

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 495

Short Title: Aggregation of Multiple Financial Crimes. (Public)

Sponsors: Representatives Crutchfield, Greene, and K. Baker (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 29, 2023

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT MULTIPLE ACTS OF CERTAIN FINANCIAL CRIME OFFENSES MAY BE AGGREGATED IN CERTAIN CIRCUMSTANCES WHEN DETERMINING THE LEVEL OF PUNISHMENT TO BE IMPOSED AND TO PROVIDE THAT PROVING IT WAS THE REGULAR PRACTICE OF A BUSINESS ACTIVITY TO MAKE A MEMORANDUM, REPORT, OR DATA COMPILATION MAY BE MADE BY AN UNSWORN DECLARATION UNDER PENALTY OF PERJURY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1340.16F. Aggregation of multiple financial crime offenses.

(a) Definition. – For purposes of this section, the term "financial crime offense" means any of the following:

(1) Acts of embezzlement punishable under Article 18 of Chapter 14 of the General Statutes.

(2) Acts of false pretenses punishable under G.S. 14-100.

(3) Acts of exploitation of an older adult punishable under G.S. 14-112.2.

(b) Aggregation. – If a person is convicted of two or more of the same financial crime offenses, the financial crime offenses may be aggregated for sentencing if it is found that both of the following conditions are met:

(1) The person committed the financial crime offenses against more than one victim or in more than one county.

(2) The financial crime offenses are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a common scheme or plan.

(c) Venue. – Each county where a part of the violations aggregated under subsection (b) of this section occurs shall have concurrent venue as described in G.S. 15A-132.

(d) Pleading. – The pleading for financial crime offenses aggregated under this section shall allege the facts set out in subsection (b) of this section and identify the financial crime offenses to which the aggregation shall apply. The pleading is sufficient if it alleges that the defendant committed the financial crime offenses against more than one victim or in more than one county and that the financial crime offenses are based on the same act or transaction or on a series of acts or transactions connected together or constituting parts of a common scheme or plan.



1 (e) Procedure. – The State shall prove the issues set out in subsections (b) and (f) of this
 2 section beyond a reasonable doubt during the same trial in which the defendant is tried for the
 3 financial crime offenses unless the defendant pleads guilty or no contest to the issues. If the
 4 defendant pleads guilty or no contest to the financial crime offenses but pleads not guilty to the
 5 issues set out in subsection (b) or subsection (f) of this section, then a jury shall be impaneled to
 6 determine the issues.

7 (f) Punishment. – If convictions for two or more of the same financial crime offenses are
 8 aggregated in accordance with this section, the court shall use the aggregated value of the money,
 9 goods, property, services, chose in action, or other thing of value when determining the level of
 10 punishment to be imposed. Notwithstanding any provision of law to the contrary, financial crime
 11 offenses aggregated under subsection (b) of this section are punishable as follows:

12 (1) If the aggregated value of the money, goods, property, services, chose in
 13 action, or other thing of value exceeds one thousand five hundred dollars
 14 (\$1,500), then the aggregated offenses shall be punished as one Class H
 15 felony.

16 (2) If the aggregated value of the money, goods, property, services, chose in
 17 action, or other thing of value exceeds twenty thousand dollars (\$20,000), then
 18 the aggregated offense shall be punished as one Class G felony.

19 (3) If the aggregated value of the money, goods, property, services, chose in
 20 action, or other thing of value exceeds fifty thousand dollars (\$50,000), then
 21 the aggregated offenses shall be punished as one Class F felony.

22 (4) If the aggregated value of the money, goods, property, services, chose in
 23 action, or other thing of value exceeds one hundred thousand dollars
 24 (\$100,000), then the aggregated offense shall be punished as one Class C
 25 felony."

26 **SECTION 2.** G.S. 8C-1, Rule 803, reads as rewritten:

27 **"Rule 803. Hearsay exceptions; availability of declarant immaterial.**

28 The following are not excluded by the hearsay rule, even though the declarant is available as
 29 a witness:

30 ...

31 (6) **Records of Regularly Conducted Activity.** – A memorandum, report, record,
 32 or data compilation, in any form, of acts, events, conditions, opinions, or
 33 diagnoses, made at or near the time by, or from information transmitted by, a
 34 person with knowledge, if (i) kept in the course of a regularly conducted
 35 business activity and (ii) it was the regular practice of that business activity to
 36 make the memorandum, report, record, or data compilation, all as shown by
 37 the testimony of the custodian or other qualified witness, ~~or~~ by affidavit or by
 38 document under seal under Rule 902 of the Rules of Evidence made by the
 39 custodian or witness, or by a certification that complies with 28 U.S.C. § 1746
 40 made by the custodian or witness, unless the source of information or the
 41 method or circumstances of preparation indicate lack of trustworthiness.
 42 Authentication of evidence by affidavit shall be confined to the records of
 43 nonparties, and the proponent of that evidence shall give advance notice to all
 44 other parties of intent to offer the evidence with authentication by affidavit.
 45 The term "business" as used in this paragraph includes business, institution,
 46 association, profession, occupation, and calling of every kind, whether or not
 47 conducted for profit.

48 "

49 **SECTION 3.** Section 1 of this act becomes effective December 1, 2023, and applies
 50 to offenses committed on or after that date. The remainder of this act becomes effective
 51 December 1, 2023.