



HOUSE BILL 315: Arson Law Revisions.

2021-2022 General Assembly

Committee:		Date:	August 1, 2022
Introduced by:		Prepared by:	Robert Ryan
Analysis of:	S.L. 2022-8		Staff Attorney

OVERVIEW: *S.L. 2022-8 makes the following changes to various laws related to arson:*

- *Increases the punishment for certain arson offenses. This section becomes effective December 1, 2022, and applies to offenses committed on or after that date.*
- *Creates a new Class F felony for "serious injury" suffered by a firefighter, law enforcement officer, fire investigator, or emergency medical technician in responding to a fire caused by arson. This section becomes effective December 1, 2022, and applies to offenses committed on or after that date.*
- *Requires criminal history background checks of applicants to fire departments, requires applicants to disclose certain convictions, and prohibits persons convicted of certain crimes from serving as a volunteer or paid member of a fire department. This section became effective June 14, 2022, and applies to applications submitted on or after that date.*

BILL ANALYSIS:

Section 1 amends various arson statutes as follows:

- Increases the penalty for second degree arson from a Class G felony to a Class E felony. [Section 1(a)]
- Creates a new Class D felony for burning a penal institution. [Section 1(b)]
- Creates a new Class D felony for burning an occupied commercial structure, and a new Class E felony for burning an unoccupied commercial structure. A commercial structure is defined as "any building or structure that is designed principally for the manufacture, distribution, or exchange of goods or services, or for any other business or trade purpose." [Section 1(i)]
- Makes conforming changes to several existing arson statutes.

Section 2 creates a new Class F felony for "serious injury" suffered by a firefighter, law enforcement officer, fire investigator, or emergency medical technician in responding to a fire caused by arson. Case law has stated that whether an injury is serious is a question of fact. Serious injury can be physical or mental and relevant factors in determining whether an injury is serious include pain and suffering, loss of blood, hospitalization, and time lost from work. ⁱ

Section 3 makes changes to the law regarding criminal history background checks for applicants for positions with a fire department as follows:

- Requires fire departments to conduct a criminal history record check on any applicant for a volunteer or paid position with the fire department.

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- Prohibits an applicant from serving in a paid or volunteer position with a fire department if the applicant refuses to submit to a criminal history record check.
- Prohibits an applicant from serving in a paid or volunteer position with a fire department if the applicant's criminal history record check reveals a conviction of arson or another felony conviction involving burning or setting fire under Article 15, Article 22, or any other Article of Chapter 14 of the General Statutes.
- Requires an applicant to disclose any pending felony charges involving burning or setting fire under Article 15, Article 22, or any other Article of Chapter 14 of the General Statutes, and only allows a fire department to extend a conditional offer of a position pending the final disposition of the pending charges.

EFFECTIVE DATE: Sections 1 and 2 of this act become effective December 1, 2022, and apply to offenses committed on or after that date. Section 3 of this act became effective June 14, 2022, and applies to applications submitted on or after that date. The remainder of this act became effective June 14, 2022.

BACKGROUND:

A Class D felony is punishable by an absolute minimum of 38 months active punishment and an absolute maximum of 204 months active punishment, depending on prior record level.

A Class E felony is punishable by an absolute minimum of 15 months intermediate punishment and an absolute maximum of 88 months active punishment, depending on prior record level.

A Class F felony is punishable by an absolute minimum of 10 months intermediate punishment and an absolute maximum of 59 months active punishment, depending on prior record level.

A Class G felony is punishable by an absolute minimum of 8 months intermediate punishment and an absolute maximum of 47 months active punishment, depending on prior record level.

**Susan Sitze, Staff Attorney, substantially contributed to this summary.*

ⁱ North Carolina Crimes – A Guidebook on the Elements of Crime (Smith)