

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH70392-LH-33 (1/26)

Short Title: Resentence After Appellate Review.

(Public)

Sponsors: Representative Kiser.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MORE SEVERE PUNISHMENT MAY BE
IMPOSED IN CERTAIN CIRCUMSTANCES WHEN A DEFENDANT IS
SENTENCED AGAIN AFTER APPELLATE REVIEW OF THE DEFENDANT'S
CASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1335 reads as rewritten:

"§ 15A-1335. **Resentencing after appellate review.**

(a) ~~When~~ Except as provided in subsection (b) of this section, when a conviction or sentence imposed in superior court has been set aside on direct review or collateral attack, the court may not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence less the portion of the prior sentence previously served.

(b) This section does not apply in the following circumstances:

(1) The original sentence was imposed as a result of a negotiated plea agreement.

(2) The judge includes in the order imposing the sentence the reasons for imposing the more severe sentence and the factual data on which the increased sentence is based."

SECTION 2. This act becomes effective December 1, 2005, and applies to cases appealed on or after that date.