



HOUSE BILL 308: 2026 Criminal Law Changes.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2025-2026 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 19, 2026
Introduced by:	Rep. Stevens	Prepared by:	Robert Ryan
Analysis of:	PCS to Third Edition H308-CSCE-35		Committee Counsel

OVERVIEW: The Proposed Committee Substitute (PCS) for H308 would do the following:

- *Make certain changes to the expunction laws.*
- *Amend the offense of assault inflicting serious bodily injury and strangulation.*
- *Modify the laws related to pretrial release and certain riot-related offenses.*
- *Create a new offense for possession of theft tools with intent to commit larceny from a merchant.*
- *Modify the laws related to the offense of indecent exposure.*
- *Modify the law related to access for children's advocacy center records.*
- *Specifically prohibit sex offenders from seasonal child care camps.*
- *Make certain changes related to the North Carolina Sentencing and Policy Advisory Commission.*
- *Create new indecent liberties with children offenses.*
- *Create a new offense for escape from a juvenile detention facility.*
- *Prohibit the creation and distribution of fictitious license plates.*
- *Make modifications to the expunction laws governing certification of law enforcement officers.*

CURRENT LAW AND BILL ANALYSIS:

Sections 1 through 5 – Expunction changes

Sections 1 through 5 make certain changes related to the expunction of criminal cases.

Section 1 – Civil file number for property return after expunction. G.S. 15-11.1 governs the seizure, custody, and return of property in a criminal case. Generally, when property is seized as evidence in a criminal case the law enforcement agency seizing the property must safeguard that property for its use at trial. The district attorney generally has authority to release property to its rightful owner when the district attorney determines the property is no longer needed as evidence. If the property owner disagrees with the district attorney's determination about the release of property, the owner can seek court intervention to release the property.

Article 5 of Chapter 15A contains the laws related to the expunction of criminal charges in North Carolina. When a criminal case is expunged, the existence of that case is removed from a defendant's criminal

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history, and the related court records are deleted from the public's view and generally no longer accessible. However, G.S. 15A-151 provides an exception to access for expunged offenses and requires that the Administrative Office of the Courts (AOC) maintain a database of these expunged offenses and only allow access to certain listed entities.

Section 1 would modify G.S. 15-11.1 and 15A-151 to facilitate the release of seized property after a case has been expunged and the court file is no longer generally available. It would modify G.S. 15A-151 to require AOC to grant access to the list of expunged cases upon request of a judge for the purpose of determining the disposition of seized property. This change would work in conjunction to the modification with G.S. 15-11.1 which would require the assignment of a civil file number to the application for release of the seized property since the criminal file number of the expunged case would no longer exist.

Section 2 – Allow for expungement of pre-2021 infractions. G.S. 15A-146 provides that when charges are either dismissed or a defendant is found not guilty, the person, or the district attorney, may apply to have the charges expunged from the defendant's criminal history. Under current law, which became effective 2021, these charges, including infractions, would be expunged by operation of law.

Section 2 would modify the above law to clarify that infractions dismissed before 2021 can be expunged by application to the court.

Section 3 – Eliminate monetary obligations upon expunction. G.S. 15A-153 provides the law related to the legal effects of expunged charges.

Section 3 would create a new subsection in G.S. 15A-153 stating that an expunction shall have the effect of eliminating any costs, fees, fines, or other monetary obligations of the petitioner that are outstanding in the expunged criminal case. It does not eliminate restitution, civil judgments representing amounts ordered for restitution, or any filing fees for expunction petitions.

Section 4 – Civil number assigned to bond and civil judgement expunction cases. Section 4 would create another new subsection in G.S. 15A-153 to provide that upon an expunction the clerk shall assign a civil file number (not a criminal number) to any subsequent bond forfeiture or civil judgment proceedings. Therefore, in the public record there would not be a criminal file number associated with a person who has had a criminal case expunged.

Section 5 – Expunction of certain warrants for extradition. Article 37 of Chapter 15A is the Uniform Criminal Extradition Act, and it provides the procedure for the extradition of a defendant from North Carolina to another state, or jurisdiction. In order to facilitate this extradition a North Carolina court case and file will be opened.

Section 5 would create a new statute, G.S. 15A-145.10, to allow for a defendant to expunge the North Carolina extradition court record if the out-of-state case for which the defendant was extradited was ultimately dismissed or expunged.

Section 6 – Amend strangulation penalties. G.S. 14-32.4, Assault inflicting serious bodily injury; strangulation, provides that it is a Class F felony to assault another person and cause serious bodily injury. Additionally, it is a Class H felony to assault a person and inflict physical injury by strangulation.

Section 6 would increase the punishment for assault with serious bodily injury from a Class F felony to a Class E felony. It would define strangulation as "impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of the person or by obstructing the nose and mouth of the person." This section would make assault by strangulation (with no injury) punishable as a Class H felony. It would increase the punishment for strangulation that inflicts physical injury from a Class H felony to a Class G felony.

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Section 7 – Riot law changes. G.S. 15A-534.8 provides specific laws regarding pretrial release conditions when a defendant is charged with a violation of G.S. 14-288.2 (Riot) or G.S. 14-288.6 (Looting). Generally, only a judge (and not a magistrate) is authorized to set conditions of pretrial release if a defendant is charged with one of these offenses. However, if a judge has not acted within 24 hours, a magistrate is then authorized to set the conditions of pretrial release. Additionally, there is a provision which provides that a judge "may" order the defendant to stay away from the location where the offense occurred.

Section 7 would modify G.S. 15A-534.8 in the following ways. First, the offense of G.S. 14-288.5 (Failure to disperse when commanded) would be added as an offense covered by the special provisions of G.S. 15A-534.8. G.S. 14-288.5 provides that it is a misdemeanor to not disperse when a law enforcement officer reasonably believes that a riot is occurring. Second, the exclusive period where only a judge could set conditions of pretrial release would be changed from 24 hours to 48 hours. Third, the provision related to ordering a defendant to stay away from a specific location would become a mandatory provision and be required to last for no less than 10 days from the date of the offense.

Section 8 – Theft tools offense. Article 16 of Chapter 14 contains numerous criminal laws related to larceny. The specific offense charged in a particular case would depend on the facts of each individual case. G.S. 14-72.11, Larceny from a merchant, provides that it is a Class H felony to commit larceny against a merchant under certain listed circumstances, including by moving, destroying, or deactivating a component of an antishoplifting device.

Section 8 would create a new criminal offense, G.S. 14-72.13, Possession of theft tools with intent to commit larceny from a merchant. A person would commit a violation of this offense if the person is located in an area of a retail establishment where goods are stored or sold while the person knowingly possesses a "theft tool" with the intent to use the theft tool to commit larceny from a merchant. A violation of this offense would be a Class I felony. A theft tool is a defined term in the bill, but generally means an item used to defeat a theft controlled device.

Section 9 – Indecent exposure offense. G.S. 14-190.9, Indecent exposure, generally provides that it is a Class 2 misdemeanor to commit the offense of indecent exposure. However, subsection (a1) "felonious indecent exposure" provides that if a person is 18 or older and exposes themselves to a minor that offense is a Class H felony. Additionally, that person would be required to register as a sex offender since that offense is listed as a sexually violent offense in G.S. 14-208.6 (although this is not currently reflected on the face of G.S. 14-190.9).

Section 9 would create two new offenses within G.S. 14-190.9: Habitual Indecent Exposure and Aggravated Habitual Indecent Exposure.

A person commits Habitual Indecent Exposure when the person commits a violation of an indecent exposure offense, *other than* felonious indecent exposure, after having been previously convicted of any indecent exposure offense. A violation of this offense would be a Class F felony and subject the person to register as a sex offender.

A person commits Aggravated Habitual Indecent Exposure when the person commits a violation of felonious indecent exposure, after having been previously convicted of any indecent exposure offense. A violation of this offense would be a Class E felony and subject the person to register as a sex offender.

Section 10 – Access for children's advocacy center records. G.S. 108A-77.4 governs access to children's advocacy center (CAC) records. These records are generally protected from disclosure to the public, but depending on the status of the child's case the records may be released to certain parties, with or without a court order in a particular case. Currently, law enforcement agencies, district attorneys, and

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other listed entities, must obtain a court order before being allowed access to CAC records related to a child referred to a CAC by law enforcement action.

Section 10 would allow disclosure of CAC records related to a child referred to a CAC by law enforcement action to law enforcement agencies, district attorney, and other listed entities without the need to first obtain a court order. However, the release of these records would be subject to a protective order restricting further disclosure of those records without court order.

Section 11 – Prohibit sex offender from seasonal child care camps. G.S. 14-208.18 prohibits registered sex offenders from being present at certain locations where children can be present. Specifically, registered sex offenders are prohibited from being on the premises of any place intended primarily for the use, care, or supervision of minors, including schools, children's museums, child care centers, nurseries and seasonal child care camps. Registered sex offenders are also generally prohibited from being at any place where minors frequently congregate.

Section 11 would modify G.S. 14-208.18 to expressly provide that registered sex offenders are prohibited from being present at seasonal child care camps when operating as a seasonal child care camp.

Section 12 – Sentencing commission changes. Article 4 of Chapter 164 contains the laws establishing and governing the North Carolina Sentencing and Policy Advisory Commission (the Commission). The Commission is tasked generally to make recommendations to the General Assembly for the modification of sentencing laws and policies to further the policies stated in G.S. 164-36.

G.S. 164-37 contains the membership make up of the Commission. The Commission consists of 29 members – each with a specific eligibility criteria. One of the criteria is that a member of the Commission be "a rehabilitated former prison inmate."

Section 12(a) changes this member criteria to be "a previously justice-involved individual."

G.S. 164-38 contains provisions regarding the reimbursement of expenses for Commission members. Currently, the reimbursement rate for travel is set by each Commission member's employing agency, which may be different amounts for the same travel distances.

Section 12(b) would set the travel rate as determined by the Judicial Branch as the travel rate of reimbursement for all Commission members.

Sections 12(c) and (d) make technical changes.

Section 13 – Modify taking indecent liberties with children offense. G.S. 14-202.1, Taking indecent liberties with children, provides that it is a Class F for a person 16 or older, and at least five years older than the child in question, to do either of the following:

- Willfully take or attempt to take any immoral, improper, or indecent liberties with any child of either sex for the purpose of arousing or gratifying sexual desire.
- Willfully commit or attempt to commit any lewd or lascivious act upon or with the body or any part or member of the body of any child of either sex.

Section 13 would modify the single indecent liberties offense and create four distinct offenses instead. The offenses would increase in severity based on the age of the victim and the conduct engaged in by the defendant. In all cases the defendant would have to be at least 16 years old and five years older than the victim, then the additional criteria would be as follows:

- Taking indecent liberties in the first degree – Class C felony:
 - Willfully commits any lewd or lascivious act upon or with the body of any child.

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- The child is less than 13 years old.
- Taking indecent liberties in the second degree – Class D felony:
 - Willfully commits any lewd or lascivious act upon or with the body of any child.
 - The child is 13, 14, or 15 years old.
- Taking indecent liberties in the third degree – Class E felony:
 - Willfully takes any immoral, improper, or indecent liberties with any child.
 - The child is less than 13 years old.
- Taking indecent liberties with the fourth degree – Class F felony:
 - Willfully takes any immoral, improper, or indecent liberties with any child.
 - The child is 13, 14, or 15 years old.
- Repeat offender of taking indecent liberties – Class B1 felony:
 - Has previously been convicted of an offense requiring registration as a sex offender.
 - Commits one of the above offenses.

Section 14 – Escape from juvenile detention facility offense. G.S. 14-256, provides that it is a criminal offense to "break any prison, jail or lockup" or "escape" the "lawful custody of any superintendent, guard or officer of such prison, jail or lockup." Generally, violation of G.S. 14-256 is a Class 1 misdemeanor, but violation becomes a Class H felony upon the violator meeting certain listed criteria. There is no criminal offense for escaping from a juvenile justice facility.

Section 14 would create a new criminal offense, G.S. 14-256.2, Escape from juvenile detention facilities or officers. This new offense would prohibit escape from any detention facility, holdover facility, or youth development center and escape from any employee, guard or officer of the Division. Generally, violation would be a Class 1 misdemeanor, but violation would become a Class H felony upon the violator meeting certain listed criteria, such as being charged with a felony offense or an offense that would be a felony if committed by an adult.

Section 15 – Prohibit creation and distribution of fictitious license plates. G.S. 20-111 provides certain restrictions about the deceptive use of license plates and registrations. Section 15 would create an offense providing that it is a Class 3 misdemeanor for any person to manufacture, create, sell, or give to another without consideration, a fictitious license plate. A "fictitious license plate" means a license plate of a size, shape, color, and design which is identical to that of a license plate issued by the Division.

Section 16 – Expunctions related to law enforcement certifications.

G.S. 17C-13 and G.S. 17E-12 govern the treatment of expunctions for certified law enforcement officers. Sheriffs are governed by Chapter 17E, and other law enforcement officers are governed by Chapter 17C. Both laws would be modified to provide that law enforcement certification can be denied, suspended, or revoked based upon the commission of a crime regardless of whether the charge or conviction was expunged.

EFFECTIVE DATE: The various sections would become effective December 1, 2026, with the new criminal offenses applying to offenses committed on or after that date.