

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 167

Short Title: Aggravating Factor/Violent Act Before Minor. (Public)

Sponsors: Representatives Cunningham, Carney, Earle, and Bryan (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

March 9, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE IT AN AGGRAVATING FACTOR TO COMMIT A VIOLENT FELONY THAT A DEFENDANT REASONABLY SHOULD KNOW IS BEING WITNESSED BY A CHILD WHO IS LESS THAN SIXTEEN YEARS OLD AND TO PROVIDE THAT THE INCREASED PENALTY FOR A MISDEMEANOR ASSAULT COMMITTED IN THE PRESENCE OF A MINOR MAY BE IMPOSED WHEN THE MINOR WAS IN A POSITION TO SEE OR HEAR THE COMMISSION OF THE MISDEMEANOR OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(13a) The defendant committed a violent offense and knew or reasonably should have known that a person under the age of 16 who was not involved in the commission of the offense was in a position to see or hear the offense."

SECTION 2. G.S. 14-33(d) reads as rewritten:

"(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

- (1) "Personal relationship" is as defined in G.S. 50B-1(b).
- (2) "In the presence of a minor" means that the minor was in a position to ~~have observed~~ see or hear the assault.
- (3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

SECTION 3. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

