

March 21, 2005

**H 822. BLAKELY DECISION/CONFORM STATE LAW. TO AMEND STATE LAW REGARDING THE DETERMINATION OF AGGRAVATING FACTORS IN A CRIMINAL CASE TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISION IN BLAKELY V. WASHINGTON.**

Amends GS 15A-1340.16 to provide that only a jury may determine if an aggravating factor is present in an offense (unless the defendant admits to the existence of the aggravating factor), except that the determination that an aggravating factor is present based on a previous adjudication of delinquency (GS 15A-1340.16(d)(18a)) is made by the court, not by the jury. Requires the State to prove the existence of an aggravating factor beyond a reasonable doubt (was, by a preponderance of the evidence). Provides that the same jury impaneled for the trial of a felony may also determine if one or more aggravating factors is present, unless the court determines that the interests of justice require a separate sentencing proceeding. If the State seeks to establish the existence of a prior record level point under GS 15A-1340.14(b)(7), then a jury must determine whether the point should be assessed. The State must provide a defendant with written notice of its intent to prove the existence of one or more aggravating factors or a prior record level point at least 30 days before trial or the entry of a guilty or no contest plea. However, the State need not allege in the indictment or other pleading that it intends to establish the prior record level point, nor must the aggravating factors set forth in GS 15A-1340.16(d) be included in the indictment or charging instrument, unless the aggravating factor is alleged under the catch-all provision of subdivision (d)(20) of that section. Requires the court to record the findings of sentencing factors if the jury finds factors in aggravation. Specifies procedure for bifurcated sentencing proceeding, procedure if defendant admits to aggravating factor but not the underlying felony, and procedure if defendant pleads guilty to the felony but contests the existence of one or more aggravating factors. Enacts new GS 15A-1022.1 to establish procedure for accepting admissions of the existence of aggravating factors in felonies.

**Intro. by Glazier, Haire, Ross.**

Ref. to Judiciary IV

GS 15A

April 6, 2005

**H 822. BLAKELY DECISION/CONFORM STATE LAW.** Intro. 3/21/05. House committee substitute makes the following changes to 1st edition. Makes technical changes only.

July 5, 2005

**SL 2005-145 (H 822). BLAKELY DECISION/CONFORM STATE LAW. AN ACT TO AMEND STATE LAW REGARDING THE DETERMINATION OF AGGRAVATING FACTORS IN A CRIMINAL CASE TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISION IN BLAKELY V. WASHINGTON.** Summarized in *Daily Bulletin* 3/21/05 and 4/6/05. Enacted June 30, 2005. Effective June 30, 2005.