

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 40

Short Title: Prevent Rioting and Civil Disorder. (Public)

Sponsors: Representatives Moore, Sauls, Miller, and Willingham (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

February 2, 2023

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTIES FOR RIOTING OR INCITING RIOTING THAT CAUSES DAMAGE TO PROPERTY, SERIOUS BODILY INJURY, OR DEATH AND ASSAULTING EMERGENCY PERSONNEL DURING A RIOT OR STATE OF EMERGENCY; TO ALLOW RECOVERY OF TREBLE DAMAGES FOR PROPERTY DAMAGE OR PERSONAL INJURY CAUSED BY RIOTING OR LOOTING; AND TO REQUIRE PRETRIAL RELEASE CONDITIONS FOR RIOTING AND LOOTING OFFENSES TO BE DETERMINED BY A JUDGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-288.2 reads as rewritten:

"§ 14-288.2. Riot; inciting to riot; punishments.

(a) A riot is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

(b) Any person who willfully engages in a riot is guilty of a Class 1 misdemeanor.

(c) Any person who willfully engages in a riot is guilty of a Class H felony, if:

(1) ~~In the course and as a result of the riot there is property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury; or~~

(2) ~~Such participant in the riot has in his possession felony if in the course of the riot the person brandishes any dangerous weapon or uses a dangerous substance.~~

(c1) Any person who willfully engages in a riot is guilty of a Class F felony if in the course of the riot the person causes property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury.

(c2) Any person who willfully engages in a riot is guilty of a Class E felony if in the course of the riot the person causes a death.

(d) Any person who willfully incites or urges another to engage in a riot, so that as a result of such inciting or urging a riot occurs or a clear and present danger of a riot is created, is guilty of a ~~Class 1~~ Class A1 misdemeanor.

(e) Any person who willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which there is property damage in excess of fifteen hundred dollars (\$1,500) or serious bodily injury, ~~shall be punished as a Class F felon~~ shall be guilty of a Class E felony.



1 (e) Any person who willfully incites or urges another to engage in a riot, and such inciting
2 or urging causes a death, shall be guilty of a Class D felony.

3 (f) Any person whose person or property is injured by reason of a violation of this section
4 may sue for and recover from the violator three times the actual damages sustained, as well as
5 court costs and attorneys' fees.

6 (g) Mere presence alone without an overt act is not sufficient to sustain a conviction
7 pursuant to this section."

8 **SECTION 2.** G.S. 14-288.6 is amended by adding a new subsection to read:

9 "(c) Any person whose person or property is injured by reason of a violation of this section
10 may sue for and recover from the violator three times the actual damages sustained, as well as
11 court costs and attorneys' fees."

12 **SECTION 3.** G.S. 14-288.9 reads as rewritten:

13 "**§ 14-288.9. Assault on emergency personnel; punishments.**

14 (a) An assault upon emergency personnel is an assault upon any person coming within
15 the definition of "emergency personnel" which is committed in an area:

16 (1) In which a declared state of emergency exists; or

17 (2) Within the immediate vicinity of which a riot is occurring or is imminent.

18 (b) The term "emergency personnel" includes law-enforcement officers, firemen,
19 ambulance attendants, utility workers, doctors, nurses, members of the North Carolina National
20 Guard, and other persons lawfully engaged in providing essential services or otherwise
21 discharging or attempting to discharge his or her official duties during the emergency.

22 (c) Any person who commits an assault ~~causing physical injury~~ upon emergency
23 personnel is guilty of a ~~Class I felony.~~ Class H felony. Any person who commits an assault upon
24 emergency personnel with or through the use of any dangerous weapon or substance shall be
25 punished as a Class F felon."

26 **SECTION 4.** Article 26 of Chapter 15A of the General Statutes is amended by
27 adding a new section to read:

28 "**§ 15A-534.8. Rioting or looting; bail and pretrial release.**

29 (a) In all cases in which the defendant is charged with a violation of G.S. 14-288.2 or
30 G.S. 14-288.6, the judicial official who determines the conditions of pretrial release shall be a
31 judge. The judge shall direct a law enforcement officer or a district attorney to provide a criminal
32 history report for the defendant and shall consider the criminal history when setting conditions
33 of release. After setting conditions of release, the judge shall return the report to the providing
34 agency or department. No judge shall unreasonably delay the determination of conditions of
35 pretrial release for the purpose of reviewing the defendant's criminal history report. The
36 following provisions shall apply in addition to the provisions of G.S. 15A-534:

37 (1) Upon a determination by the judge that the immediate release of the defendant
38 will pose a danger of injury to persons and upon a determination that the
39 execution of an appearance bond as required by G.S. 15A-534 will not
40 reasonably assure that such injury will not occur, a judge may retain the
41 defendant in custody for a reasonable period of time while determining the
42 conditions of pretrial release.

43 (2) A judge may order the defendant to stay away from specific locations or
44 property where the offense occurred. This condition may be imposed in
45 addition to requiring that the defendant execute a secured appearance bond.

46 (3) Should the defendant be mentally ill and dangerous to himself or herself or
47 others, or a substance abuser and dangerous to himself or herself or others, the
48 provisions of Article 5 of Chapter 122C of the General Statutes shall apply.

49 (b) A defendant may be retained in custody not more than 48 hours from the time of arrest
50 without a determination being made under this section by a judge. If a judge has not acted

1 pursuant to this section within 48 hours of arrest, the magistrate shall act under the provisions of
2 this section."

3 **SECTION 5.** This act becomes effective December 1, 2023, and applies to offenses
4 committed on or after that date.