



HOUSE BILL 805: Prevent Rioting and Civil Disorder.

2021-2022 General Assembly

Committee:		Date:	February 28, 2022
Introduced by:	Reps. Moore, McNeill, Miller, Sauls	Prepared by:	Jennifer H. Bedford
Analysis of:	Ratified		Staff Attorney

OVERVIEW: *House Bill 805 would have made the following changes:*

- *Clarified that active conduct is required for criminal prosecution of riot offenses.*
- *Increased some penalties for current offenses and create new offenses related to rioting.*
- *Authorized a specific civil action for injury to person or property stemming from rioting, looting or trespass during an emergency.*
- *Included members of the National Guard in a prohibition on certain assaults on emergency personnel.*
- *Increased the penalty for certain assaults on emergency personnel.*
- *Created requirements for bail and pretrial release for defendants charged with rioting, and looting or trespass during an emergency.*

House Bill 805 was ratified by the General Assembly on September 1, 2021, and vetoed by the Governor on September 10, 2021.

CURRENT LAW: G.S. 14-288.2 prohibits riot and inciting a riot, and provides the following criminal penalties:

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

G.S. 14-288.9 prohibits assault on emergency personnel and provides the following criminal penalties:

- Class I felony: An assault on emergency personnel causing physical injury.
- Class F felony: An assault on emergency personnel committed with a dangerous weapon or substance.

G.S. 14-288.6 prohibits looting and trespass during an emergency.

G.S. 14-34.5 provides the following criminal penalties for certain assaults on emergency personnel:

- Class D felony: An assault on a law enforcement officer with a firearm is a Class D felony.
- Class E felony: An assault with a firearm on a member of the North Carolina National Guard.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

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G.S. 14-34.2 provides that an assault with a firearm or any other deadly weapon on an officer or employee of the State or any political subdivision of the State, is a Class F felony.

Article 26 of Chapter 15A of the General Statutes provides the process for setting pretrial release conditions for defendants.

BILL ANALYSIS:

This bill would have made the following changes to the rioting prohibition:

- Clarified active conduct is required for criminal prosecution of certain riot offenses.
- Increased willfully inciting or urging another to engage in a riot that results in a riot, from a Class 1 misdemeanor to a Class A1 misdemeanor
- Increased willfully engaging in a riot if it results in property damage of \$1,500 or more or serious bodily injury, from a Class H felony to a Class F felony.
- Created a new Class E felony for willfully engaging in a riot if in the course of and as a result of the riot, there is a death.
- Created a new Class D felony for willfully inciting a riot if that inciting is a contributing cause of a riot in which a death results.
- Authorized specific civil actions for the criminal conduct of rioting, looting or trespass during an emergency, and outlines the possible monetary recovery in that action.

This bill would have made the following changes to the crime of assault on emergency personnel:

- Added members of the North Carolina National Guard to the definition of emergency personnel in the criminal prohibition on certain assaults on emergency personnel.
- Removed physical injury as an element of the existing Class I felony assault on emergency personnel, and increase the penalty to a Class H felony.

This bill would have made the following changes to conditions of pretrial release:

- Established additional requirements for bail and pretrial release conditions for a defendant charged with rioting or looting which are similar to the conditions placed on defendants charged with domestic violence.
- Required that a judge determine the conditions of pretrial release for a defendant charged with rioting or looting, unless 48 hours elapsed, at which time a magistrate could determine the conditions.

EFFECTIVE DATE: House Bill 805 was ratified by the General Assembly on September 1, 2021, and vetoed by the Governor on September 10, 2021.

***Staff Attorney Kara McCraw contributed to this summary.**