

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 128

Committee Substitute Favorable 3/18/94

Senate Select Committee on Corrections/Punishment Substitute Adopted 3/24/94

Short Title: Crime Control Act.

(Public)

Sponsors:

Referred to:

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW TO ENHANCE CRIME CONTROL AND TO INCREASE THE PUNISHMENT FOR CERTAIN OFFENSES.

The General Assembly of North Carolina enacts:

PART 1. TITLE OF ACT

Section 1. This act shall be known as the Crime Control Act of 1994.

PART 2. BRUTAL RAPE SENTENCES

Sec. 2. G.S. 14-27.2(b) reads as rewritten:

"(b) Any person who commits an offense defined in this section is guilty of a Class ~~B~~B1 felony."

Sec. 3. G.S. 14-27.4(b) reads as rewritten:

"(b) Any person who commits an offense defined in this section is guilty of a Class ~~B~~B1 felony."

Sec. 4. G.S. 14-17, as amended by Section 1127 of Chapter 539 of the 1993 Session Laws, reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted

1 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
2 felony committed or attempted with the use of a deadly weapon shall be deemed to be
3 murder in the first degree, a Class A felony, and any person who commits such murder
4 shall be punished with death or imprisonment in the State's prison for life as the court
5 shall determine pursuant to G.S. 15A-2000, except that any such person who was under
6 17 years of age at the time of the murder shall be punished with imprisonment in the
7 State's prison for life. Provided, however, any person under the age of 17 who commits
8 murder in the first degree while serving a prison sentence imposed for a prior murder or
9 while on escape from a prison sentence imposed for a prior murder shall be punished
10 with death or imprisonment in the State's prison for life as the court shall determine
11 pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be
12 proximately caused by the unlawful distribution of opium or any synthetic or natural
13 salt, compound, derivative, or preparation of opium, or cocaine or other substance
14 described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of
15 the user, shall be deemed murder in the second degree, and any person who commits
16 such murder shall be punished as a Class ~~B~~B2 felon."

17 Sec. 5. G.S. 14-20, as amended by Section 1129 of Chapter 539 of the 1993
18 Session Laws, reads as rewritten:

19 **"§ 14-20. Killing adversary in duel; aiders and abettors declared accessories.**

20 If any person fight a duel in consequence of a challenge sent or received, and either
21 of the parties shall be killed, then the survivor, on conviction thereof, shall be punished
22 as a Class ~~B~~B2 felon. All their aiders and abettors shall be considered accessories
23 before the fact.

24 Any person charged with killing an adversary in a duel may enter a plea of guilty to
25 said charge in the same way and manner and under the conditions and restrictions set
26 forth in G.S. 15-162.1 relating to pleas of guilty for first degree murder, first degree
27 burglary, arson and rape."

28 Sec. 6. G.S. 14-5.2 reads as rewritten:

29 **"§ 14-5.2. Accessory before fact punishable as principal felon.**

30 All distinctions between accessories before the fact and principals to the commission
31 of a felony are abolished. Every person who heretofore would have been guilty as an
32 accessory before the fact to any felony shall be guilty and punishable as a principal to
33 that felony. However, if a person who heretofore would have been guilty and punishable
34 as an accessory before the fact is convicted of a capital felony, and the jury finds that his
35 conviction was based solely on the uncorroborated testimony of one or more principals,
36 coconspirators, or accessories to the crime, he shall be guilty of a Class ~~B~~B2 felony."

37 Sec. 7. G.S. 15A-1340.17, as enacted by Section 1 of Chapter 538 of the
38 1993 Session Laws and as amended by Sections 20 and 21 of Chapter 14 of the Session
39 Laws of the 1994 Extra Session, reads as rewritten:

40 **"§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**

41 (a) Offense Classification; Default Classifications. – The offense classification is
42 as specified in the offense for which the sentence is being imposed. If the offense is a
43 felony for which there is no classification, it is a Class I felony.

(b) Fines. – Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: 'C' indicates that a community punishment is authorized; 'I' indicates that an intermediate punishment is authorized; ~~and 'A' indicates that an active punishment is authorized.~~ 'Life Imprisonment Without Parole' indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts		9-14 Pts	15-18 Pts	19+ Pts
A	Life Imprisonment or Death as Established by Statute						
	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>
	<u>240-300</u>	<u>288-360</u>		<u>336-420</u>	<u>384-480</u>		<u>Life Imprisonment</u> <u>Aggravated</u>
							<u>Without Parole</u>
B1	<u>192-240</u>	<u>230-288</u>	<u>269-336</u>	<u>307-384</u>	<u>346-433</u>	<u>384-480</u>	<u>PRESUMPTIVE</u>

1		<u>144-192</u>	<u>173-230</u>	<u>202-269</u>	<u>230-307</u>	<u>260-346</u>	<u>288-384</u>	
2		<u>Mitigated</u>						
3								
4								
5		A	A A	A	A	A		DISPOSITION
6		135-169	163-204	190-238	216-270	243-304	270-338	
7		Aggravated						
8	<u>BB2</u>	108-135	130-163	152-190	173-216	194-243	216-270	PRESUMPTIVE
9		81-108	98-130	114-152	130-173	146-194	162-216	
10		Mitigated						
11								
12		A	A A	A	A	A		DISPOSITION
13		63-79	86-108	100-125	115-144	130-162	145-181	Aggravated
14	C	50-63	69-86	80-100	92-115	104-130	116-145	PRESUMPTIVE
15		38-50	52-69	60-80	69-92	78-104	87-116	Mitigated
16								
17		A	A A	A	A	A		DISPOSITION
18		55-69	66-82	89-111	101-126	115-144	126-158	Aggravated
19	D	44-55	53-66	71-89	81-101	92-115	101-126	PRESUMPTIVE
20		33-44	40-53	53-71	61-81	69-92	76-101	Mitigated
21								
22		I/A	I/AA	A	A	A		DISPOSITION
23		25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
24	E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
25		15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
26								
27		I/A	I/AI/A	A	A	A		DISPOSITION
28		16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
29	F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
30		10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
31								
32		I/A	I/AI/A	I/A	A	A		DISPOSITION
33		13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
34	G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
35		8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
36								
37		C/I	I	I/A	I/A	A		DISPOSITION
38		6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
39	H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
40		4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
41								
42		C	C/II	I/A	I/A	I/A		DISPOSITION
43		6-8	6-86-8	8-10	9-11	10-12		Aggravated
44	I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE

1 3-4 3-44-5 4-6 5-7 6-8 Mitigated

2 (d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless
3 provided otherwise in a statute establishing a punishment for a specific crime, for each
4 minimum term of imprisonment in the chart in subsection (c) of this section, expressed
5 in months, the corresponding maximum term of imprisonment, also expressed in
6 months, is as specified in the table below for Class F through Class I felonies. The first
7 figure in each cell in the table is the minimum term and the second is the maximum
8 term.

9	10	11	12	13	14	15	16	17
	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
12	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
13	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
14	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
15	43-52	44-53	45-54	46-56	47-57	48-58	49-59	

16

17 (e) Maximum Sentences Specified for Class ~~B~~B1 through Class E
18 ~~Felonies~~Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise
19 in a statute establishing a punishment for a specific crime, for each minimum term of
20 imprisonment in the chart in subsection (c) of this section, expressed in months, the
21 corresponding maximum term of imprisonment, also expressed in months, is as
22 specified in the table below for Class ~~B~~B1 through Class E felonies. The first figure in
23 each cell of the table is the minimum term and the second is the maximum term.

24

25	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
26	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
27	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
28	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
29	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
30	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
31	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
32	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
33	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
34	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
35	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
36	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
37	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
38	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
39	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
40	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
41	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
42	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
43	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
44	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218

1 175-219 176-221 177-222 178-223 179-224 180-225 181-227 182-228
 2 183-229 184-230 185-231 186-233 187-234 188-235 189-236 190-237
 3 191-239 192-240 193-241 194-242 195-243 196-245 197-246 198-247
 4 199-248 200-249 201-251 202-252 203-253 204-254 205-255 206-257
 5 207-258 208-259 209-260 210-261 211-263 212-264 213-265 214-266
 6 215-267 216-269 217-270 218-271 219-272 220-273 221-275 222-276
 7 223-277 224-278 225-279 226-281 227-282 228-283 229-284 230-285
 8 231-287 232-288 233-289 234-290 235-291 236-293 237-294 238-295
 9 239-296 240-297 241-299 242-300 243-301 244-302 245-303 246-305
 10 247-306 248-307 249-308 250-309 251-311 252-312 253-313 254-314
 11 255-315 256-317 257-318 258-319 259-320 260-321 261-323 262-324
 12 263-325 264-326 265-327 266-329 267-330 268-331 269-332 270-333
 13 271-335 272-336 273-337 274-338 275-339 276-341 277-342 278-343
 14 279-344 280-345 281-347 282-348 283-349 284-350 285-351 286-353
 15 287-354 288-355 289-356 290-357 291-359 292-360 293-361 294-362
 16 295-363 296-365 297-366 298-367 299-368 300-369 301-371 302-372
 17 303-373 304-374 305-375 306-377 307-378 308-379 309-380 310-381
 18 311-383 312-384 313-385 314-386 315-387 316-389 317-390 318-391
 19 319-392 320-393 321-395 322-396 323-397 324-398 325-399 326-401
 20 327-402 328-403 329-404 330-405 331-407 332-408 333-409 334-410
 21 335-411 336-413 337-414 338-415 339-416
 22

23 (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for
 24 Minimum Terms of 340 Months or More. – Unless provided otherwise in a statute
 25 establishing a punishment for a specific crime, when the minimum sentence is 340
 26 months or more, the corresponding maximum term of imprisonment shall be equal to
 27 the sum of the minimum term of imprisonment and twenty percent (20%) of the
 28 minimum term of imprisonment, rounded to the next highest month, plus nine additional
 29 months."

30 Sec. 8. G.S. 15A-1368.1, as enacted by Section 20.1 of Chapter 538 of the
 31 1993 Session Laws and as amended by Section 26 of Chapter 14 of the Session Laws of
 32 the 1994 Extra Session, reads as rewritten:

33 **"§ 15A-1368.1. Applicability of Article 84A.**

34 This Article applies to all felons in Class ~~B~~B1 through Class E sentenced to an
 35 active punishment under Article 81B of this ~~Chapter~~Chapter, but does not apply to
 36 felons in Class B1 sentenced to life imprisonment without parole. Prisoners subject to
 37 Articles 85 and 85A of this Chapter are excluded from this Article's coverage."

38 Sec. 9. G.S. 15A-1340.13(h), as enacted by Section 1 of Chapter 538 of the
 39 1993 Session Laws and as amended by Section 19 of Chapter 14 of the Session Laws of
 40 the 1994 Extra Session, reads as rewritten:

41 "(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court
 42 shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

- 43 (1) The offense is a Class A or Class B1 felony;
- 44 (2) The offense is a drug trafficking offense under G.S. 90-95(h); or

1 (3) The defendant has five or more points as determined by G.S. 15A-
2 1340.14."

3 Sec. 10. G.S. 15A-1340.14(b), as enacted by Section 1 of Chapter 538 of the
4 1993 Session Laws, reads as rewritten:

5 "(b) Points. – Points are assigned as follows:

6 (1) For each prior felony Class A conviction, 10 points.

7 (1a) For each prior felony Class B1 conviction, 9 points.

8 (2) For each prior felony Class ~~B~~, B2, C, or D conviction, 6 points.

9 (3) For each prior felony Class E, F, or G conviction, 4 points.

10 (4) For each prior felony Class H or I conviction, 2 points.

11 (5) For each prior Class 1 misdemeanor conviction, 1 point, except
12 that convictions for Class 1 misdemeanor offenses under Chapter 20 of
13 the General Statutes, other than conviction for misdemeanor death by
14 vehicle (G.S. 20-141.4(a2)), shall not be assigned any points for
15 purposes of determining a person's prior record for felony sentencing.

16 (6) If all the elements of the present offense are included in the prior
17 offense, 1 point.

18 (7) If the offense was committed while the offender was on probation or
19 parole, or while the offender was serving a sentence of imprisonment,
20 or while the offender was on escape from a correctional institution
21 while serving a sentence of imprisonment, 1 point.

22 For purposes of determining prior record points under this subsection, a conviction
23 for a first degree rape or a first degree sexual offense committed prior to the effective
24 date of this subsection shall be treated as a felony Class B1 conviction, and a conviction
25 for any other felony Class B offense committed prior to the effective date of this
26 subsection shall be treated as a felony Class B2 conviction."

27 Sec. 11. G.S. 14-2.5, as enacted by Section 6 of Chapter 538 of the 1993
28 Session Laws, reads as rewritten:

29 "**§ 14-2.5. Punishment for attempt to commit a felony or misdemeanor.**

30 Unless a different classification is expressly stated, an attempt to commit a
31 misdemeanor or a felony is punishable under the next lower classification as the offense
32 which the offender attempted to commit. An attempt to commit a Class A or Class B1
33 felony is a Class B2 felony, an attempt to commit a Class B2 felony is a Class C felony,
34 an attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to
35 commit a Class 3 misdemeanor is a Class 3 misdemeanor."

36 Sec. 12. G.S. 14-2.4(a), as amended by Section 5 of Chapter 538 of the 1993
37 Session Laws, reads as rewritten:

38 "(a) Unless a different classification is expressly stated, a person who is convicted
39 of a conspiracy to commit a felony is guilty of a felony that is one class lower than the
40 felony he or she conspired to commit, except that a conspiracy to commit a Class A or
41 Class B1 felony is a Class B2 felony, a conspiracy to commit a Class B2 felony is a
42 Class C felony, and a conspiracy to commit a Class I felony is a Class 1 misdemeanor."

43 Sec. 13. G.S. 14-2.6(a), as enacted by Section 6.1 of Chapter 538 of the 1993
44 Session Laws, reads as rewritten:

1 "(a) Unless a different classification is expressly stated, a person who solicits
2 another person to commit a felony is guilty of a felony that is two classes lower than the
3 felony the person solicited the other person to commit, except that a solicitation to
4 commit a Class A or Class B1 felony is a Class C felony, a solicitation to commit a
5 Class B2 felony is a Class D felony, a solicitation to commit a Class H felony is a Class
6 1 misdemeanor, and a solicitation to commit a Class I felony is a Class 2 misdemeanor."

7 Sec. 14. This Part becomes effective on the same date that Chapter 538 of the
8 1993 Session Laws becomes effective. This Part applies to offenses occurring on or
9 after the effective date of this Part. Prosecutions for offenses committed before the
10 effective date of this Part are not abated or affected by this Part, and the statutes that
11 would be applicable but for this Part remain applicable to those prosecutions.

12 13 **PART 3. MODIFY HABITUAL FELON LAW**

14
15 Sec. 15. G.S. 14-7.6 reads as rewritten:

16 **"§ 14-7.6. Sentencing of habitual felons.**

17 When an habitual felon as defined in this Article ~~shall commit~~ commits any felony
18 under the laws of the State of North Carolina, ~~he the felon~~ must, upon conviction or plea
19 of guilty under indictment as ~~herein provided~~ provided in this Article (except where the
20 death penalty or a sentence of life imprisonment is imposed) be sentenced as a Class C
21 felon. In determining the prior record level, convictions used to establish a person's
22 status as an habitual felon shall not be used. Notwithstanding any other provision of
23 law, a person sentenced under this Article shall serve a term of not less than seven years
24 in prison, excluding gain time granted under G.S. 148-13. A person sentenced under
25 this Article shall receive a sentence of at least 14 years in the State's prison and shall be
26 entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may
27 not suspend the sentence and may not place the person sentenced on probation.
28 Sentences imposed under this Article shall run consecutively with and shall commence
29 at the expiration of any sentence being served by the person sentenced ~~hereunder~~ under
30 this section."

31 Sec. 16. Section 9 of Chapter 538 of the 1993 Session Laws is repealed.

32 Sec. 17. This Part becomes effective on the same date that Chapter 538 of the
33 1993 Session Laws becomes effective, and applies to offenses committed on or after
34 that date. Prosecutions for, or sentences based on, offenses committed before the
35 effective date of this Part are not abated or affected by this Part, and the statutes that
36 would be applicable to those prosecutions or sentences but for the provisions of this Part
37 remain applicable to those prosecutions or sentences.

38 39 **PART 4. INCREASE FIREARM PENALTY**

40
41 Sec. 18. G.S. 14-2.2 reads as rewritten:

42 **"§ 14-2.2. Sentencing of person convicted of repeated felony using deadly weapon.**

43 ~~Notwithstanding any other provision of law, any person who has been previously~~
44 ~~convicted in the courts of this State within seven years of a felony in which a deadly~~

1 ~~weapon was used, provided that the previous felony did not occur within 10 days of the~~
2 ~~second or subsequent felony, in which a deadly weapon was used, shall serve a term for~~
3 ~~the second or subsequent felony of not less than seven years in prison, excluding gain~~
4 ~~time granted under G.S. 148-13. Any person sentenced under this section shall receive a~~
5 ~~sentence of at least 14 years in the State's prison and shall be entitled to credit for good~~
6 ~~behavior under G.S. 15A-1340.7. The sentencing judge may not sentence a person~~
7 ~~sentenced under this section as a committed youthful offender and may not suspend the~~
8 ~~sentence and place the person sentenced on probation. Sentences imposed pursuant to~~
9 ~~this section shall run consecutively with and shall commence at the expiration of any~~
10 ~~sentence being served by the person sentenced hereunder.~~

11 ~~For the purpose of this section, the record or records of the prior felony conviction~~
12 ~~shall be admissible in evidence after conviction and before sentencing, but only for the~~
13 ~~purpose of proving that the person has been convicted of a previous felony. A judgment~~
14 ~~of a conviction or plea of guilty or no contest to such felony offense certified to a~~
15 ~~superior court in this State from the custodian of records of any other court of this State~~
16 ~~under the same name as that by which the defendant is charged shall be **prima facie**~~
17 ~~evidence that the identity of such person is the same as the defendant so charged and~~
18 ~~shall be **prima facie** evidence of the facts so certified.~~

19 ~~For the purposes of this section, a felony committed before a person attains the age~~
20 ~~of 18 years does not constitute a previous felony conviction.~~

21 ~~Pleas of guilty or no contest to or convictions of felony offenses prior to September~~
22 ~~1, 1977, are not felony offenses within the meaning of this section. Any felony offense~~
23 ~~to which a pardon has been extended does not for the purpose of this section constitute a~~
24 ~~felony. The burden of proving a pardon rests with the defendant and the State is not~~
25 ~~required to disprove a pardon.~~

26 **Sentencing of a person convicted of a Class A, B, B1, B2, C, D, or E felony who**
27 **used, displayed, or threatened to use or display a firearm during the commission of**
28 **the crime; confiscation and disposition of a firearm used in a felony.**

29 (a) If a person is convicted of a Class A, B, B1, B2, C, D, or E felony and the
30 person used, displayed, or threatened to use or display a firearm during the commission
31 of the felony, the person shall, in addition to the punishment for the underlying felony,
32 be sentenced to imprisonment for five years.

33 The court shall not sentence a person sentenced under this section as a committed
34 youthful offender. The court shall not suspend any sentence imposed under this section
35 and shall not place a person sentenced under this section on probation for the sentence
36 imposed under this section. Sentences imposed pursuant to this section shall be
37 consecutive to all other sentences imposed and shall begin at the expiration of any other
38 sentence being served by the person.

39 (b) Subsection (a) of this section does not apply in any of the following
40 circumstances:

41 (1) The person is not sentenced to an active term of imprisonment.

42 (2) The evidence of the use, display, or threatened use or display of a
43 firearm is needed to prove an element of the underlying Class A, B,
44 B1, B2, C, D, or E felony.

1 (3) The person did not actually possess a firearm about his or her person.

2 (c) When a person is found to have personally used a firearm in the commission
3 or attempted commission of a felony and the firearm is owned by that person, or the
4 serial number on the firearm has been defaced such that ownership is not traceable, the
5 court shall order that the firearm be confiscated and disposed of in any of the ways
6 provided by G.S. 14-269.1 that the court in its discretion deems appropriate.

7 (d) Subsection (a) of this section does not apply to the following felonies:

8 (1) G.S. 14-49(b). Malicious use of explosive or incendiary.

9 (2) G.S. 14-59. Burning of certain public buildings.

10 (3) G.S. 14-60. Burning of schoolhouses or buildings of educational
11 institutions.

12 (4) G.S. 14-61. Burning of certain bridges and buildings.

13 (5) G.S. 14-62. Burning of churches and certain other buildings.

14 (6) G.S. 14-62.1. Burning of building or structure in process of
15 construction.

16 (7) G.S. 53-129. Misapplication of bank funds by officer or employee."

17 Sec. 19. (a) G.S. 14-2.2(a), as amended by Section 18 of this act, reads as
18 rewritten:

19 "(a) If a person is convicted of a Class A, B, B1, B2, C, D, or E felony and the
20 person used, displayed, or threatened to use or display a firearm during the commission
21 of the felony, the person shall, in addition to the punishment for the underlying felony,
22 be sentenced to ~~imprisonment for five years.~~ a minimum term of imprisonment for 60
23 months as provided by G.S. 15A-1340.16A. Evidence of the use, display, or threatened
24 use or display of a firearm that is needed to prove an element of the underlying felony
25 shall not be used to establish the enhancement under this section.

26 ~~The court shall not sentence a person sentenced under this section as a committed~~
27 ~~youthful offender.~~ The court shall not suspend any sentence imposed under this section
28 and shall not place a person sentenced under this section on probation for the sentence
29 imposed under this section. Sentences imposed pursuant to this section shall be
30 consecutive to all other sentences imposed and shall begin at the expiration of any other
31 sentence being served by the person."

32 (b) G.S. 14-2.2(d), as amended by Section 18 of this act, is repealed.

33 (c) Section 4 of Chapter 538 of the 1993 Session Laws is repealed.

34 Sec. 20. Part 2 of Article 81B of Chapter 15A of the General Statutes is
35 amended by adding a new section to read:

36 "**§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B1,**
37 **B2, C, D, or E felony and the defendant used, displayed, or threatened to**
38 **use or display a firearm during the commission of the felony.**

39 (a) If a person is convicted of a Class A, B1, B2, C, D, or E felony and the court
40 finds that the person used, displayed, or threatened to use or display a firearm at the
41 time of the felony, the court shall increase the minimum term of imprisonment to which
42 the person is sentenced by 60 months. The court shall not suspend the 60-month
43 minimum term of imprisonment imposed as an enhanced sentence under this section

1 and shall not place any person sentenced under this section on probation for the
2 enhanced sentence.

3 (b) Subsection (a) of this section does not apply in any of the following
4 circumstances:

5 (1) The person is not sentenced to an active term of imprisonment.

6 (2) The evidence of the use, display, or threatened use or display of a
7 firearm is needed to prove an element of the underlying Class A, B1,
8 B2, C, D, or E felony.

9 (3) The person did not actually possess a firearm about his or her person."

10 Sec. 21. G.S. 15A-1340.4(a)(1) reads as rewritten:

11 "(1) Aggravating factors:

- 12 a. The defendant induced others to participate in the commission
13 of the offense or occupied a position of leadership or
14 dominance of other participants.
- 15 b. The offense was committed for the purpose of avoiding or
16 preventing a lawful arrest or effecting an escape from custody.
- 17 c. The defendant was hired or paid to commit the offense.
- 18 d. The offense was committed to disrupt or hinder the lawful
19 exercise of any governmental function or the enforcement of
20 laws.
- 21 e. The offense was committed against a present or former: law
22 enforcement officer, employee of the Department of Correction,
23 jailer, fireman, emergency medical technician, ambulance
24 attendant, justice or judge, clerk or assistant or deputy clerk of
25 court, magistrate, prosecutor, juror, or witness against the
26 defendant, while engaged in the performance of his official
27 duties or because of the exercise of his official duties.
- 28 f. The offense was especially heinous, atrocious, or cruel.
- 29 g. The defendant knowingly created a great risk of death to more
30 than one person by means of a weapon or device which would
31 normally be hazardous to the lives of more than one person.
- 32 h. The defendant held public office at the time of the offense and
33 the offense related to the conduct of the office.
- 34 i. The defendant was armed with or used a deadly weapon at the
35 time of the crime.
- 36 j. The victim was very young, or very old, or mentally or
37 physically infirm.
- 38 k. The defendant committed the offense while on pretrial release
39 on another felony charge.
- 40 l. The defendant involved a person under the age of 16 in the
41 commission of the crime.
- 42 m. The offense involved an attempted or actual taking of property
43 of great monetary value or damage causing great monetary loss,

1 or the offense involved an unusually large quantity of
2 contraband.

3 n. The defendant took advantage of a position of trust or
4 confidence to commit the offense.

5 o. The defendant has a prior conviction or convictions for criminal
6 offenses punishable by more than 60 days' confinement. Such
7 convictions include those occurring in North Carolina courts
8 and courts of other states, the District of Columbia, and the
9 United States, provided that any crime for which the defendant
10 was convicted in a jurisdiction other than North Carolina would
11 have been a crime if committed in this State. Such prior
12 convictions do not include any crime that is joinable, under G.S.
13 Chapter 15A, with the crime or crimes for which the defendant
14 is currently being sentenced.

15 p. The offense involved the sale or delivery of a controlled
16 substance to a minor.

17 q. The offense was committed because of the race, color, religion,
18 nationality, or country of origin of another person.

19 r. The offense for which the defendant stands convicted was
20 committed against a victim because of the victim's race, color,
21 religion, nationality, or country of origin.

22 Evidence necessary to prove an element of the offense may not be used to prove any
23 factor in aggravation, and the same item of evidence may not be used to prove more
24 than one factor in aggravation. Evidence necessary to establish that an enhanced
25 sentence is required under G.S. 14-2.2 may not be used to prove any factor in
26 aggravation.

27 The judge may not consider as an aggravating factor the fact that the defendant
28 exercised his right to a jury trial."

29 Sec. 22. G.S. 15A-1340.16(d) reads as rewritten:

30 "(d) Aggravating Factors. – The following are aggravating factors:

- 31 (1) The defendant induced others to participate in the commission of the
32 offense or occupied a position of leadership or dominance of other
33 participants.
- 34 (2) The defendant joined with more than one other person in committing
35 the offense and was not charged with committing a conspiracy.
- 36 (3) The offense was committed for the purpose of avoiding or preventing a
37 lawful arrest or effecting an escape from custody.
- 38 (4) The defendant was hired or paid to commit the offense.
- 39 (5) The offense was committed to disrupt or hinder the lawful exercise of
40 any governmental function or the enforcement of laws.
- 41 (6) The offense was committed against a present or former: law
42 enforcement officer, employee of the Department of Correction, jailer,
43 fireman, emergency medical technician, ambulance attendant, justice
44 or judge, clerk or assistant or deputy clerk of court, magistrate,

1 prosecutor, juror, or witness against the defendant, while engaged in
 2 the performance of that person's official duties or because of the
 3 exercise of that person's official duties.

4 (7) The offense was especially heinous, atrocious, or cruel.

5 (8) The defendant knowingly created a great risk of death to more than
 6 one person by means of a weapon or device which would normally be
 7 hazardous to the lives of more than one person.

8 (9) The defendant held public office at the time of the offense and the
 9 offense related to the conduct of the office.

10 (10) The defendant was armed with or used a deadly weapon at the time of
 11 the crime.

12 (11) The victim was very young, or very old, or mentally or physically
 13 infirm, or handicapped.

14 (12) The defendant committed the offense while on pretrial release on
 15 another charge.

16 (13) The defendant involved a person under the age of 16 in the
 17 commission of the crime.

18 (14) The offense involved an attempted or actual taking of property of great
 19 monetary value or damage causing great monetary loss, or the offense
 20 involved an unusually large quantity of contraband.

21 (15) The defendant took advantage of a position of trust or confidence to
 22 commit the offense.

23 (16) The offense involved the sale or delivery of a controlled substance to a
 24 minor.

25 (17) The offense for which the defendant stands convicted was committed
 26 against a victim because of the victim's race, color, religion,
 27 nationality, or country of origin.

28 (18) The defendant does not support the defendant's family.

29 (19) The serious injury inflicted upon the victim is permanent and
 30 debilitating.

31 (20) Any other aggravating factor reasonably related to the purposes of
 32 sentencing.

33 Evidence necessary to prove an element of the offense shall not be used to prove any
 34 factor in aggravation, and the same item of evidence shall not be used to prove more
 35 than one factor in aggravation. Evidence necessary to establish that an enhanced
 36 sentence is required under G.S. 14-2.2 may not be used to prove any factor in
 37 aggravation.

38 The judge shall not consider as an aggravating factor the fact that the defendant
 39 exercised the right to a jury trial."

40 Sec. 23. G.S. 14-269.1 reads as rewritten:

41 "**§ 14-269.1. Confiscation and disposition of deadly weapons.**

42 Upon conviction of any person for violation of G.S. 14-2.2, 14-269, ~~G.S.~~14-269.7,
 43 or any other offense involving the use of a deadly weapon of a type referred to in G.S.
 44 14-269, the deadly weapon with reference to which the defendant shall have been

1 convicted shall be ordered confiscated and disposed of by the presiding judge at the trial
2 in one of the following ways in the discretion of the presiding judge.

- 3 (1) By ordering the weapon returned to its rightful owner, but only when
4 such owner is a person other than the defendant and has filed a petition
5 for the recovery of such weapon with the presiding judge at the time of
6 the defendant's conviction, and upon a finding by the presiding judge
7 that petitioner is entitled to possession of same and that he was
8 unlawfully deprived of the same without his consent.
- 9 (2) By ordering the weapon turned over to a law-enforcement agency in
10 the county of trial for the official use of such agency, but only upon the
11 written request by the head or chief of such agency. The clerk of the
12 superior court of such county shall maintain a record of such weapons
13 and the law-enforcement agency receiving them.
- 14 (3) By ordering the weapon turned over to the sheriff of the county in
15 which the trial is held to be sold as herein provided. Under the
16 direction of the sheriff, the weapon shall be sold at public auction after
17 one advertisement in a newspaper having general circulation in the
18 county which advertisement shall be at least seven days prior to sale.
19 The proceeds of such sale shall go to the general fund of the county in
20 which such weapons are sold. The sheriff shall maintain a record and
21 inventory of all such weapons received and sold by him. Sales of such
22 weapons by the sheriff shall be held at least once each year.
- 23 (4) By ordering such weapon turned over to the sheriff of the county in
24 which the trial is held or his duly authorized agent to be destroyed.
25 The sheriff shall maintain a record of the destruction thereof.
- 26 (5) By ordering such weapon turned over to the North Carolina State
27 Bureau of Investigation's Crime Laboratory Weapons Reference
28 Library for official use by that agency. The State Bureau of
29 Investigation shall maintain a record and inventory of all such
30 weapons received.
- 31 (6) By ordering such weapons turned over to the North Carolina Justice
32 Academy for official use by that agency. The North Carolina Justice
33 Academy shall maintain a record and inventory of all such weapons
34 received."

35 Sec. 24. Sections 18, 21, and 23 of this act become effective May 1, 1994,
36 and apply to offenses committed on or after that date. The remainder of this Part
37 becomes effective on the date that Section 56 of Chapter 538 of the 1993 Session Laws
38 provides that that act becomes effective, and applies to offenses committed on or after
39 that date. Prosecutions for, or sentences based on, offenses committed before the
40 effective dates of this Part are not abated or affected by this Part, and the statutes that
41 would be applicable to those prosecutions or sentences but for the provisions of this Part
42 remain applicable to those prosecutions or sentences.

43 44 **PART 5. TRANSFER JUVENILES 13 YEARS OF AGE**

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Sec. 25. G.S. 7A-608 reads as rewritten:

"§ 7A-608. Transfer of jurisdiction of juvenile to superior court.

The court after notice, hearing, and a finding of probable cause may transfer jurisdiction over a juvenile ~~14 years of age or older~~ to superior court if the juvenile was ~~14-13~~ years of age or older at the time ~~he~~ the juvenile allegedly committed an offense ~~which that~~ would be a felony if committed by an adult. If the alleged felony constitutes a Class A felony and the ~~judge court~~ finds probable cause, the ~~judge court~~ shall transfer the case to the superior court for trial as in the case of adults."

Sec. 26. G.S. 7A-609(a) reads as rewritten:

"(a) The ~~judge court~~ shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was ~~14-13~~ years of age or older when the offense was allegedly ~~committed committed~~. ~~unless counsel~~ Counsel for the juvenile ~~waives may~~ waive in writing ~~his the~~ right to the hearing and ~~stipulates stipulate~~ to a finding of probable cause. The ~~judge court~~ may exclude the public from the hearing unless the juvenile moves that the hearing be open, which motion shall be granted."

Sec. 27. G.S. 7A-610(a) reads as rewritten:

"(a) If probable cause is ~~found~~, found and transfer to superior court is not required by G.S. 7A-608, the prosecutor or the juvenile may move that the case be transferred to the superior court for trial as in the case of adults. ~~If the alleged felony does not constitute a capital offense, the~~ The judge may proceed to determine whether the needs of the juvenile or the best interest of the State will be served by transfer of the case to superior court for trial as in the case of adults. When the case is transferred to superior court, the superior court has jurisdiction over that felony, any offense based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a single scheme or plan of that felony, and any greater or lesser included offense of that felony."

Sec. 28. G.S. 7A-601 reads as rewritten:

"§ 7A-601. Destruction of records resulting from nontestimonial identification procedures.

The results of any nontestimonial identification procedures shall be retained or disposed of as follows:

- (1) If a petition is not filed against a juvenile who has been the subject of nontestimonial identification procedures, all records of ~~such the~~ evidence shall be destroyed.
- (2) If in the district court or superior court pursuant to a transfer a juvenile is found not guilty, all records resulting from a nontestimonial order shall be destroyed. Further, in the case of a juvenile who is under ~~14~~ 13 years of age and who is adjudicated to have committed a delinquent act, which would be less than a felony had the juvenile been an adult, all records shall be destroyed.
- (3) If a juvenile ~~14-13~~ years of age or older is found to have committed a delinquent act ~~which that~~ would be a felony if committed by an adult, all records resulting from a nontestimonial order may be retained in the

1 court file. Special precautions shall be taken to ensure that these
2 records will be maintained in such a manner and under such safeguards
3 as to limit their use to inspection for comparison purposes by law-
4 enforcement officers only in the investigation of a crime.

5 (4) If the juvenile is transferred to superior court, all records resulting
6 from nontestimonial identification procedures shall be processed as in
7 the case of an adult.

8 (5) Any evidence seized pursuant to a nontestimonial order shall be
9 retained by law-enforcement officers until further order is entered by
10 the court.

11 (6) Destruction of nontestimonial identification records pursuant to this
12 section shall be performed by the law-enforcement agency having
13 possession of such records. Following destruction, the law-
14 enforcement agency shall make written certification to the court of
15 ~~such~~ the destruction."

16 Sec. 29. The Juvenile Code Committee of the Legislative Research
17 Commission is authorized to study the issue of whether district courts should be
18 mandated to transfer jurisdiction of juveniles who have committed certain serious or
19 violent felony offenses to superior court for trial as in the case of adults upon a finding
20 of probable cause. The Committee may also study the issue of the proper age of
21 juveniles mandatorily transferred to superior court for trial as in the case of adults. The
22 Committee may submit an interim report of its findings and recommendations to the
23 1994 Regular Session of the 1993 General Assembly and shall submit a final report to
24 the 1995 General Assembly.

25 Sec. 30. Sections 25 through 28 of this act become effective May 1, 1994,
26 and apply to offenses committed on or after that date. The remainder of this Part is
27 effective upon ratification.

28 29 **PART 6. THREE STRIKES YOU'RE IN**

30
31 Sec. 31. Chapter 14 of the General Statutes is amended by adding a new
32 Article to read:

33 **"ARTICLE 2B.**

34 **"VIOLENT HABITUAL FELONS.**

35 **"§ 14-7.7. Persons defined as violent habitual felons.**

36 (a) Any person who has been convicted of two violent felonies in any federal
37 court, in a court of this or any other state of the United States, or in a combination of
38 these courts is declared to be a violent habitual felon. For purposes of this Article,
39 'convicted' means the person has been adjudged guilty of or has entered a plea of guilty
40 or no contest to the violent felony charge, and judgment has been entered thereon when
41 such action occurred on or after July 6, 1967. This Article does not apply to a second
42 violent felony unless it is committed after the conviction or plea of guilty or no contest
43 to the first violent felony. Any felony to which a pardon has been extended shall not,
44 for the purposes of this Article, constitute a felony. The burden of proving a pardon

1 shall rest with the defendant, and this State shall not be required to disprove a pardon.
2 Conviction as an habitual felon shall not, for purposes of this Article, constitute a
3 violent felony.

4 (b) For purposes of this Article, 'violent felony' includes the following offenses:

5 (1) a. Murder in the first and second degrees, G.S. 14-17.

6 b. Voluntary manslaughter, G.S. 14-18.

7 c. Killing an adversary in a duel, G.S. 14-30.

8 d. First degree rape, G.S. 14-27.2.

9 e. Second degree rape, G.S. 14-27.3.

10 f. First degree sexual offense, G.S. 14-27.4.

11 g. Second degree sexual offense, G.S. 14-27.5.

12 h. Intercourse and sexual offense by a parent or custodian, G.S.
13 14-27.7.

14 i. Malicious castration, G.S. 14-28.

15 j. Castration or maiming without malice aforethought, G.S. 14-29.

16 k. Malicious maiming, G.S. 14-30.

17 l. Malicious throwing of acid or alkali, G.S. 14-30.1.

18 m. Malicious assaulting in a secret manner, G.S. 14-31.

19 n. Any felony assault set forth in G.S. 14-32.

20 o. Felony assault on a handicapped person, G.S. 14-32.

21 p. Patient abuse and neglect, negligent or intentional, G.S. 14-
22 32.2.

23 q. Discharging firearm in occupied property, G.S. 14-34.1.

24 r. Adulterated or misbranded foods or drugs, G.S. 14-34.4.

25 s. Kidnapping in the first or second degree, G.S. 14-39.

26 t. Malicious use of explosive or incendiary devices, G.S. 14-49.

27 u. Malicious damage of occupied property by the use of explosive,
28 G.S. 14-49.1.

29 v. Burglary in the first or second degree, G.S. 14-51.

30 w. Breaking out of a dwelling house, G.S. 14-53.

31 x. Burglary with explosives, G.S. 14-57.

32 y. Arson in the first or second degree, G.S. 14-58.

33 z. Burning of a mobile home, manufactured housing, or
34 recreational trailer, G.S. 14-58.2.

35 aa. Burning of public building, G.S. 14-59.

36 bb. Burning of a schoolhouse or building of an educational
37 institution, G.S. 14-60.

38 cc. Burning of bridges and buildings, G.S. 14-61.

39 dd. Burning of churches and other buildings, G.S. 14-62.

40 ee. Burning of building or structure in the process of construction,
41 G.S. 14-62.1.

42 gg. Robbery with a firearm or dangerous weapon, G.S. 14-87.

43 hh. Train robbery, G.S. 14-88.

44 ii. Contaminating a public water supply, G.S. 14-159.1.

- 1 jj. Felonious child abuse, G.S. 14-318.4.
2 kk. First degree sexual exploitation of a minor, G.S. 14-190.16.
3 ll. Distribution of adulterated food, G.S. 14-401.11.
4 mm. Manufacture, sale, or delivery or possess with intent to
5 manufacture, sell, or deliver a controlled substance within 300
6 feet of a school, G.S. 90-95(e)(8).
7 nn. Selling and delivery of controlled substance by a person 18 or
8 over to a person under 16, G.S. 90-95.
9 oo. Discharge of oil or hazardous substance placing another in
10 danger of death or serious bodily injury, G.S. 143-225.88(b).
11 (2) Any repealed or superseded offense substantially equivalent to the
12 offenses listed in subdivision (1).
13 (3) Any offense committed in another jurisdiction substantially equivalent
14 to the offenses set forth in subdivision (1) or (2).

15 **"§ 14-7.8. Punishment.**

16 When a person is charged by indictment with the commission of a violent felony and
17 is also charged with being a violent habitual felon as defined in G.S. 14-7.7, the person
18 must, upon conviction, be sentenced in accordance with this Article, except in those
19 cases where the death penalty is imposed.

20 **"§ 14-7.9. Charge of violent habitual felon.**

21 An indictment that charges a person who is a violent habitual felon within the
22 meaning of G.S. 14-7.7 with the commission of any violent felony must, in order to
23 sustain a conviction of violent habitual felon, also charge that the person is a violent
24 habitual felon. The indictment charging the defendant as a violent habitual felon shall
25 be separate from the indictment charging the defendant with the principal violent
26 felony. An indictment that charges a person with being a violent habitual felon must set
27 forth the date that prior violent felonies were committed, the name of the state or other
28 sovereign against whom the violent felonies were committed, the dates of convictions of
29 the violent felonies, and the identity of the court in which the convictions took place. A
30 defendant charged with being a violent habitual felon in a bill of indictment shall not be
31 required to go to trial on that charge within 20 days after the finding of a true bill by the
32 grand jury unless the defendant waives this 20-day period.

33 **"§ 14-7.10. Evidence of prior convictions of violent felonies.**

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

43 **"§ 14-7.11. Verdict and judgment.**

1 When an indictment charges a violent habitual felon with a violent felony as
 2 provided in this Article and an indictment also charges that the person is a violent
 3 habitual felon as provided in this Article, the defendant shall be tried for the principal
 4 violent felony as provided by law. The indictment that the person is a violent habitual
 5 felon shall not be revealed to the jury unless the jury finds that the defendant is guilty of
 6 the principal violent felony or another violent felony with which the defendant is
 7 charged. If the jury finds the defendant guilty of a violent felony, the bill of indictment
 8 charging the defendant as a violent habitual felon may be presented to the same jury.
 9 Except that the same jury may be used, the proceedings shall be as if the issue of violent
 10 habitual felon were a principal charge. If the jury finds that the defendant is a violent
 11 habitual felon, the trial judge shall enter judgment according to the provisions of this
 12 Article. If the jury finds that the defendant is not a violent habitual felon, the trial judge
 13 shall pronounce judgment on the principal violent felony or felonies as provided by law.

14 **"§ 14-7.12. Sentencing of violent habitual felons.**

15 A person who is convicted of a violent felony and of being a violent habitual felon
 16 must, upon conviction (except where the death penalty is imposed), be sentenced to life
 17 imprisonment without parole. Life imprisonment without parole means that the person
 18 will spend the remainder of the person's natural life in prison. The sentencing judge
 19 may not suspend the sentence and may not place the person sentenced on probation.
 20 Sentences for violent habitual felons imposed under this Article shall run consecutively
 21 with and shall commence at the expiration of any other sentence being served by the
 22 person."

23 Sec. 32. Effective on the date Chapter 538 of the 1993 Session Laws becomes
 24 effective, G.S. 14-7.7(b), as enacted by Section 31 of this act, reads as rewritten:

25 "(b) ~~For purposes of this Article, 'violent felony' includes the following offenses:~~

- 26 ~~(1) a. Murder in the first and second degrees, G.S. 14-17.~~
 27 ~~b. Voluntary manslaughter, G.S. 14-18.~~
 28 ~~c. Killing an adversary in a duel, G.S. 14-30.~~
 29 ~~d. First degree rape, G.S. 14-27.2.~~
 30 ~~e. Second degree rape, G.S. 14-27.3.~~
 31 ~~f. First degree sexual offense, G.S. 14-27.4.~~
 32 ~~g. Second degree sexual offense, G.S. 14-27.5.~~
 33 ~~h. Intercourse and sexual offense by a parent or custodian, G.S.~~
 34 ~~14-27.7.~~
 35 ~~i. Malicious castration, G.S. 14-28.~~
 36 ~~j. Castration or maiming without malice aforethought, G.S. 14-29.~~
 37 ~~k. Malicious maiming, G.S. 14-30.~~
 38 ~~l. Malicious throwing of acid or alkali, G.S. 14-30.1.~~
 39 ~~m. Malicious assaulting in a secret manner, G.S. 14-31.~~
 40 ~~n. Any felony assault set forth in G.S. 14-32.~~
 41 ~~o. Felony assault on a handicapped person, G.S. 14-32.~~
 42 ~~p. Patient abuse and neglect, negligent or intentional, G.S. 14-~~
 43 ~~32.2.~~
 44 ~~q. Discharging firearm in occupied property, G.S. 14-34.1.~~

- 1 f. ~~Adulterated or misbranded foods or drugs, G.S. 14-34.4.~~
2 s. ~~Kidnapping in the first or second degree, G.S. 14-39.~~
3 t. ~~Malicious use of explosive or incendiary devices, G.S. 14-49.~~
4 u. ~~Malicious damage of occupied property by the use of explosive,~~
5 ~~G.S. 14-49.1.~~
6 v. ~~Burglary in the first or second degree, G.S. 14-51.~~
7 w. ~~Breaking out of a dwelling house, G.S. 14-53.~~
8 x. ~~Burglary with explosives, G.S. 14-57.~~
9 y. ~~Arson in the first or second degree, G.S. 14-58.~~
10 z. ~~Burning of a mobile home, manufactured housing, or~~
11 ~~recreational trailer, G.S. 14-58.2.~~
12 aa. ~~Burning of public building, G.S. 14-59.~~
13 bb. ~~Burning of a schoolhouse or building of an educational~~
14 ~~institution, G.S. 14-60.~~
15 cc. ~~Burning of bridges and buildings, G.S. 14-61.~~
16 dd. ~~Burning of churches and other buildings, G.S. 14-62.~~
17 ee. ~~Burning of building or structure in the process of construction,~~
18 ~~G.S. 14-62.1.~~
19 gg. ~~Robbery with a firearm or dangerous weapon, G.S. 14-87.~~
20 hh. ~~Train robbery, G.S. 14-88.~~
21 ii. ~~Contaminating a public water supply, G.S. 14-159.1.~~
22 jj. ~~Felonious child abuse, G.S. 14-318.4.~~
23 kk. ~~First degree sexual exploitation of a minor, G.S. 14-190.16.~~
24 ll. ~~Distribution of adulterated food G.S. 14-401.11.~~
25 mm. ~~Manufacture, sale, or delivery or possess with intent to~~
26 ~~manufacture, sale, or deliver a controlled substance within 300~~
27 ~~feet of a school, G.S. 90-90.~~
28 nn. ~~Selling and delivery of controlled substance by a person 18 or~~
29 ~~over to a person under 16, G.S. 90-95.~~
30 oo. ~~Discharge of oil or hazardous substance placing another in~~
31 ~~danger of death or serious bodily injury, G.S. 143-225.88(b).~~
32 (2) ~~Any repealed or superseded offense substantially equivalent to the~~
33 ~~offenses listed in subdivision (1).~~
34 (3) ~~Any offense committed in another jurisdiction substantially equivalent~~
35 ~~to the offenses set forth in subdivision (1) or (2).~~
36 (b) For purposes of this Article, 'violent felony' includes the following offenses:
37 (1) All Class A through E felonies.
38 (2) Any repealed or superseded offense substantially equivalent to the
39 offenses listed in subdivision (1).
40 (3) Any offense committed in another jurisdiction substantially equivalent
41 to the offenses set forth in subdivision (1) or (2)."

42 Sec. 33. G.S. 15A-1370.1 reads as rewritten:

43 "**§ 15A-1370.1. Applicability of Article 85.**

1 This Article ~~is applicable~~ applies to all sentenced prisoners, including Class A and
2 Class B felons, and Class C felons who receive a sentence of life imprisonment, who are
3 not subject to Article 85A of this ~~Chapter~~. Chapter, but shall not apply to prisoners who
4 receive life imprisonment without parole. A person serving a sentence of life
5 imprisonment without parole shall not be eligible for parole at any time."

6 Sec. 34. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of the
7 1993 Session Laws, reads as rewritten:

8 **"§ 15A-1370.1. Applicability of Article 85.**

9 This Article is applicable to all prisoners serving sentences of imprisonment for
10 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of
11 life imprisonment. This Article does not apply to a person serving a sentence of life
12 imprisonment without parole. A person serving a sentence of life imprisonment without
13 parole shall not be eligible for parole at any time."

14 Sec. 35. G.S. 15A-1340.10, as amended by Section 1 of Chapter 538 of the
15 1993 Session Laws, reads as rewritten:

16 **"§ 15A-1340.10. Applicability of structured sentencing.**

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

21 Sec. 36. Effective May 1, 1994, Section 8 of Chapter 21 of the Session Laws
22 of the Extra Session of 1994 reads as rewritten:

23 "Sec. 8. This act becomes effective on the same date that Chapter 538 of the 1993
24 Session Laws becomes effective, and applies to offenses occurring on or after that ~~date~~.
25 date except that Section 7 of this act becomes effective May 1, 1994, with respect to
26 offenses committed on or after May 1, 1994, that are punishable under Article 2B of
27 Chapter 14 of the General Statutes. Prosecution for, or sentences based on, offenses
28 occurring before the effective date of this act are not abated or affected by the repeal,
29 expiration, or amendment in this act of any statute, and the statutes that would be
30 applicable to those prosecutions or sentences but for the provisions of this act remain
31 applicable to those prosecutions or sentences."

32 Sec. 37. Sections 31, 36, and 37 of this act become effective May 1, 1994.
33 Section 33 of this act becomes effective May 1, 1994, and expires on the date that
34 Chapter 538 of the 1993 Session Laws becomes effective, but prosecution for, or
35 sentences based on, offenses occurring before that date are not abated or affected by the
36 expiration of that section. Sections 32, 34, and 35 of this act become effective on the
37 date that Chapter 538 of the 1993 Session Laws becomes effective. Prosecution for, or
38 sentences based on, offenses occurring before the effective date of this Part are not
39 abated or affected by the repeal or amendment in this Part of any statute, and the
40 statutes that would be applicable to those prosecutions or sentences but for the
41 provisions of this Part remain applicable to those prosecutions or sentences.

42
43 **PART 7. FALSE REPORT TO LAW ENFORCEMENT/MISDEMEANOR**

1 Sec. 38. G.S. 14-225 reads as rewritten:

2 "**§ 14-225. ~~False, etc., False reports to police radio broadcasting stations. Law~~**
3 **enforcement agencies or officers.**

4 Any person who shall willfully make or cause to be made to a ~~police radio~~
5 ~~broadcasting station~~ law enforcement agency or officer any false, misleading or
6 unfounded report, for the purpose of interfering with the operation ~~thereof, of a law~~
7 enforcement agency, or to hinder or obstruct any ~~peace~~ law enforcement officer in the
8 performance of his duty, shall be guilty of a misdemeanor punishable by a fine not to
9 exceed five hundred dollars (\$500.00), imprisonment for not more than six months, or
10 both."

11 Sec. 39. G.S. 14-225, as enacted by Section 1 of this act, reads as rewritten:

12 "**§ 14-225. False reports to law enforcement agencies or officers.**

13 Any person who shall willfully make or cause to be made to a law enforcement
14 agency or officer any false, misleading or unfounded report, for the purpose of
15 interfering with the operation of a law enforcement agency, or to hinder or obstruct any
16 law enforcement officer in the performance of his duty, shall be guilty of a
17 ~~misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00),~~
18 ~~imprisonment for not more than six months, or both. Class 2 misdemeanor.~~"

19 Sec. 40. Section 137 of Chapter 539 of the 1993 Session Laws is repealed.

21 **PART 8. EFFECTIVE DATE**

22
23 Sec. 41. Section 38 of this act becomes effective July 1, 1994, and applies to
24 offenses occurring on or after that date. Sections 39 and 40 of this act become effective
25 on the same day that Chapter 538 of the 1993 Session Laws becomes effective and
26 apply to offenses occurring on or after that date. The remainder of this act is effective
27 upon ratification. Prosecutions for offenses committed before the effective dates of Part
28 7 of this act are not abated or affected by Part 7 of this act, and the statutes that would
29 be applicable but for Part 7 of this act remain applicable to those prosecutions.