

Article 2A.

Habitual Felons.

**§ 14-7.1. Persons defined as habitual felons.**

(a) Any person who has been convicted of or pled guilty to three felony offenses in any federal court or state court in the United States or combination thereof is declared to be an habitual felon and may be charged as a status offender pursuant to this Article.

(b) For the purpose of this Article, a felony offense is defined to include all of the following:

- (1) An offense that is a felony under the laws of this State.
- (2) An offense that is a felony under the laws of another state or sovereign that is substantially similar to an offense that is a felony in North Carolina, and to which a plea of guilty was entered, or a conviction was returned regardless of the sentence actually imposed.
- (3) An offense that is a crime under the laws of another state or sovereign that does not classify any crimes as felonies if all of the following apply:
  - a. The offense is substantially similar to an offense that is a felony in North Carolina.
  - b. The offense may be punishable by imprisonment for more than a year in state prison.
  - c. A plea of guilty was entered or a conviction was returned regardless of the sentence actually imposed.
- (4) An offense that is a felony under federal law. Provided, however, that federal offenses relating to the manufacture, possession, sale and kindred offenses involving intoxicating liquors shall not be considered felonies for the purposes of this Article.

(c) For the purposes of this Article, felonies committed before a person attains the age of 18 years shall not constitute more than one felony. The commission of a second felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the first felony. The commission of a third felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the second felony. Pleas of guilty to or convictions of felony offenses prior to July 6, 1967, shall not be felony offenses within the meaning of this Article. Any felony offense to which a pardon has been extended shall not for the purpose of this Article constitute a felony. The burden of proving such pardon shall rest with the defendant and the State shall not be required to disprove a pardon. (1967, c. 1241, s. 1; 1971, c. 1231, s. 1; 1979, c. 760, s. 4; 1981, c. 179, s. 10; 2011-192, s. 3(b); 2017-176, s. 2(a).)

**§ 14-7.2. Punishment.**

When any person is charged by indictment with the commission of a felony under the laws of the State of North Carolina and is also charged with being an habitual felon as defined in G.S. 14-7.1, he must, upon conviction, be sentenced and punished as an habitual felon, as in this Chapter provided, except in those cases where the death penalty or a life sentence is imposed. (1967, c. 1241, s. 2; 1981, c. 179, s. 11.)

**§ 14-7.3. Charge of habitual felon.**

The district attorney, in his or her discretion, may charge a person as an habitual felon pursuant to this Article. 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 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. (1967, c. 1241, s. 3; 2011-192, s. 3(c).)

#### **§ 14-7.4. Evidence of prior convictions of felony offenses.**

In all cases where a person is charged under the provisions of this Article with being an habitual felon, the record or records of prior convictions of felony offenses shall be admissible in evidence, but only for the purpose of proving that said person has been convicted of former felony offenses. A prior conviction may be proved by stipulation of the parties or by the original or a certified copy of the court record of the prior conviction. The original or certified copy of the court record, bearing the same name as that by which the defendant is charged, shall be prima facie evidence that the defendant named therein is the same as the defendant before the court, and shall be prima facie evidence of the facts set out therein. (1967, c. 1241, s. 4; 1981, c. 179, s. 12.)

#### **§ 14-7.5. Verdict and judgment.**

When an indictment charges an habitual felon with a felony as above provided and an indictment also charges that said person is an habitual felon as provided herein, the defendant shall be tried for the principal felony as provided by law. The indictment that the person is an habitual felon shall not be revealed to the jury unless the jury shall find that the defendant is guilty of the principal felony or other felony with which he is charged. If the jury finds the defendant guilty of a felony, the bill of indictment charging the defendant as an habitual felon may be presented to the same jury. Except that the same jury may be used, the proceedings shall be as if the issue of habitual felon were a principal charge. If the jury finds that the defendant is an habitual felon, the trial judge shall enter judgment according to the provisions of this Article. If the jury finds that the defendant is not an habitual felon, the trial judge shall pronounce judgment on the principal felony or felonies as provided by law. (1967, c. 1241, s. 5.)

#### **§ 14-7.6. Sentencing of habitual felons.**

When an habitual felon as defined in this Article commits any felony under the laws of the State of North Carolina, the felon must, upon conviction or plea of guilty under indictment as provided in this Article (except where the felon has been sentenced as a Class A, B1, or B2 felon) be sentenced at a felony class level that is four classes higher than the principal felony for which the person was convicted; but under no circumstances shall an habitual felon be sentenced at a level higher than a Class C felony. In determining the prior record level, convictions used to establish a person's status as an habitual felon shall not be used. Sentences imposed under this

Article shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced under this section. (1967, c. 1241, s. 6; 1981, c. 179, s. 13; 1993, c. 538, s. 9; 1994, Ex. Sess., c. 22, ss. 15, 16; c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, s. 16; 2011-192, s. 3(d).)