

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 222

Short Title: Habit. Felon Determination.

(Public)

Sponsors: Representatives Culpepper, Hensley, R. Hunter, McCrary, and Neely.

Referred to: Judiciary II.

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE ISSUE OF WHETHER A DEFENDANT IS A
HABITUAL FELON OR A VIOLENT HABITUAL FELON SHALL BE
DETERMINED BY THE TRIAL JUDGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-7.3 reads as rewritten:
"§14-7.3. Charge of habitual felon.

An indictment which charges a person who is an habitual felon within the meaning of G.S. 14-7.1 with the commission of any felony under the laws of the State of North Carolina must, in order to sustain a conviction of habitual felon, also charge that said person is an habitual felon. The indictment charging the defendant as an habitual felon shall be separate from the indictment charging him with the principal felony. An indictment which charges a person with being an habitual felon must set forth the date that prior felony offenses were committed, the name of the state or other sovereign against whom said felony offenses were committed, the dates that pleas of guilty were entered to or convictions returned in said felony offenses, and the identity of the court wherein said pleas or convictions took place. No defendant charged with being an habitual felon in a bill of indictment shall be required to ~~go to trial on defend~~ said charge within 20 days of the finding of a true bill by the grand jury; provided, the defendant may waive this 20-day period."

1 Section 2. G.S. 14-7.5 reads as rewritten:

2 **"§14-7.5. Verdict and judgment.**

3 When an indictment charges an habitual felon with a felony as above provided and an
4 indictment also charges that said person is an habitual felon as provided herein, the
5 defendant shall be tried for the principal felony as provided by law. The indictment that
6 the person is an habitual felon shall not be revealed to the jury ~~unless the jury shall find that~~
7 ~~the defendant is guilty of the principal felony or other felony with which he is charged. at any~~
8 time. If the jury finds the defendant guilty of a felony, the bill of indictment charging the
9 defendant as an habitual felon ~~may be presented to the same jury. Except that the same jury~~
10 ~~may be used, the proceedings shall be as if the issue of habitual felon were a principal charge.~~
11 shall be tried before the trial judge without a jury. If the ~~jury~~-trial judge finds by a
12 preponderance of the evidence that the defendant is an habitual felon, the trial judge shall
13 enter judgment according to the provisions of this Article. If the ~~jury~~-trial judge finds that
14 the defendant is not an habitual felon, the trial judge shall pronounce judgment on the
15 principal felony or felonies as provided by law."

16 Section 3. G.S. 14-7.9 reads as rewritten:

17 **"§ 14-7.9. Charge of violent habitual felon.**

18 An indictment that charges a person who is a violent habitual felon within the
19 meaning of G.S. 14-7.7 with the commission of any violent felony must, in order to
20 sustain a conviction of violent habitual felon, also charge that the person is a violent
21 habitual felon. The indictment charging the defendant as a violent habitual felon shall be
22 separate from the indictment charging the defendant with the principal violent felony. An
23 indictment that charges a person with being a violent habitual felon must set forth the
24 date that prior violent felonies were committed, the name of the state or other sovereign
25 against whom the violent felonies were committed, the dates of convictions of the violent
26 felonies, and the identity of the court in which the convictions took place. A defendant
27 charged with being a violent habitual felon in a bill of indictment shall not be required to
28 ~~go to trial on defend~~ that charge within 20 days after the finding of a true bill by the grand
29 jury unless the defendant waives this 20-day period."

30 Section 4. G.S. 14-7.11 reads as rewritten:

31 **"§ 14-7.11. Verdict and judgment.**

32 When an indictment charges a violent habitual felon with a violent felony as provided
33 in this Article and an indictment also charges that the person is a violent habitual felon as
34 provided in this Article, the defendant shall be tried for the principal violent felony as
35 provided by law. The indictment that the person is a violent habitual felon shall not be
36 revealed to the jury ~~unless the jury finds that the defendant is guilty of the principal violent~~
37 ~~felony or another violent felony with which the defendant is charged. at any time.~~ If the jury
38 finds the defendant guilty of a violent felony, the bill of indictment charging the
39 defendant as a violent habitual felon ~~may be presented to the same jury. Except that the same~~
40 ~~jury may be used, the proceedings shall be as if the issue of violent habitual felon were a~~
41 ~~principal charge.~~ shall be tried before the trial judge without a jury. If the ~~jury~~-trial judge
42 finds by a preponderance of the evidence that the defendant is a violent habitual felon, the
43 trial judge shall enter judgment according to the provisions of this Article. If the ~~jury~~-trial

- 1 judge finds that the defendant is not a violent habitual felon, the trial judge shall
2 pronounce judgment on the principal violent felony or felonies as provided by law."
3 Section 5. This act becomes effective December 1, 1997, and applies to
4 sentencing for offenses committed on or after that date.