



HOUSE BILL 805: Prevent Rioting and Civil Disorder.

2021-2022 General Assembly

Committee:	House Judiciary 4. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 5, 2021
Introduced by:	Reps. Moore, McNeill, Miller, Sauls	Prepared by:	Kara McCraw
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *HB 805 would make the following changes:*

- *Increase penalties for current offenses and create new offenses related to rioting.*
- *Authorize treble damages, court costs, and attorneys' fees for injury to person or property stemming from rioting or looting violations.*
- *Clarify the definition of emergency personnel and increase the penalty for assault upon emergency personnel.*
- *Create requirements for bail and pretrial release for those charged with rioting or looting.*

CURRENT LAW: G.S. 14-288.2 defines a riot as a "public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property," and creates the following offenses.

- Class 1 misdemeanor: Willfully engaging in a riot, or willfully inciting or urging another to engage in a riot that results in a riot occurring or a clear and present danger of a riot being created.
- Class H Felony: Willfully engaging in a riot if it results in either (i) property damage of \$1,500 or more or (ii) serious bodily harm, or if the participant has a dangerous weapon or substance in the participant's possession.
- Class F Felony: Willfully inciting or urging another to engage in a riot that is a contributing cause of a riot resulting in property damage in excess of \$1,500 or serious bodily injury.

G.S. 14-288.6 creates the following offense:

- Class 1 Misdemeanor: Trespass during emergency, defined as entering on another's premises without legal justification when the usual security of property is not effective due to a disaster or calamity, including a riot.
- Class H Felony: Looting, defined as committing the crime of trespass during emergency and, without legal justification, exerting control, damaging, ransacking or destroying another's property.

G.S. 14-288.9 creates felonies related to assaults on emergency personnel, defined as an assault causing personal injury on an emergency personnel in an area with a declared state of emergency or within the immediate vicinity of an occurring or imminent riot. Emergency personnel include law-enforcement, firemen, health care workers, utility workers and others lawfully engaged in providing essential services during an emergency. An assault is a Class I felony. If the assault is committed with a dangerous weapon or substance, the offense is a Class F felony.

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Article 26 of Chapter 15A of the General Statutes provides the process for setting pretrial release for defendants. Except for certain offenses, a judicial official (a magistrate, clerk, judge, or justice of the General Court of Justice) determines the pretrial release for a defendant in accordance with certain conditions, such as an unsecured or secured appearance bond, supervised custody, or house arrest.

BILL ANALYSIS: HB 805 would make the following changes:

- Sec.1 would:
 - Increase from a Class 1 misdemeanor to a Class A1 misdemeanor willfully inciting or urging another to engage in a riot that results in a riot occurring or a clear and present danger of a riot being created.
 - Increase from a Class H felony to a Class F felony willfully engaging in a riot if it results in (i) property damage of \$1,500 or more or (ii) serious bodily harm.
 - Increase from a Class F felony to a Class E felony willfully inciting or urging another to engage in a riot that is a contributing cause of a riot resulting in property damage in excess of \$1,500 or serious bodily injury.
 - Create a new offense punishable as a Class E felony for willfully engaging in a riot resulting in a death.
 - Create a new offense punishable as a Class D felony for willfully inciting or urging another to engage in a riot that is a contributing cause of a riot resulting in a death.
- Sec. 1 and 2: Would allow a person to sue and recover treble actual damages, court costs, and attorneys' fees for a person whose person or property is damaged from a violation of G.S. 14-288.2 (rioting) or G.S. 14-288.6 (looting).
- Sec. 3 would:
 - Define emergency personnel to include members of the North Carolina National Guard and persons otherwise discharging official duties during an emergency.
 - Remove the requirement that an assault on emergency personnel cause physical injury, and increase the penalty for an assault from a Class I felony to a Class H felony.
- Sec. 4 would establish requirements for bail and pretrial release for those charged with an offense under G.S. 14-288.2 (rioting) or G.S. 14-288.6 (looting). Individuals charged with these offenses would be required to have a judge determine the conditions of pretrial release, unless 48 hours elapsed, at which time a magistrate could determine the conditions. In addition:
 - The judge would be required to receive and consider a criminal history report.
 - If the judge determined immediate release would pose a danger of injury to person and that an appearance bond would not reasonably ensure that injury would not occur, the judge could retain the defendant in custody for a reasonable time while determining the conditions of pretrial release.
 - The judge could order the defendant to stay away for locations or property where the offense occurred.

EFFECTIVE DATE: HB 508 would become effective December 1, 2021, and would apply to offenses committed on or after that date.