 of the General Statutes Chapter 15 will not be affected by the provisions of this 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 said person has been convicted of a previous felony. A judgment of a conviction or plea of guilty to such felony offense certified to a superior court of 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 purpose of this section, felonies committed before a person attains the age of 21 years shall not constitute a previous felony conviction.

Pleas of guilty to or convictions of felony offenses prior to September 1, 1977, shall not be felony offenses within the meaning of this Article. Any felony offense to which a pardon has been extended shall not for the purpose of this Article constitute a felony. The burden of proving such pardon shall rest with the defendant and the State shall not be required to disprove a pardon."

Sec. 2. This act shall become effective September 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.