

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1274

Short Title: Sheriffs' Penalties Changes.

(Public)

Sponsors: Representative Dawkins.

Referred to: Judiciary.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO RETURN PROCESS OR MAKING A FALSE RETURN APPLY ONLY TO INDIVIDUALS WHO PERSONALLY COMMIT INTENTIONAL VIOLATIONS AND TO REPEAL THE CIVIL PENALTY FOR SHERIFFS WHO FAIL OR NEGLECT TO PERFORM THEIR DUTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-242 reads as rewritten:

"§ 14-242. Failing to return process or making false return.

If any sheriff, constable-deputy, or other officer, whether State or municipal, or any person who shall presume-presumes to act as any such officer, not being by law authorized so to do, refuse-or-neglect-willfully refuses to return any precept, notice or process, to him tendered or delivered, which it is his duty to execute, or make-willfully makes a false return thereon, he-the person who willfully refused to make the return or willfully made the false return shall forfeit and pay to anyone who will sue for the same-be personally liable for damages of not more than one hundred dollars (\$100.00), and shall moreover-be guilty of a misdemeanor."

Sec. 2. G.S. 162-50 reads as rewritten:

"§ 162 ♦ Upon a finding that the sheriff, personally or through his lawful deputies, has willfully failed or neglected to perform any duty imposed by this Chapter, or has made any false return, he shall be subject to damages of not more than five hundred dollars (\$500.00), and such damages recovered shall be paid to the person aggrieved. Nothing in this section bars an independent action for damages by the person aggrieved."

1 Sec. 3. This act shall become effective October 1, 1989, and shall apply to
2 offenses committed on or after that date.