



HOUSE BILL 40: Prevent Rioting and Civil Disorder.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	February 8, 2023
Introduced by:	Reps. Moore, Sauls, Miller, Willingham	Prepared by:	Susan Sitze
Analysis of:	First Edition		Staff Attorney

OVERVIEW: *House Bill 40 would make the following changes:*

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

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.

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.

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

BILL ANALYSIS:

Section 1 would:

- Clarify active conduct is required for criminal prosecution of certain riot offenses.
- Increase 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
- Increase 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.
- Create 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.
- Create 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.

Sections 1 and 2 would authorize specific civil actions for the criminal conduct of rioting, looting or trespass during an emergency, and outlines the possible monetary recovery in that action.

Section 3 would:

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

Section 4 would:

- Establish 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.
- Require that a judge determine the conditions of pretrial release for a defendant charged with rioting or looting, unless 48 hours have elapsed, at which time a magistrate could determine the conditions.

EFFECTIVE DATE: The bill would become effective December 1, 2023, and would apply to offenses committed on or after that date.