

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL DRS45348-ND-83

Short Title: The North Carolina Survivors' Act. (Public)

Sponsors: Senator Grafstein (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO ALLOW FOR MITIGATED SENTENCING FOR SURVIVORS OF DOMESTIC
VIOLENCE AND OTHER FORMS OF ABUSE.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the North Carolina
Survivors' Act.

SECTION 2. Article 81B of the General Statutes is amended by adding a new Part
to read:

"Part 4. Survivor Sentencing.

"§ 15A-1340.26. Survivor sentencing; generally.

(a) Applicability. – Notwithstanding any provision of law to the contrary, this Part shall
apply to criminal sentencing under this Chapter, G.S. 20-138.1, and any other provision of law
purporting to sentence a criminal defendant.

(b) Definitions. – Unless the context requires otherwise, the following definitions apply
in this Part:

- (1) Domestic violence. – An act of physical harm or the threat of imminent
physical harm which is committed by an adult, emancipated minor, or minor
child 13 years of age or older against an adult, emancipated minor, or minor
child who is currently or was previously an intimate partner, a family member,
or a household member.
- (2) Physical abuse. – Any real or threatened physical injury or damage to the body
that is not accidental.
- (3) Post-traumatic stress disorder. – The same as the term is defined in the
Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5,
2013), and occurred as a result of the victimization of a survivor related to the
violence or abuse.
- (4) Psychological abuse. – A pattern of real or threatened mental intimidation,
threats, coercive control, economic or financial control, and humiliation that
provokes fear of harm.
- (5) Sentencing hearing. – A post-conviction hearing in which the defendant is
brought before the court for imposition of a sentence.

"§ 15A-1340.27. Survivor sentencing; original sentencing hearing.

(a) During a hearing to sentence a person or for a person to accept a plea of guilty, when
that person is a survivor of domestic violence and has been charged with a crime, the court shall
consider as a mitigating factor that the person has been abused physically, sexually, or
psychologically by the person's sexual partner, family member, or member of the household, the



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trafficker of the person, or other individual who used the person for financial gain. The defendant shall provide to the court evidence including but not limited to each of the following:

- (1) Documentary evidence corroborating that the defendant was, at the time of the offense, a victim of domestic violence.
- (2) At least one piece of documentary evidence that is a court record, presentence report, social services record, hospital record, sworn statement from a witness to the domestic violence or abuse who is not the defendant, law enforcement record, domestic incident report, or protective order.
- (3) Local confinement facility records, records of the Department of Adult Correction, documentation prepared at or near the time of the commission or prosecution of the offense tending to support the claims of the defendant, or verification of consultation with a licensed medical care provider or mental health care provider, employee of a court acting within the scope of the employee's employment, member of the clergy, attorney, social worker, rape crisis counselor, or other advocate acting on behalf of an agency that assists victims of domestic violence or abuse. Expert testimony from a psychiatrist, psychologist or mental health professional showing that the defendant has been diagnosed with post-traumatic stress disorder as a result of the violence or abuse at issue may also be submitted to the court as evidence.

(b) If the court finds by clear and convincing evidence that at the time of the offense the defendant was a survivor of domestic violence or subjected to physical, sexual, or psychological abuse inflicted by a sexual partner, family member, or member of the household, the trafficker of the defendant, or any person who used the defendant for financial gain, and that the violence or abuse was related to and was a substantial contributing factor in causing the defendant to commit the offense or to the defendant's criminal behavior, the court shall depart from the applicable sentence to the ranges provided as follows:

- (1) Sentences of life without the possibility of parole shall be reduced to 30 years or less.
- (2) Sentences of life with the possibility of parole shall be reduced to 25 years or less.
- (3) Sentences of 30 years or more shall be reduced to 20 years or less.
- (4) Sentences of 20 years or more shall be reduced to 15 years or less.
- (5) Sentences of 15 years or more shall be reduced to 7.5 years or less.
- (6) Sentences of 8 years or more shall be reduced to 5 years or less.

(c) The provisions of this section shall not apply to a person convicted of any of the following:

- (1) An offense that would require the person to register as a sex offender.
- (2) An attempt or conspiracy to commit an offense that would require the person to register as a sex offender.
- (3) An offense under any of the following:
 - a. G.S. 14-32.3.
 - b. G.S. 14-112.2.
 - c. Article 7B of Chapter 14, when committed against a victim that has a mental disability or who is mentally incapacitated or physically helpless, and the person committing the offense knows or should reasonably know that the victim has a mental disability or is mentally incapacitated or physically helpless.
- (4) An offense under any of the following:
 - a. G.S. 14-318.2.
 - b. G.S. 14-318.4.
 - c. Article 7B of Chapter 14, when committed against a child.

(5) An offense for which the person has received a sentence of death.

"§ 15A-1340.28. Survivor sentencing; application for person previously sentenced.

(a) Where a court has imposed a criminal judgment and sentence upon a defendant other than for an offense described in G.S. 15A-1340.27(c) and the defendant is serving the sentence in the custody of the Department of Adult Correction, the court shall impose a new, lesser sentence following a hearing if the court determines each of the following:

(1) At the time of the offense for which the sentence is being served, the defendant was a victim of domestic violence or subjected to physical, sexual, or psychological abuse inflicted by a sexual partner, a family member or member of the household, the trafficker of the defendant, or any person who used the defendant for financial gain.

(2) The violence or abuse under subdivision (1) of this subsection was related to and was a substantial contributing factor in causing (i) the defendant to commit the offense for which the defendant is presently in custody or (ii) the defendant's criminal behavior.

(b) At the hearing to determine whether a defendant should be resentenced pursuant to this section, the court shall take testimony from witnesses offered by the State and the defendant and shall consider oral and written arguments and any other relevant evidence to assist in making its determination. The court may determine that the violence or abuse found pursuant to subsection (a) of this section was related to and was a substantial contributing factor to the offense regardless of whether the defendant raised an affirmative defense.

(c) Any person meeting all of the following circumstances may, on or after the date this section becomes effective, submit to the judge who imposed the original sentence a request to apply for resentencing in accordance with the provisions of this section:

(1) Confined in an institution under the custody and control of the Department of Adult Correction.

(2) Serving a sentence for an offense committed prior to the effective date of this section.

(3) Eligible for an alternative sentence pursuant to the provisions of this section.

A person making a request under this subsection shall include in the request documentation and declarations to support the person's claims.

(d) If, upon receipt of a request pursuant to subsection (c) of this section, the original sentencing judge is not serving on the court in which the original sentence was imposed at the time of the request to apply for resentencing, the request shall be randomly assigned to a judge of the original sentencing court.

(e) If the court finds that the person has met the requirements to apply for resentencing as provided in subsection (c) of this section, the court shall provide notice to the person that the person may submit an application for resentencing. Upon receiving this notification, the person may request the court appoint an attorney to assist the person in the preparation of and proceedings on the application for resentencing.

(f) If the court finds that the person has not met the requirements to apply for resentencing as provided for in subsection (c) of this section, the court shall notify the person and deny the person's request without prejudice.

"§ 15A-1340.29. Survivor sentencing; resentencing hearing for person previously sentenced.

(a) Upon receipt of an application for resentencing as authorized by G.S. 15A-1340.28(e), the clerk of court shall promptly notify the district attorney and provide the district attorney with a copy of the application.

(b) If the judge that receives an application pursuant to subsection (a) of this section is not the judge who originally sentenced the applicant, the application may be referred to the

original sentencing judge if that judge is serving as a judge of a court of competent jurisdiction and the applicant and the district attorney agree that the application should be referred.

(c) An application for resentencing received pursuant to this section shall include evidence including but not limited to each of the following:

(1) Corroborating the claim of the applicant that the applicant was a victim of domestic violence or subjected to physical, sexual, or psychological abuse inflicted by a sexual partner, a family member or member of the household, the trafficker of the applicant, or any person who used the applicant for financial gain.

(2) A court record, presentence report, social services record, hospital record, sworn statement from a witness to the domestic violence who is not the applicant, law enforcement record, domestic incident report, or protective order.

(3) Local confinement facility records, records of the Department of Adult Correction, documentation prepared at or near the time of the commission or prosecution of the offense tending to support the claims of the defendant, or verification of consultation with a licensed medical care provider or mental health care provider, employee of a court acting within the scope of the employee's employment, member of the clergy, attorney, social worker, rape crisis counselor, or other advocate acting on behalf of an agency that assists victims of domestic violence or abuse. Expert testimony from a psychiatrist, psychologist or mental health professional showing that the defendant has been diagnosed with post-traumatic stress disorder as a result of the violence or abuse at issue may also be submitted to the court as evidence.

(d) If the court finds that the applicant has not complied with the provisions of subsection (c) of this section, the court shall deny the application without prejudice.

(e) If the court finds that the applicant has complied with the provisions of subsection (c) of this section, the court shall conduct a sentencing hearing to aid in making its determination of whether the applicant should be resentenced in accordance with G.S. 15A-1340.27(b). At the hearing, the court shall determine any controverted issues of fact relevant to the issue of sentencing. The court may consider any facts or circumstances relevant to the imposition of a new sentence submitted by the applicant or the district attorney and may consider the institutional record of confinement of the person, provided, however, the institutional record shall not be solely dispositive as to whether an applicant receives a reduced sentence. The court shall not order a new presentence investigation and report or entertain any matter challenging the underlying basis of the subject conviction. Consideration of the institutional record of confinement of an applicant by the court shall include, but not be limited to, the participation of the applicant in programming for domestic violence, parenting, and substance abuse treatment while incarcerated, and the disciplinary history of the applicant. The inability of the applicant to participate in treatment or other programming while incarcerated despite the willingness of the applicant to do so shall not be considered a negative factor when the court is making its decision.

(f) If the court determines after a hearing under subsection (e) of this section that the applicant should not be resentenced in accordance with G.S. 15A-1340.27(b), the court shall inform the applicant of its decision and shall enter an order to that effect. Any order issued by a court pursuant to this subsection shall include written findings of fact and the reasons for the order. If the applicant is denied on the merits of the application, the court shall deny the applicant with prejudice.

(g) If the court determines after a hearing under subsection (e) of this section that the applicant should be resentenced in accordance with G.S. 15A-1340.27(b), the court shall notify the applicant that, unless the applicant withdraws the application for resentencing or appeals the order of the court, the court shall enter an order vacating the sentence originally imposed and

1 shall impose a new sentence as set forth in G.S. 15A-1340.27(b). Any order issued by a court
2 pursuant to this subsection shall include written findings of fact and the reasons for the order.
3 Sentences modified pursuant to the provisions of this subsection shall be reduced as set forth in
4 G.S. 15A-1340.27(b). When calculating the new sentence to be served by the applicant, the
5 applicant shall be credited for any time served in a local confinement facility or in the custody of
6 the Department of Adult Correction toward the sentence originally imposed.

7 (h) An appeal to the Court of Appeals may be taken as of right from an order under this
8 section denying resentencing or ordering a new sentence be imposed. Pursuant to an appeal under
9 this subsection, the applicant may request that the Court of Appeals direct the Appellate Defender
10 to assist the applicant in the preparation of the appeal and represent the applicant during the
11 subsequent appellate proceedings."

12 **SECTION 3.** This act becomes effective December 1, 2025.