

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 15

Short Title: Aggravating Factor/Injure Official.

(Public)

Sponsors: Senators Ballance; Albertson, Dalton, Dannelly, Gulley, and Miller.

Referred to: Judiciary.

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION'S RECOMMENDATION TO ADD TO THE LIST OF AGGRAVATING FACTORS THAT CERTAIN PEOPLE WERE SERIOUSLY INJURED AS A RESULT OF THE OFFENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.
- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against or resulted in serious injury to a present or former law enforcement officer, employee of the Department

1 of Correction, jailer, fireman, emergency medical technician, ambulance
2 attendant, justice or judge, clerk or assistant or deputy clerk of court,
3 magistrate, prosecutor, juror, or witness against the defendant, while
4 engaged in the performance of that person's official duties or because of
5 the exercise of that person's official duties.

6 (7) The offense was especially heinous, atrocious, or cruel.

7 (8) The defendant knowingly created a great risk of death to more than one
8 person by means of a weapon or device which would normally be
9 hazardous to the lives of more than one person.

10 (9) The defendant held public office at the time of the offense and the
11 offense related to the conduct of the office.

12 (10) The defendant was armed with or used a deadly weapon at the time of
13 the crime.

14 (11) The victim was very young, or very old, or mentally or physically
15 infirm, or handicapped.

16 (12) The defendant committed the offense while on pretrial release on
17 another charge.

18 (13) The defendant involved a person under the age of 16 in the commission
19 of the crime.

20 (14) The offense involved an attempted or actual taking of property of great
21 monetary value or damage causing great monetary loss, or the offense
22 involved an unusually large quantity of contraband.

23 (15) The defendant took advantage of a position of trust or confidence to
24 commit the offense.

25 (16) The offense involved the sale or delivery of a controlled substance to a
26 minor.

27 (17) The offense for which the defendant stands convicted was committed
28 against a victim because of the victim's race, color, religion, nationality,
29 or country of origin.

30 (18) The defendant does not support the defendant's family.

31 (18a) The defendant has previously been adjudicated delinquent for an offense
32 that would be a Class A, B1, B2, C, D, or E felony if committed by an
33 adult.

34 (19) The serious injury inflicted upon the victim is permanent and
35 debilitating.

36 (20) Any other aggravating factor reasonably related to the purposes of
37 sentencing.

38 Evidence necessary to prove an element of the offense shall not be used to prove any
39 factor in aggravation, and the same item of evidence shall not be used to prove more than
40 one factor in aggravation. Evidence necessary to establish that an enhanced sentence is
41 required under G.S. 14-2.2 may not be used to prove any factor in aggravation.

42 The judge shall not consider as an aggravating factor the fact that the defendant
43 exercised the right to a jury trial."

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