

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 187

Short Title: Amend Prior Record Level Calculations.

(Public)

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Sponsors: Representative Bowie.

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Referred to: Judiciary II.

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February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE NORTH CAROLINA SENTENCING AND POLICY  
2 ADVISORY COMMISSION'S RECOMMENDATIONS TO PROVIDE THAT  
3 MULTIPLE PRIOR CONVICTIONS ARISING OUT OF SEPARATE  
4 TRANSACTIONS SHALL BE USED IN CALCULATING PRIOR RECORD  
5 LEVELS IF THOSE CONVICTIONS ARE NOT TRANSACTIONALLY  
6 RELATED OFFENSES.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 15A-1340.14(d) reads as rewritten:

10 "(d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of  
11 determining the prior record level, if an offender is convicted of more than one offense in  
12 a single superior court during one calendar week, or in a single session of district court,  
13 only the conviction for the offense with the highest point total is used. ~~If an offender is~~  
14 ~~convicted of more than one offense in a single session of district court, only one of the~~  
15 ~~convictions is used.~~ However, if at the time of sentencing for those convictions that court  
16 found that the offenses were not transactionally related pursuant to G.S. 15A-1340.15(c)  
17 or G.S. 15A-1340.22(c), each conviction is used for purposes of determining the prior  
18 record level."

19 Section 2. G.S. 15A-1340.15 is amended by adding a new subsection to read:

1        "(c) Transactionally Related Convictions. – Unless otherwise specified by the  
2 court, if an offender is convicted of more than one offense in a single superior court  
3 during one calendar week, or in a single session of district court, those offenses are  
4 transactionally related. At the time of conviction the State may move the court to find  
5 that the current offenses are not transactionally related. The State must prove by a  
6 preponderance of the evidence that the current offenses are not transactionally related. In  
7 determining whether offenses are not transactionally related, the following factors are  
8 relevant but not dispositive: whether the offenses were of the same or similar character,  
9 based on the same act or transaction, based on two or more acts or transactions connected  
10 together or constituting parts of a common scheme or plan, or whether the offenses were  
11 committed at a single time or in temporally continuous actions. An offense that threatens  
12 or results in bodily injury or death is not transactionally related. For purposes of this  
13 subsection, the offenses of first-degree rape (G.S. 14-27.2), second-degree rape (G.S. 14-  
14 27.3), first-degree sexual offense (G.S. 14-27.4), second-degree sexual offense (G.S. 14-  
15 27.5) and intercourse and sexual offenses with certain victims (G.S. 14-27.7) are deemed  
16 to result in bodily injury. The judgment shall contain the finding."

17        Section 3. G.S. 15A-1340.21(d) reads as rewritten:

18        "(d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of  
19 this section, if an offender is convicted of more than one offense in a single session of  
20 district court, or in a single week of superior court or of a court in another jurisdiction,  
21 only one of the convictions may be used to determine the prior conviction level.  
22 However, if at the time of sentencing for those convictions that court found that the  
23 offenses were not transactionally related pursuant to G.S. 15A-1340.15(c) or G.S. 15A-  
24 1340.22(c), each conviction is used for purposes of determining the prior conviction  
25 level."

26        Section 4. G.S. 15A-1340.22 is amended by adding a new subsection to read:

27        "(c) Transactionally Related Convictions. – Unless otherwise specified by the  
28 court, if an offender is convicted of more than one offense in a single session of district  
29 court, or in a single week of superior court or of a court in another jurisdiction, those  
30 offenses are transactionally related. At the time of conviction the State may move the  
31 court to find that the current offenses are not transactionally related. The State must  
32 prove by a preponderance of the evidence that the current offenses are not transactionally  
33 related. In determining whether offenses are not transactionally related, the following  
34 factors are relevant but not dispositive: whether the offenses were of the same or similar  
35 character, based on the same act or transaction, based on two or more acts or transactions  
36 connected together or constituting parts of a common scheme or plan, or whether the  
37 offenses were committed at a single time or in temporally continuous actions. An offense  
38 that threatens or results in bodily injury or death is not transactionally related. For  
39 purposes of this subsection, the offenses of first-degree rape (G.S. 14-27.2), second-  
40 degree rape (G.S. 14-27.3), first-degree sexual offense (G.S. 14-27.4), second-degree  
41 sexual offense (G.S. 14-27.5), and intercourse and sexual offenses with certain victims  
42 (G.S. 14-27.7) are deemed to result in bodily injury. The judgment shall contain the  
43 finding."

1           Section 5. This act becomes effective December 1, 1997, and applies to  
2 offenses sentenced on or after that date.