

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1255

Short Title: Amend Criminal Penalties.

(Public)

Sponsors: Representatives Brawley; Justus and Bowie.

Referred to: Judiciary II.

May 21, 1996

A BILL TO BE ENTITLED

AN ACT TO RECLASSIFY OR CHANGE THE PENALTIES FOR VARIOUS CRIMINAL OFFENSES AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION.

The General Assembly of North Carolina enacts:

**PART 1. RECLASSIFY ACCESSORY AFTER THE FACT**

Section 1. G.S. 14-7 reads as rewritten:

**"§ 14-7. Accessories after the fact; trial and punishment.**

If any person shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any statute made, or to be made, such person shall be guilty of a ~~felony, crime,~~ and may be indicted and convicted together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted for such ~~felony crime~~ whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, ~~and shall be punished as a Class H felon.~~ justice. Unless a different classification is expressly stated, that person shall be punished for an offense that is two classes lower than the felony the principal felon committed, except that an accessory after the fact to a Class A or Class B1 felony is a Class C felony, an accessory after the fact to a Class B2 felony is a Class D felony, an accessory after the fact to a Class H felony is a Class 1 misdemeanor, and an accessory

1 after the fact to a Class I felony is a Class 2 misdemeanor. The offense of such person  
2 may be inquired of, tried, determined and punished by any court which shall have  
3 jurisdiction of the principal felon, in the same manner as if the act, by reason whereof  
4 such person shall have become an accessory, had been committed at the same place as the  
5 principal felony, although such act may have been committed without the limits of the  
6 State; and in case the principal felony shall have been committed within the body of any  
7 county, and the act by reason whereof any person shall have become accessory shall have  
8 been committed within the body of any other county, the offense of such person guilty of  
9 a felony as aforesaid may be inquired of, tried, determined, and punished in either of said  
10 counties: Provided, that no person who shall be once duly tried for such felony shall be  
11 again indicted or tried for the same offense."  
12

### 13 **PART 2. RECLASSIFY VOLUNTARY MANSLAUGHTER**

14 Sec. 2. G.S. 14-18 reads as rewritten:

#### 15 **"§ 14-18. Punishment for manslaughter.**

16 Voluntary manslaughter shall be punishable as a Class ~~E~~D felony, and involuntary  
17 manslaughter shall be punishable as a Class F felony."  
18

### 19 **PART 3. RECLASSIFY CERTAIN EMBEZZLEMENT RELATED OFFENSES**

20 Sec. 3. G.S. 14-74 reads as rewritten:

#### 21 **"§ 14-74. Larceny by servants and other employees.**

22 If any servant or other employee, to whom any money, goods or other chattels, or any  
23 of the articles, securities or choses in action mentioned in the following section [G.S. 14-  
24 75], by his master shall be delivered safely to be kept to the use of his master, shall  
25 withdraw himself from his master and go away with such money, goods or other chattels,  
26 or any of the articles, securities or choses in action mentioned as aforesaid, or any part  
27 thereof, with intent to steal the same and defraud his master thereof, contrary to the trust  
28 and confidence in him reposed by his said master; or if any servant, being in the service  
29 of his master, without the assent of his master, shall embezzle such money, goods or  
30 other chattels, or any of the articles, securities or choses in action mentioned as  
31 aforesaid, or any part thereof, or otherwise convert the same to his own use, with like  
32 purpose to steal them, or to defraud his master thereof, the servant so offending shall be  
33 ~~punished as a Class H felon; guilty of a felony:~~ Provided, that nothing contained in this  
34 section shall extend to apprentices or servants within the age of 16 years. Larceny or  
35 embezzlement by servants and other employees of money, goods or other chattels, or any  
36 of the articles, securities, or choses in action mentioned in G.S. 14-75, with the value of  
37 one hundred thousand dollars (\$100,000) or more is a Class C felony. Larceny or  
38 embezzlement by servants and other employees of money, goods or other chattels, or any  
39 of the articles, securities, or choses in action mentioned in G.S. 14-75, with the value of  
40 less than one hundred thousand dollars (\$100,000) is a Class H felony."

41 Sec. 4. G.S. 14-90 reads as rewritten:

#### 42 **"§ 14-90. Embezzlement of property received by virtue of office or employment.**

1 If any person exercising a public trust or holding a public office, or any guardian,  
2 administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or  
3 agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons  
4 under the age of 16 years, of any person, shall embezzle or fraudulently or knowingly and  
5 willfully misapply or convert to his own use, or shall take, make away with or secrete,  
6 with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to  
7 his own use any money, goods or other chattels, bank note, check or order for the  
8 payment of money issued by or drawn on any bank or other corporation, or any treasury  
9 warrant, treasury note, bond or obligation for the payment of money issued by the United  
10 States or by any state, or any other valuable security whatsoever belonging to any other  
11 person or corporation, unincorporated association or organization which shall have come  
12 into his possession or under his care, he shall be ~~punished as a Class H felon.~~ guilty of a  
13 felony. Embezzlement of property with the value of one hundred thousand dollars  
14 (\$100,000) or more, received by virtue of office or employment, is a Class C felony.  
15 Embezzlement of property with the value of less than one hundred thousand dollars  
16 (\$100,000), received by virtue of office or employment, is a Class H felony."

17 Sec. 5. G.S. 14-91 reads as rewritten:

18 **"§ 14-91. Embezzlement of State property by public officers and employees.**

19 If any officer, agent, or employee of the State, or other person having or holding in  
20 trust for the same any bonds issued by the State, or any security, or other property and  
21 effects of the same, shall embezzle or knowingly and willfully misapply or convert the  
22 same to his own use, or otherwise willfully or corruptly abuse such trust, such offender  
23 and all persons knowingly and willfully aiding and abetting or otherwise assisting therein  
24 shall be ~~punished as a Class F felon.~~ guilty of a felony. Embezzlement of State property  
25 with the value of one hundred thousand dollars (\$100,000) or more by public officers and  
26 employees is a Class C felony. Embezzlement of State property with the value of less  
27 than one hundred thousand dollars (\$100,000) by public officers and employees is a Class  
28 F felony."

29 Sec. 6. G.S. 14-92 reads as rewritten:

30 **"§ 14-92. Embezzlement of funds by public officers and trustees.**

31 If an officer, agent, or employee of an entity listed below, or a person having or  
32 holding money or property in trust for one of the listed entities, shall embezzle or  
33 otherwise willfully and corruptly use or misapply the same for any purpose other than  
34 that for which such moneys or property is held, such person shall be ~~punished as a Class F~~  
35 ~~felon.~~ guilty of a felony. Embezzlement of money or property with the value of one  
36 hundred thousand dollars (\$100,000) or more by public officers and trustees is a Class C  
37 felony. Embezzlement of money or property with the value of less than one hundred  
38 thousand dollars (\$100,000) by public officers and trustees is a Class F felony. If any  
39 clerk of the superior court or any sheriff, treasurer, register of deeds or other public  
40 officer of any county, unit or agency of local government, or local board of education  
41 shall embezzle or wrongfully convert to his own use, or corruptly use, or shall misapply  
42 for any purpose other than that for which the same are held, or shall fail to pay over and  
43 deliver to the proper persons entitled to receive the same when lawfully required so to do,

1 any moneys, funds, securities or other property which such officer shall have received by  
2 virtue or color of his office in trust for any person or corporation, such officer shall be  
3 ~~punished as a Class F felon, guilty of a felony. Embezzlement of money, funds, securities,~~  
4 ~~or other property with the value of one hundred thousand dollars (\$100,000) or more by~~  
5 ~~public officers and trustees is a Class C felony. Embezzlement of money, funds,~~  
6 ~~securities, or other property with the value of less than one hundred thousand dollars~~  
7 ~~(\$100,000) by public officers and trustees is a Class F felony. The provisions of this~~  
8 section shall apply to all persons who shall go out of office and fail or neglect to account  
9 to or deliver over to their successors in office or other persons lawfully entitled to receive  
10 the same all such moneys, funds and securities or property aforesaid. The following  
11 entities are protected by this section: a county, a city or other unit or agency of local  
12 government, a local board of education, and a penal, charitable, religious, or educational  
13 institution."

14 Sec. 7. G.S. 14-93 reads as rewritten:

15 **"§ 14-93. Embezzlement by treasurers of charitable and religious organizations.**

16 If any treasurer or other financial officer of any benevolent or religious institution,  
17 society or congregation shall lend any of the moneys coming into his hands to any other  
18 person or association without the consent of the institution, association or congregation to  
19 whom such moneys belong; or, if he shall fail to account for such moneys when called  
20 on, he shall be guilty of a ~~Class H-felony. Embezzlement by treasurers of charitable and~~  
21 ~~religious organizations of money with the value of one hundred thousand dollars~~  
22 ~~(\$100,000) or more is a Class C felony. Embezzlement by treasurers of charitable and~~  
23 ~~religious organizations of money with the value of less than one hundred thousand dollars~~  
24 ~~(\$100,000) is a Class H felony."~~

25 Sec. 8. G.S. 14-94 reads as rewritten:

26 **"§ 14-94. Embezzlement by officers of railroad companies.**

27 If any president, secretary, treasurer, director, engineer, agent or other officer of any  
28 railroad company shall embezzle any moneys, bonds or other valuable funds or securities,  
29 with which such president, secretary, treasurer, director, engineer, agent or other officer  
30 shall be charged by virtue of his office or agency, or shall in any way, directly or  
31 indirectly, apply or appropriate the same for the use or benefit of himself or any other  
32 person, state or corporation, other than the company of which he is president, secretary,  
33 treasurer, director, engineer, agent or other officer, for every such offense the person so  
34 offending shall be guilty of a felony, and on conviction in the superior or criminal court  
35 of any county through which the railroad of such company shall pass, shall be punished  
36 as a ~~Class H-felon. Embezzlement by officers of railroad companies of money, bonds, or~~  
37 ~~other valuable funds or securities with the value of one hundred thousand dollars~~  
38 ~~(\$100,000) or more is a Class C felony. Embezzlement by officers of railroad companies~~  
39 ~~of money, bonds, or other valuable funds or securities with the value of less than one~~  
40 ~~hundred thousand dollars (\$100,000) is a Class H felony."~~

41 Sec. 9. G.S. 14-97 reads as rewritten:

42 **"§ 14-97. Appropriation of partnership funds by partner to personal use.**

1 Any person engaged in a partnership business in the State of North Carolina who  
2 shall, without the knowledge and consent of his copartner or copartners, take funds  
3 belonging to the partnership business and appropriate the same to his own personal use  
4 with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of  
5 a ~~Class H~~ felony. Appropriation of partnership funds with the value of one hundred  
6 thousand dollars (\$100,000) or more by a partner is a Class C felony. Appropriation of  
7 partnership funds with the value of less than one hundred thousand dollars (\$100,000) by  
8 a partner is a Class H felony."

9 Sec. 10. G.S. 14-98 reads as rewritten:

10 **"§ 14-98. Embezzlement by surviving partner.**

11 If any surviving partner shall willfully and intentionally convert any of the property,  
12 money or effects belonging to the partnership to his own use, and refuse to account for  
13 the same on settlement, he shall be ~~punished as a Class H felon~~ guilty of a felony.  
14 Embezzlement by a surviving partner of property, money, or effects with the value of one  
15 hundred thousand dollars (\$100,000) or more is a Class C felony. Embezzlement by a  
16 surviving partner of property, money, or effects with the value of less than one hundred  
17 thousand dollars (\$100,000) is a Class H felony."

18 Sec. 11. G.S. 14-99 reads as rewritten:

19 **"§ 14-99. Embezzlement of taxes by officers.**

20 If any officer appropriates to his own use the State, county, school, city or town taxes,  
21 he shall be guilty of embezzlement, and shall be punished as a ~~Class F~~ felon.  
22 Embezzlement of taxes with the value of one hundred thousand dollars (\$100,000) or  
23 more by officers is a Class C felony. Embezzlement of taxes with the value of less than  
24 one hundred thousand dollars (\$100,000) by officers is a Class F felony."

25 Sec. 12. G.S. 14-100(a) reads as rewritten:

26 "(a) If any person shall knowingly and designedly by means of any kind of false  
27 pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a  
28 future fulfillment or event, obtain or attempt to obtain from any person within this State  
29 any money, goods, property, services, chose in action, or other thing of value with intent  
30 to cheat or defraud any person of such money, goods, property, services, chose in action  
31 or other thing of value, such person shall be guilty of a ~~felony, and shall be punished as a~~  
32 ~~Class H felon~~ felony: Provided, that if, on the trial of anyone indicted for such crime, it  
33 shall be proved that he obtained the property in such manner as to amount to larceny or  
34 embezzlement, the jury shall have submitted to them such other felony proved; and no  
35 person tried for such felony shall be liable to be afterwards prosecuted for larceny or  
36 embezzlement upon the same facts: Provided, further, that it shall be sufficient in any  
37 indictment for obtaining or attempting to obtain any such money, goods, property,  
38 services, chose in action, or other thing of value by false pretenses to allege that the party  
39 accused did the act with intent to defraud, without alleging an intent to defraud any  
40 particular person, and without alleging any ownership of the money, goods, property,  
41 services, chose in action or other thing of value; and upon the trial of any such  
42 indictment, it shall not be necessary to prove either an intent to defraud any particular  
43 person or that the person to whom the false pretense was made was the person defrauded,

1 but it shall be sufficient to allege and prove that the party accused made the false pretense  
2 charged with an intent to defraud. Obtaining property with the value of one hundred  
3 thousand dollars (\$100,000) or more by false pretenses is a Class C felony. Obtaining  
4 property with the value of less than one hundred thousand dollars (\$100,000) by false  
5 pretenses is a Class H felony."

6 Sec. 13. G.S. 53-129 reads as rewritten:

7 "**§ 53-129. Misapplication, embezzlement of funds, etc.**

8 Whoever being an officer, employee, agent or director of a bank, with intent to  
9 defraud or injure the bank, or any person or corporation, or to deceive an officer of the  
10 bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or  
11 misapplies any of the money, funds, credit or property of such bank, whether owned by it  
12 or held in trust, or who, with such intent, willfully and fraudulently issues or puts forth a  
13 certificate of deposit, draws an order or bill of exchange, makes an acceptance, assigns a  
14 note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously borrows or  
15 solicits, obtains or receives money for a bank not in good faith, intended to become the  
16 property of such bank; or whoever being an officer, employee, agent, or director of a  
17 bank, makes or permits the making of a false statement or certificate, as to a deposit, trust  
18 fund or contract, or makes or permits to be made a false entry in a book, report, statement  
19 or record of such bank, or conceals or permits to be concealed by any means or manner,  
20 the true and correct entries of said bank, or its true and correct transactions, who  
21 knowingly loans, or permits to be loaned, the funds or credit of any bank to any insolvent  
22 company or corporation, or corporation which has ceased to exist, or which never had  
23 any existence, or upon collateral consisting of stocks or bonds of such company or  
24 corporation, or who makes or publishes or knowingly permits to be made or published a  
25 false report, statement or certificate as to the true financial condition of such bank, shall  
26 be ~~punished as a Class H felon~~ guilty of a felony. Embezzlement of money, funds, credit,  
27 or property with the value of one hundred thousand dollars (\$100,000) or more is a Class  
28 C felony. Embezzlement of money, funds, credit, or property with the value of less than  
29 one hundred thousand dollars (\$100,000) is a Class H felony."

30 Sec. 14. G.S. 58-2-162 reads as rewritten:

31 "**§ 58-2-162. Embezzlement by insurance agents, brokers, or administrators.**

32 If any insurance agent, broker, or administrator embezzles or fraudulently converts to  
33 his own use, or, with intent to use or embezzle, takes, secretes, or otherwise disposes of,  
34 or fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies any  
35 money, negotiable instrument, or other consideration received by him in his performance  
36 as an agent, broker, or administrator, he shall be ~~punished as a Class H felon~~ guilty of a  
37 felony. Embezzlement by insurance agents, brokers, or administrators of money,  
38 negotiable instrument, or other consideration with the value of one hundred thousand  
39 dollars (\$100,000) or more is a Class C felony. Embezzlement by insurance agents,  
40 brokers, or administrators of money, negotiable instrument, or other consideration with  
41 the value of less than one hundred thousand dollars (\$100,000) is a Class H felony."

42 Sec. 15. G.S. 90-210.70(a) reads as rewritten:

1       (a) Anyone who embezzles or who fraudulently, or knowingly and willfully  
2 misapplies, or in any manner converts preneed funeral funds to his own use, or for the use  
3 of any partnership, corporation, association, or entity for any purpose other than as  
4 authorized by this Article; or anyone who takes, makes away with or secretes, with intent  
5 to embezzle or fraudulently or knowingly and willfully misapply or in any manner  
6 convert preneed funeral funds for his own use or the use of any other person for any  
7 purpose other than as authorized by this Article shall be ~~punished as a Class H felon~~ guilty  
8 of a felony. Embezzlement of preneed funeral funds with the value of one hundred  
9 thousand dollars (\$100,000) or more is a Class C felony. Embezzlement of preneed  
10 funeral funds with the value of less than one hundred thousand dollars (\$100,000) is a  
11 Class H felony. Each such embezzlement, conversion, or misapplication shall constitute a  
12 separate offense and may be prosecuted individually. Upon conviction, all licenses issued  
13 under this Article shall be revoked."

#### 14 15 **PART 4. RECLASSIFY ESCAPE FROM PRISON**

16       Sec. 16. G.S. 14-255 reads as rewritten:

##### 17 **"§ 14-255. Escape of working prisoners from custody.**

18       If any prisoner removed from the local confinement facility or satellite jail/work  
19 release unit of a county pursuant to G.S. 162-58 shall escape from the person having him  
20 in custody or the person supervising him, he shall be guilty of a Class ~~3-1~~ misdemeanor."

21       Sec. 17. G.S. 14-256 reads as rewritten:

##### 22 **"§ 14-256. Prison breach and escape from county or municipal confinement** 23 **facilities or officers.**

24       If any person shall break any prison, jail or lockup maintained by any county or  
25 municipality in North Carolina, being lawfully confined therein, or shall escape from the  
26 lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he  
27 shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class ~~I-H~~  
28 felony if:

29       (1) He has been convicted of a felony and has been committed to the  
30 facility pending transfer to the State prison system; or

31       (2) He is serving a sentence imposed upon conviction of a felony."

32       Sec. 18. G.S. 148-45 reads as rewritten:

##### 33 **"§ 148-45. Escaping or attempting escape from State prison system; failure of** 34 **conditionally and temporarily released prisoners and certain youthful** 35 **offenders to return to custody of Department of Correction.**

36       (a) Any person in the custody of the Department of Correction in any of the  
37 classifications hereinafter set forth who shall escape from the State prison system, shall  
38 for the first such offense, except as provided in subsection (g) of this section, be guilty of  
39 a Class ~~I-felony~~ 1 misdemeanor:

40       (1) A prisoner serving a sentence imposed upon conviction of a  
41 misdemeanor;

- 1 (2) A person who has been charged with a misdemeanor and who has been  
2 committed to the custody of the Department of Correction under the  
3 provisions of G.S. 162-39;
- 4 (3) Repealed by Session Laws 1985, c. 226, s. 4.
- 5 (4) A person who shall have been convicted of a misdemeanor and who  
6 shall have been committed to the Department of Correction for  
7 presentence diagnostic study under the provisions of G.S. 15A-1332(c).
- 8 (b) Any person in the custody of the Department of Correction, in any of the  
9 classifications hereinafter set forth, who shall escape from the State prison system, shall,  
10 except as provided in subsection (g) of this section, be punished as a Class ~~I-H~~ felon.
- 11 (1) A prisoner serving a sentence imposed upon conviction of a felony;
- 12 (2) A person who has been charged with a felony and who has been  
13 committed to the custody of the Department of Correction under the  
14 provisions of G.S. 162-39;
- 15 (3) Repealed by Session Laws 1985, c. 226, s. 5.
- 16 (4) A person who shall have been convicted of a felony and who shall have  
17 been committed to the Department of Correction for presentence  
18 diagnostic study under the provisions of G.S. 15A-1332(c); or
- 19 (5) Any person previously convicted of escaping or attempting to escape  
20 from the State prison system.
- 21 (c) Repealed by Session Laws 1979, c. 760, s. 5.
- 22 (d) Any person who aids or assists other persons to escape or attempt to escape  
23 from the State prison system shall be guilty of a Class 1 misdemeanor.
- 24 (e) Repealed by Session Laws 1983, c. 465, s. 5.
- 25 (f) Any person convicted of an escape or attempt to escape classified as a felony  
26 by this section shall be immediately classified and treated as a convicted felon even if  
27 such person has time remaining to be served in the State prison system on a sentence or  
28 sentences imposed upon conviction of a misdemeanor or misdemeanors.
- 29 (g) (1) Any person convicted and in the custody of the North  
30 Carolina Department of Correction and ordered or otherwise assigned  
31 to work under the work-release program, G.S. 148-33.1, or any  
32 convicted person in the custody of the North Carolina Department of  
33 Correction and temporarily allowed to leave a place of confinement  
34 by the Secretary of Correction or his designee or other authority of  
35 law, who shall fail to return to the custody of the North Carolina  
36 Department of Correction, shall be guilty of the crime of escape and  
37 subject to the applicable provisions of this section and shall be  
38 deemed an escapee. For the purpose of this subsection, escape is  
39 defined to include, but is not restricted to, willful failure to return to  
40 an appointed place and at an appointed time as ordered.
- 41 (2) If a person, who would otherwise be guilty of a first violation of G.S.  
42 148-45(g)(1), voluntarily returns to his place of confinement within 24  
43 hours of the time at which he was ordered to return, such person shall



1 not be charged with an escape as provided in this section but shall be  
2 subject to such administrative action as may be deemed appropriate for  
3 an escapee by the Department of Correction; said escapee shall not be  
4 allowed to be placed on work release for a four-month period or for the  
5 balance of his term if less than four months; provided, however, that if  
6 such person commits a subsequent violation of this section then such  
7 person shall be charged with that offense and, if convicted, punished  
8 under the provisions of this section."  
9

## 10 **PART 5. RECLASSIFY CERTAIN OFFENSES COMMITTED IN PRISON**

11 Sec. 19. G.S. 90-95(e)(9) reads as rewritten:

12 "(e) The prescribed punishment and degree of any offense under this Article shall be  
13 subject to the following conditions, but the punishment for an offense may be increased  
14 only by the maximum authorized under any one of the applicable conditions:

15 (1),(2) Repealed by Session Laws 1979, c. 760, s. 5.

16 (3) If any person commits a Class 1 misdemeanor under this Article and if  
17 he has previously been convicted for one or more offenses under any  
18 law of North Carolina or any law of the United States or any other state,  
19 which offenses are punishable under any provision of this Article, he  
20 shall be punished as a Class I felon. The prior conviction used to raise  
21 the current offense to a Class I felony shall not be used to calculate the  
22 prior record level;

23 (4) If any person commits a Class 2 misdemeanor, and if he has previously  
24 been convicted for one or more offenses under any law of North  
25 Carolina or any law of the United States or any other state, which  
26 offenses are punishable under any provision of this Article, he shall be  
27 guilty of a Class 1 misdemeanor. The prior conviction used to raise the  
28 current offense to a Class 1 misdemeanor shall not be used to calculate  
29 the prior conviction level;

30 (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by  
31 selling or delivering a controlled substance to a person under 16 years of  
32 age or a pregnant female shall be punished as a Class E felon. Mistake  
33 of age is not a defense to a prosecution under this section. It shall not be  
34 a defense that the defendant did not know that the recipient was  
35 pregnant;

36 (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and  
37 (e)(4), previous convictions for offenses shall be counted by the number  
38 of separate trials at which final convictions were obtained and not by the  
39 number of charges at a single trial;

40 (7) If any person commits an offense under this Article for which the  
41 prescribed punishment requires that any sentence of imprisonment be  
42 suspended, and if he has previously been convicted for one or more  
43 offenses under any law of North Carolina or any law of the United

1 States or any other state, which offenses are punishable under any  
2 provision of this Article, he shall be guilty of a Class 2 misdemeanor;

3 (8) Any person 21 years of age or older who commits an offense under G.S.  
4 90-95(a)(1) on property used for an elementary or secondary school or  
5 within 300 feet of the boundary of real property used for an elementary  
6 or secondary school shall be punished as a Class E felon. For purposes  
7 of this subdivision, the transfer of less than five grams of marijuana for  
8 no remuneration shall not constitute a delivery in violation of G.S. 90-  
9 95(a)(1).

10 (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal  
11 institution or local confinement facility shall be guilty of a Class ~~I~~H  
12 felony."

13 Sec. 20. G.S. 148-46.1 reads as rewritten:

14 **"§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in**  
15 **incapacity to perform assigned duties.**

16 Any person serving a sentence or sentences within the State prison system who,  
17 during the term of such imprisonment, willfully and intentionally inflicts upon himself  
18 any injury resulting in a permanent or temporary incapacity to perform work or duties  
19 assigned to him by the State Department of Correction, or any prisoner who aids or abets  
20 any other prisoner in the commission of such offense, shall be punished as a Class ~~I~~H  
21 felon."  
22

23 **PART 6. REQUIRE ACTIVE SENTENCE FOR HABITUAL IMPAIRED**  
24 **DRIVING CONVICTION**

25 Sec. 21. G.S. 20-138.5(b) reads as rewritten:

26 "(b) A person convicted of violating this section shall be punished as a Class G  
27 felon. Notwithstanding the dispositions authorized in G.S. 15A-1340.17 for Class G  
28 felonies, the court shall impose an active term of imprisonment. The term of  
29 imprisonment shall be consistent with the durations specified for that class of offense and  
30 prior record level. Sentences imposed under this subsection shall run consecutively with  
31 and shall commence at the expiration of any sentence being served."  
32

33 **PART 7. EFFECTIVE DATE**

34 Sec. 22. This act becomes effective December 1, 1996, and applies to offenses  
35 committed on or after that date.