



1 MAXIMUM PUNISHMENT FOR THAT FELONY OFFENSE; AND TO  
2 PROVIDE THAT A PERSON WHO COMMITS A THIRD VIOLENT FELONY  
3 MAY BE SENTENCED TO LIFE IMPRISONMENT WITHOUT PAROLE.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 14-7.6, as amended by Section 9 of Chapter 538 of the 1993  
6 Session Laws, reads as rewritten:

7 **"§ 14-7.6. Sentencing of habitual felons.**

8 When an habitual felon shall commit any felony classified as a Class E, F, G, H, or I  
9 felony under the laws of the State of North Carolina, he must, upon conviction or plea  
10 of guilty under indictment as herein provided, be punished as a Class D felon. In  
11 determining the prior record level, convictions used to establish a person's status as a  
12 habitual felon shall not be used. ~~For purposes of this section, habitual felon is defined as in~~  
13 ~~G.S. 14-7.1, except that only one of the three felony convictions may be for a Class H, I, or J~~  
14 ~~felony.~~ Sentences imposed under this Article shall run consecutively with and shall  
15 commence at the expiration of any sentence being served by the person sentenced  
16 hereunder."

17 Sec. 2. G.S. 15A-1340.13 is amended by adding a new subsection to read:

18 "(d1) Mandatory Maximum Sentence Required for Use or Threatened Use of  
19 Firearm. – Before imposing a sentence, the court shall determine whether the defendant  
20 used or threatened to use a firearm at the time of the felony. If the court finds that (i)  
21 the defendant did use or threaten to use a firearm at the time of the felony, and (ii) the  
22 possession or use of a firearm is not an essential element of proof of the felony, the  
23 court shall sentence the defendant to a mandatory maximum punishment as follows.  
24 The court shall determine the prior record level for the defendant pursuant to G.S. 15A-  
25 1340.14. The court shall sentence the defendant to the maximum term of punishment  
26 from the aggravated range listed in the appropriate cell for the class of offense and prior  
27 record level under G.S. 15A-1340.17(c)."

28 Sec. 3. G.S. 15A-2002, as amended by Section 29 of Chapter 538 of the 1993  
29 Session Laws, reads as rewritten:

30 **"§ 15A-2002. Capital offenses; jury verdict and sentence.**

31 If the recommendation of the jury is that the defendant be sentenced to death, the  
32 judge shall impose a sentence of death in accordance with the provisions of Chapter 15,  
33 Article 19 of the General Statutes. If the recommendation of the jury is that the  
34 defendant be imprisoned for life in the State's prison, the judge shall impose a sentence  
35 of imprisonment for life in the State's ~~prison~~ prison without parole, or a sentence of life  
36 with eligibility for parole after 25 years.

37 The judge shall instruct the jury, in words substantially equivalent to those of this  
38 section, that a sentence of life imprisonment means a ~~sentence of life with eligibility for~~  
39 ~~parole consideration after 25 years~~ either a sentence of life without parole, or a sentence of  
40 life with eligibility for parole after 25 years, in the discretion of the court."

41 Sec. 4. G.S. 148-4.1, as amended by Section 31 of Chapter 538 of the 1993  
42 Session Laws, reads as rewritten:

43 **"§ 148-4.1. Release of inmates.**

1 (a) Whenever the Secretary of Correction determines from data compiled by the  
2 Department of Correction that it is necessary to reduce the prison population to a more  
3 manageable level, he shall direct the Post-Release Supervision and Parole Commission  
4 to release on parole over a reasonable period of time a number of prisoners sufficient to  
5 that purpose.

6 (b) Except as provided in subsection (c) and (e), only inmates who are otherwise  
7 eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of  
8 this Chapter may be released under this section.

9 (c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible  
10 for early parole under this section nine months prior to the discharge date otherwise  
11 applicable, and six months prior to the date of automatic 90-day parole authorized by  
12 G.S. 15A-1380.2.

13 (d) If the number of prisoners housed in facilities owned or operated by the State  
14 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of  
15 21,400 for 15 consecutive days, the Secretary of Correction shall notify the Governor  
16 and the Chairman of the Post-Release Supervision and Parole Commission of this fact.  
17 Upon receipt of this notification, the Post-Release Supervision and Parole Commission  
18 shall within 90 days release on parole a number of inmates sufficient to reduce the  
19 prison population to ninety-seven percent (97%) of 21,400.

20 From the date of the notification until the prison population has been reduced to  
21 ninety-seven percent (97%) of 21,400, the Secretary may not accept any inmates  
22 ordered transferred from local confinement facilities to the State prison system under  
23 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State  
24 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local  
25 confinement facility from which the inmate was transferred.

26 (e) In addition to those persons otherwise eligible for parole, from the date of  
27 notification in subsection (d) until the prison population has been reduced to ninety-  
28 seven percent (97%) of 21,400, any person imprisoned only for a misdemeanor also  
29 shall be eligible for parole and immediate termination upon admission, notwithstanding  
30 any other provision of law, except:

31 (1) Those persons convicted under G.S. 20-138.1 of driving while  
32 impaired or any offense involving impaired driving, and

33 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain  
34 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A  
35 or of violating G.S. 130A-144(f) or G.S. 130A-145.

36 (f) In complying with the mandate of subsection (d), the Post-Release  
37 Supervision and Parole Commission may exercise the discretion granted to refuse  
38 parole by G.S. 15A-1371 in selecting felons to be paroled under this section so long as  
39 the prison population does not exceed 21,400.

40 (g) In order to meet the requirements of this section, the Parole Commission shall  
41 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under  
42 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or  
43 under G.S. 14-17. The Parole Commission may continue to consider the suitability for

1 release of such persons in accordance with the criteria set forth in Article 85 and 85A of  
2 Chapter 15A.

3 (h) A person sentenced under Article 81B of Chapter 15A of the General  
4 Statutes, Structured Sentencing of Persons Convicted of Crimes, shall not be released  
5 pursuant to this section."

6 Sec. 5. Article 2A of Chapter 14 reads as rewritten:

7 "ARTICLE 2A.

8 "**HABITUAL FELONS. FELONS; VIOLENT HABITUAL FELONS.**

9 "**§ 14-7.1. Persons defined as habitual felons. Definitions.**

10 (a) 'Habitual Felon' and 'Felony' Defined. – Any person who has been convicted  
11 of or pled guilty to three felony offenses in any federal court or state court in the United  
12 States or combination thereof is declared to be an habitual felon. For the purpose of this  
13 Article, a felony offense is defined as an offense which is a felony under the laws of the  
14 State or ~~other~~ another sovereign wherein a plea of guilty was entered or a conviction was  
15 returned regardless of the sentence actually imposed. ~~Provided,~~ The term does not  
16 include, however, ~~that~~ federal offenses relating to the manufacture, possession, ~~sale and~~  
17 sale of, and kindred offenses involving intoxicating liquors ~~shall not be considered~~  
18 ~~felonies~~ for the purposes of this Article. For the purposes of this Article, felonies  
19 committed before a person attains the age of 18 years shall not constitute more than one  
20 felony. The commission of a second felony shall not fall within the purview of this  
21 Article unless it is committed after the conviction of or plea of guilty to the first felony.  
22 The commission of a third felony shall not fall within the purview of this Article unless  
23 it is committed after the conviction of or plea of guilty to the second felony. Pleas of  
24 guilty to or convictions of felony offenses prior to July 6, 1967, shall not be felony  
25 offenses ~~within the meaning of~~ for the purposes of this Article. Any felony offense to  
26 which a pardon has been extended shall not for the purpose of this Article constitute a  
27 felony. The burden of proving ~~such a~~ pardon shall rest with the ~~defendant and the State~~  
28 ~~shall not be~~ defendant; the State is not required to disprove a pardon.

29 (b) 'Violent Felony' and 'Violent Habitual Felon' Defined. – The following  
30 definitions apply in this Article:

31 (1) Violent felony. – A felony that is classified as a Class A, B, C, or D  
32 felony. The term does not include a conviction as an habitual felon.

33 (2) Violent habitual felon. – An offender who (i) is convicted in this State  
34 of a violent felony and (ii) was convicted on at least two separate  
35 occasions, whether in this State or elsewhere, before that conviction, of  
36 felonies that under the laws of this State would be considered violent  
37 felonies.

38 "**§ 14-7.2. Punishment.**

39 (a) When any person is charged by indictment with the commission of a felony  
40 under the laws of the State of North Carolina and is also charged with being an habitual  
41 felon as defined in G.S. 14-7.1, ~~he~~ the person must, upon conviction, be sentenced and  
42 punished as an habitual felon, as in this Chapter provided, except in those cases where  
43 the person is charged and convicted of being a violent habitual felon or where the death  
44 penalty or a life sentence is imposed.

1       (b) When any person is charged by indictment with the commission of a violent  
2 felony under the laws of the State of North Carolina and is also charged with being a  
3 violent habitual felon as defined in G.S. 14-7.1, the person must, upon conviction, be  
4 sentenced and punished as a violent habitual felon, as provided in this Article.

5 **"§ 14-7.3. Charge of habitual or violent habitual felon.**

6       (a) An indictment which charges a person who is an habitual felon within the  
7 meaning of G.S. 14-7.1 with the commission of any felony under the laws of the State  
8 of North Carolina must, in order to sustain a conviction of habitual felon, also charge  
9 that ~~said the~~ person is an habitual felon. The indictment charging the defendant as an  
10 habitual felon shall be separate from the indictment charging him with the principal  
11 felony. An indictment which charges a person with being an habitual felon must set  
12 forth the date ~~that the~~ prior felony offenses were committed, the name of the state or  
13 other sovereign against whom ~~said the~~ felony offenses were committed, the dates that  
14 pleas of guilty were entered to or convictions returned in ~~said the~~ felony offenses, and  
15 the identity of the court wherein ~~said the~~ pleas or convictions took place. No defendant  
16 charged with being an habitual felon in a bill of indictment shall be required to go to  
17 trial on ~~said the~~ charge within 20 days of the finding of a true bill by the grand jury;  
18 provided, the defendant may waive this 20-day period.

19       (b) An indictment which charges a person who is a violent habitual felon within  
20 the meaning of G.S. 14-7.1 with the commission of a violent felony under the laws of  
21 the State of North Carolina must, in order to sustain a conviction of violent habitual  
22 felon, also charge that the person is a violent habitual felon. The indictment charging the  
23 defendant as a violent habitual felon shall be separate from the indictment charging the  
24 defendant with the principal violent felony. An indictment that charges a person with  
25 being a violent habitual felon shall set forth the date the prior violent felony offenses  
26 were committed, the name of the state or other sovereign against whom the violent  
27 felony offenses were committed, the dates that pleas of guilty were entered to or  
28 convictions returned in the violent felony offenses, and the identity of the court in which  
29 the pleas or convictions took place. A defendant charged with being a violent habitual  
30 felon in an indictment shall not be required to go to trial on the charge within 20 days of  
31 the finding of a true bill by the grand jury, unless the defendant waives this 20-day  
32 period.

33 **"§ 14-7.4. Evidence of prior convictions of felony offenses.**

34       (a) In all cases where a person is charged under the provisions of this Article  
35 with being an habitual felon, the record or records of prior convictions of felony  
36 offenses shall be admissible in evidence, but only for the purpose of proving that ~~said~~  
37 ~~the~~ person has been convicted of former felony offenses. A prior conviction may be  
38 proved by stipulation of the parties or by the original or a certified copy of the court  
39 record of the prior conviction. The original or certified copy of the court record, bearing  
40 the same name as that by which the defendant is charged, shall be **prima facie** evidence  
41 that the defendant named therein is the same as the defendant before the court, and shall  
42 be **prima facie** evidence of the facts set out therein.

43       (b) In all cases in which a person is charged with being a violent habitual felon,  
44 the records of prior convictions of violent felony offenses shall be admissible in

1 evidence, but only for the purpose of proving that the person has been convicted of  
2 former violent felony offenses. A prior conviction may be proved by stipulation of the  
3 parties or by the original or a certified copy of the court record of the prior conviction.  
4 The original or certified copy of the court record, bearing the same name as that by  
5 which the defendant is charged, shall be **prima facie** evidence that the defendant named  
6 in the record is the same as the defendant before the court, and shall be **prima facie**  
7 evidence of the facts set out in the record.

8 **"§ 14-7.5. Verdict and judgment.**

9 (a) When an indictment charges an habitual felon with a felony as above  
10 provided and an indictment also charges that ~~said~~the person is an habitual felon as  
11 provided herein, the defendant shall be tried for the principal felony as provided by law.  
12 The indictment that the person is an habitual felon shall not be revealed to the jury  
13 unless the jury shall find that the defendant is guilty of the principal felony or other  
14 felony with which he is charged. If the jury finds the defendant guilty of a felony, the  
15 bill of indictment charging the defendant as an habitual felon may be presented to the  
16 same jury. Except that the same jury may be used, the proceedings shall be as if the  
17 issue of habitual felon were a principal charge. If the jury finds that the defendant is an  
18 habitual felon, the trial judge shall enter judgment according to the provisions of this  
19 Article. If the jury finds that the defendant is not an habitual felon, the trial judge shall  
20 pronounce judgment on the principal felony or felonies as provided by law.

21 (b) When an indictment charges a violent habitual felon with a violent felony and  
22 an indictment also charges that the person is a violent habitual felon, the defendant shall  
23 be tried for the principal violent felony as provided by law. The indictment that the  
24 person is a violent habitual felon shall not be revealed to the jury unless the jury finds  
25 that the defendant is guilty of the principal violent felony or another violent felony with  
26 which the defendant is charged. If the jury finds the defendant guilty of a violent felony,  
27 the bill of indictment charging the defendant as a violent habitual felon may be  
28 presented to the same jury. Except that the same jury may be used, the proceedings shall  
29 be as if the issue of violent habitual felon were a principal charge. If the jury finds that  
30 the defendant is a violent habitual felon, the trial judge shall enter judgment according  
31 to the provisions of this Article. If the jury finds that the defendant is not a violent  
32 habitual felon, the trial judge shall pronounce judgment on the principal violent felony  
33 as provided by law.

34 **"§ 14-7.6. Sentencing of habitual and violent habitual felons.**

35 (a) When an habitual felon ~~shall commit~~commits any felony classified as a Class  
36 E, F, G, H, or I felony under the laws of the State of North Carolina, ~~he~~the felon must,  
37 upon conviction or plea of guilty under ~~indictment as herein provided,~~indictment, be  
38 punished as a Class D felon. ~~In determining the prior record level, convictions used to~~  
39 ~~establish a person's status as a habitual felon shall not be used. For purposes of this section,~~  
40 ~~habitual felon is defined as in G.S. 14-7.1, except that only one of the three felony convictions~~  
41 ~~may be for a Class H, I, or J felony. Sentences imposed under this Article shall run~~  
42 ~~consecutively with and shall commence at the expiration of any sentence being served by the~~  
43 ~~person sentenced hereunder.~~

1 (b) When a violent habitual felon commits any violent felony as defined by G.S.  
2 14-7.1 under the laws of the State of North Carolina, the defendant shall, upon  
3 conviction or plea of guilty under indictment, be sentenced to life imprisonment without  
4 parole.

5 (c) In determining the prior record level, convictions used to establish a person's  
6 status as an habitual felon or a violent habitual felon shall not be used. Sentences  
7 imposed under this Article shall run consecutively with and shall begin at the expiration  
8 of any sentence being served by the person sentenced hereunder."

9 Sec. 6. G.S. 15A-1340.10, as enacted by Section 1 of Chapter 538 of the  
10 1993 Session Laws, reads as rewritten:

11 **"§ 15A-1340.10. Applicability of structured sentencing.**

12 This Article applies to criminal offenses in North Carolina, other than impaired  
13 driving under G.S. 20-138.1 that occur on or after ~~January 1, 1995~~, July 1, 1994. This  
14 Article does not apply to violent habitual felons sentenced under Article 2A of Chapter  
15 14 of the General Statutes."

16 Sec. 7. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the  
17 1993 Session Laws, reads as rewritten:

18 **"§ 15A-1370.1. Applicability of Article 85.**

19 This Article is applicable to all prisoners serving sentences of imprisonment for  
20 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of  
21 life imprisonment. However, this Article does not apply to a prisoner sentenced to life  
22 imprisonment without parole. A prisoner serving a sentence of life imprisonment  
23 without parole shall not be eligible for parole at any time."

24 Sec. 8. Section 1358.1 of Chapter 539 of the 1993 Session Laws is repealed.

25 Sec. 9. Section 56 of Chapter 538 of the 1993 Session Laws reads as  
26 rewritten:

27 "Sec. 56. This act becomes effective ~~January 1, 1995~~, July 1, 1994, and applies only  
28 to offenses occurring on or after that date. Prosecutions for, or sentences based on,  
29 offenses occurring before the effective date of this act are not abated or affected by the  
30 repeal or amendment in this act of any statute, and the statutes that would be applicable  
31 to those prosecutions or sentences but for the provisions of this act remain applicable to  
32 those prosecutions or sentences."

33 Sec. 10. Section 1359 of Chapter 539 of the 1993 Session Laws reads as  
34 rewritten:

35 "Sec. 1359. This act becomes effective ~~January 1, 1995~~, July 1, 1994, and applies to  
36 offenses occurring on or after that date. Prosecutions for offenses committed before the  
37 effective date of this act are not abated or affected by this act, and the statutes that  
38 would be applicable but for this act remain applicable to those prosecutions."

39 Sec. 11. This act becomes effective July 1, 1994, and applies to offenses  
40 committed on or after that date. Prosecutions for offenses committed before the  
41 effective date of this act are not abated or affected by this act, and the statutes that  
42 would be applicable but for this act remain applicable to those prosecutions.