

March 14, 2005

**S 542. BLAKELY DECISION/AMEND AGGRAVATING FACTORS. 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 are 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 under GS 15A-1340.14(b)(7) at the same time it provides discovery under GS 15A-902. 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. Creates new GS 15A-1022.1 to establish procedure for accepting admissions of the existence of aggravating factors in felonies.

**Intro. by Clodfelter.**

Ref. to

GS 15A

April 11, 2005

**S 542. BLAKELY DECISION/AMEND AGGRAVATING FACTORS.** Intro. 3/15/05. Senate committee substitute makes the following changes to 1st edition. Modifies GS 15A-1340.16(a6) to require that if the defendant requests discovery, State must provide written notice of its intent to prove one or more aggravating factors or a prior record level point within 10 days after receiving possession of the underlying facts that State intends to use to prove the existence of those circumstances, but no later than 20 days before trial. Makes technical changes.

July 19, 2006

**S 542. ACCESS TO STATE FACILITIES (NEW).** Filed 3/10/05. House committee substitute makes the following changes to 2nd edition. Deletes all provisions of 2nd edition and substitutes *AN ACT TO ALLOW REASONABLE ACCESS TO STATE FACILITIES AND EMPLOYEES FOR CERTAIN EMPLOYEE ASSOCIATIONS*. Amends GS 143-3.3 to require state and local governments to permit employees' associations with at least 40,000 members to have reasonable access to government facilities and employees for purposes of recruiting, consulting with, and offering benefits to, association members.

July 19, 2006

**S 542. ACCESS TO STATE FACILITIES.** Filed 3/10/05. House amendment makes the following changes to 3rd edition. Modifies proposed GS 143-3.3(g1) to delete local boards of education from the list of governmental entities that are required to permit representatives of specified employees' associations access to their facilities.

July 20, 2006

**S 542. ACCESS TO STATE FACILITIES.** Filed 3/10/2005. House amendments make the following changes to 3rd edition, as amended. Amendment #3 removes community colleges from

the bill's requirements and, if H 914 (budget bill) is enacted, Amendment #2 recodifies new GS 143-3.3(g1) as GS 143B-426.39A(m).

August 22, 2006

**S 542. ACCESS TO STATE FACILITIES.** *AN ACT TO ALLOW REASONABLE ACCESS TO STATE FACILITIES AND EMPLOYEES FOR CERTAIN EMPLOYEE ASSOCIATIONS.*

Summarized in *Daily Bulletin* 7/19/06 and 7/20/06. Vetoed August 19, 2006.