



# HOUSE BILL 40: Prevent Rioting and Civil Disorder.

2023-2024 General Assembly

<b>Committee:</b>		<b>Date:</b>	December 14, 2023
<b>Introduced by:</b>		<b>Prepared by:</b>	Susan Sitze Staff Attorney
<b>Analysis of:</b>	S.L. 2023-6		

**OVERVIEW:** *S.L. 2023-6 makes the following changes:*

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

*This act became effective December 1, 2023, and applies to offenses committed on or after that date.*

*Note: This act was further amended by Section 4 of [S.L. 2023-71](#) (S626).*

**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.

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

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- 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.

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

## **BILL ANALYSIS:**

**Note: This act was further amended by Section 4 of [S.L. 2023-71](#) (S626).**

**Section 1** amends G.S. 14-288.2 in the following manner:

- Clarifies active conduct is required for criminal prosecution of certain riot offenses.
- Increases willfully engaging in a riot if it results in property damage of \$2,500 or more, or serious bodily injury, from a Class H felony to a Class F felony.
- Creates 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.
- Increases 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.
- Revises the law related to inciting a riot so that if the incited riot causes property damage of \$2,500 or more the conduct would be punished as a Class E felony.
- Creates 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** 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** amends G.S. 14-288.9 in the following manner:

- Adds members of the North Carolina National Guard to the definition of emergency personnel in the criminal prohibition on certain assaults on emergency personnel.
- Removes physical injury as an element of the existing Class I felony assault on emergency personnel, and increases the penalty to a Class H felony.
- Creates a new Class E felony for an assault upon emergency personnel causing serious bodily injury.
- Creates a new Class D felony for an assault upon emergency personnel causing death.

**Section 4** enacts a new G.S. 15A-534.8 which does the following:

- Establishes 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.
- Requires that a judge determine the conditions of pretrial release for a defendant charged with rioting or looting, unless 24 hours have elapsed, at which time a magistrate may determine the conditions.

**Section 4.1** clarifies that this act shall not be construed to prevent or prohibit an individual's First Amendment rights.

**Section 4.5** requires the Department of Justice to develop model law enforcement agency protest response and engagement policies.

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**EFFECTIVE DATE:** This act became effective December 1, 2023, and applies to offenses committed on or after that date.

*\*Robert Ryan, staff attorney, substantially contributed to this summary.*