

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS35236-ML-28

Short Title: Damage to Real Property/Punishment. (Public)

Sponsors: Senators Burgin, Daniel, and Britt (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PUNISHMENT FOR WILLFUL AND WANTON INJURY TO
3 REAL PROPERTY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 14-127 reads as rewritten:

6 "§ 14-127. Willful and wanton injury to real property.

7 (a) ~~If any~~ Offense. – It is unlawful for a person ~~shall to~~ willfully and wantonly damage,
8 ~~injure~~ injure, or destroy any real property whatsoever, either of a public or private ~~nature~~, ~~he shall~~
9 ~~be guilty of a Class 1 misdemeanor.~~ nature.

10 (b) Punishment. – Violations of this section are punishable as follows:

11 (1) Default. – If the direct injury is to property, and the amount of loss in value to
12 the property, the amount of repairs necessary to return the property to its
13 condition before the act, or the property loss (including fixtures or
14 improvements) is less than one thousand dollars (\$1,000), a violation shall be
15 punishable as a Class 1 misdemeanor. If the applicable amount is one thousand
16 dollars (\$1,000) or more, but less than ten thousand dollars (\$10,000), a
17 violation shall be punishable as a Class H felony. If the applicable amount is
18 ten thousand dollars (\$10,000) or more, a violation shall be deemed an
19 aggravated offense and shall be punishable as a Class F felony.

20 (2) When person suffers serious injury. – Unless the conduct is covered under
21 some other provision of law providing greater punishment, a violation of this
22 section that results in a serious injury to another person is punishable as a
23 Class A1 misdemeanor.

24 (3) When person suffers a serious bodily injury. – Unless the conduct is covered
25 under some other provision of law providing greater punishment, a violation
26 of this section that results in serious bodily injury to another person is
27 punishable as a Class F felony. For purposes of this subdivision, "serious
28 bodily injury" is as defined in G.S. 14-32.4.

29 (4) When person is killed. – Unless the conduct is covered under some other
30 provision of law providing greater punishment, a violation of this section that
31 results in the death of another person is punishable as a Class D felony.

32 (c) Restitution. – In addition to any fine or other penalty that may be imposed for a
33 violation of subsection (a) of this section, the court shall order a person convicted of a violation
34 of subsection (a) of this section to make restitution for the offense in accordance with Article
35 81C of Chapter 15A of the General Statutes.



1 (d) Civil Liability. – This section does not create or impose a duty of care upon the owner
2 of real property that would not otherwise exist under common law. A public or private owner of
3 real property shall not be civilly liable:

4 (1) To a person who is injured while committing or attempting to commit a
5 violation of this section.

6 (2) To a person who is injured while a third party is committing or attempting to
7 commit a violation of this section.

8 (3) For a person's injuries caused by a dangerous condition created as a result of
9 a violation of this section, when the owner does not know and could not have
10 reasonably known of the dangerous condition."

11 **SECTION 2.** Article 26 of Chapter 15A of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 15A-534.8. Willful and wanton injury to real property; bail and pretrial release.**

14 (a) In all cases in which the defendant is charged with a violation of G.S. 14-127, the
15 judicial official who determines the conditions of pretrial release shall be a judge. The judge shall
16 direct a law enforcement officer or a district attorney to provide a criminal history report for the
17 defendant and shall consider the criminal history when setting conditions of release. After setting
18 conditions of release, the judge shall return the report to the providing agency or department. No
19 judge shall unreasonably delay the determination of conditions of pretrial release for the purpose
20 of reviewing the defendant's criminal history report. The following provisions shall apply in
21 addition to the provisions of G.S. 15A-534:

22 (1) Upon a determination by the judge that the immediate release of the defendant
23 will pose a danger of injury to persons and upon a determination that the
24 execution of an appearance bond as required by G.S. 15A-534 will not
25 reasonably assure that such injury will not occur, a judge may retain the
26 defendant in custody for a reasonable period of time while determining the
27 conditions of pretrial release.

28 (2) A judge may order the defendant to stay away from specific locations or
29 property where the offense occurred. This condition may be imposed in
30 addition to requiring that the defendant execute a secured appearance bond.

31 (3) Should the defendant be mentally ill and dangerous to himself or herself or
32 others, or a substance abuser and dangerous to himself or herself or others, the
33 provisions of Article 5 of Chapter 122C of the General Statutes shall apply.

34 (b) A defendant may be retained in custody not more than 72 hours from the time of arrest
35 without a determination being made under this section by a judge. If a judge has not acted
36 pursuant to this section within 72 hours of arrest, the magistrate shall act under the provisions of
37 this section."

38 **SECTION 3.** This act becomes effective December 1, 2021, and applies to offenses
39 committed on or after that date.