

June 2022 Supplement to North Carolina Pattern Jury Instructions for Criminal Cases

This supplement contains a new table of contents for the criminal instructions, a number of new or replacement instructions for criminal cases, and a new criminal index. Place the instructions in the book in the proper numerical sequence. Old instructions with the same number should be discarded. The supplement contains three copies of the table of contents so that each criminal volume will include a complete table of contents; they are inserted in the supplement at the appropriate places for Volumes II and III.

Interim Instructions. As the Pattern Jury Instructions Committee considers new or updated instructions, it posts Interim Instructions that are too important to wait until the annual summer distribution of hard copy supplements to the School of Government website at sog.unc.edu/programs/ncpi. You may check the site periodically for these instructions or join the Pattern Jury Interim Instructions Listserv to receive notification when instructions are posted to the website.

The following instructions are included in this supplement. An asterisk (*) denotes a new instruction. All others are replacements for existing instructions.

- *100.40 Alternate Juror(s) Substituted—Instructions to Jury to Begin Deliberations Anew.
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for Criminal Cases

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* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

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* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

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207.10B	First Degree Forcible Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.21, 14-27.22, 14-27.34. (Offenses on or After Dec. 1, 2017). (6/2020)		B1, B2, C, D, Misd
207.11	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.2(2), 14-27.3(1), 14-27.6. (6/2020)	F, H	F, H
207.11A	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.21, 14-27.22, 14-27.34. (6/2020)		
207.11B	Attempted First Degree Forcible Rape (Weapon, Serious Injury or Multiple Assailants) Covering Attempted Second-Degree Rape as a Lesser Included Offense. (Offenses on or after Dec. 1, 2017). (6/2020)		B1, C
207.15	Rape of a Child. G.S. 14-27.2A. (6/2016)		B1
207.15A	Statutory Rape of a Child by an Adult G.S. 14-27.23. (6/2016)		
207.15A.1	Attempted First Degree Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.2(a)(1), 14-27.8 (6/2016).	F	F
207.15A.1A	Attempted First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.24(a)(1), 14-27.34. (6/2016)		
207.15.1	First Degree Rape—Female under the Age of Thirteen Years. G.S. 14-27.2(1). (6/2016)	B	B1
207.15.1A	First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. (6/2016)		
207.15.2	Statutory Rape Against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		B1, C

207.15.2A	Statutory Rape Against an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.25. (6/2016)		
207.15.3	Statutory Sexual Offense against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		
207.15.3A	Statutory Sexual Offense of an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.30. (6/2016)		B1, C
207.20	Second Degree Rape—Force. G.S. 14-27.3. (6/2020)	D	C
207.20A	Second Degree Rape—Force (Victim Asleep or Similarly Incapacitated). G.S. 14-27.3. (6/2020)		
207.20A.1	Second Degree Rape—Forcible (Alleged Victim Asleep or Similarly Incapacitated). G.S. 14-27.3 (6/2020)		
207.20B	Second Degree Forcible Rape. G.S. 14-27.22 (6/2020)		
207.25	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)	D	C
207.25A	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)		
207.40	First Degree Sexual Offense—Weapon, Serious Injury, or Multiple Assailants, Covering Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4, 14-27.5. (5/2020)	B, D	B1, C
207.40A	Attempted First Degree Sexual Offense (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4(2), 14-27.5(2), 14-27.6. (5/2020)	F, H	F, H
207.40A.1	Attempted First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Forcible Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27, 14-27.34. (6/2020)		
207.40B	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2015). (6/2020)		
207.40C	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2017). (6/2020)		
207.45	Sexual Offense with a Child. G.S. 14-27.4A. (6/2016)		B1
207.45.1	First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4. (6/2016)	B	B1
207.45.1A	First Degree Statutory Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.29. (6/2016)		
207.45A	Statutory Sexual Offense with a Child by an Adult. G.S. 14-27.28 (6/2016)		
207.45A.1	Attempted First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4, 14-27.8. (6/2016)	F	F
207.45A.1A	Attempted First Degree Statutory Sexual Offense—Child Under the Age of Thirteen Years. G.S. 14-27.29, 14-27.34. (6/2016)		
207.60	Second Degree Sexual Offense—Force. G.S. 14-27.5. (6/2020)	D	C
207.60A	Second Degree Forcible Sexual Offense. G.S. 14-27.27. (6/2020)		

		Before 10/1/94	On or After 10/1/94
207.65	Second Degree Sexual Offense—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.5. (Offenses Prior to Dec. 1, 2015). (6/2020)	D	C
207.65A	Second Degree Forcible Sexual Offense—Alleged Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.27. (Offenses On or After to Dec. 1, 2015). (6/2020)	D	C
207.70	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)	G	E
207.70A	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)		
207.71	DELETE SHEET. Unlawfully Accessing a Commercial Social Networking Website by a Sex Offender. G.S. 14-202.5A. (6/2018)		I
207.71A	Unlawful Online Conduct By A High-Risk Sex Offender That Endangers Children. (6/2020)		I
207.72	Sex Offender Unlawfully on Certain Premises. G.S. 14-208.18. (6/2017)		H
207.73	Failure to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(a). (6/2008)		F
207.74	Failing to [Provide Necessary Information to] [Cooperate with Guidelines and Regulations of] the Department of Corrections While Required to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(c). (6/2008)		Misd 1
207.75	Willfully Failing to Comply with Sex Offender Registration Law. G.S. 14-208.11. (6/2022)	-	F
207.76	Failure to Comply with Sex Offender Residential Restrictions. G.S. 14-208.16. (6/2022)	-	F
207.77	Failure to Comply with Sex Offender Limitations on Residential Use—Minor in Residence. G.S. 14-208.17(b). (6/2007)	-	F
207.78	Intentionally [Tampering with] [Removing] [Vandalizing] [Interfering with Proper Functioning of] a Satellite-Based Monitoring Device. G.S. 14-208.44(a). (6/2008)	-	F
207.79	Failure to Comply with Sex Offender Prohibition on Working or Volunteering for Child-Involved Activities. G.S. 14-208.17(a). (6/2007)	-	F
207.80A	Felonious Sexual Activity Involving Students (by teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G
207.80A.1	Felonious Sexual Activity With a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G
207.80B	Felonious Sexual Activity Involving Students (by member of school personnel other Than teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G, Misd A1
207.80B.1	Felonious Sexual Activity With a Student (by member of school personnel other than teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G, I
207.90	Sexual Battery. G.S. 14-27.5A. (Offenses Prior to Dec. 1, 2015) (6/2020)		Misd A1

207.90A	Sexual Battery. G.S. 14-27.33 (Offenses Occuring on or After Dec. 1, 2015) (6/2020)		Misd A1
207.95	Knowingly and Without Authority [Removing] [Destroying] [Circumventing Operation of] an Electronic Monitoring Device. G.S. 14-226.3 (June 2010)		
207.97	Sexual [Contact] [Penetration] Under Pretext of Medical Treatment—Representations. (6/2020)		C
207.98	Engaging In Sexual [Contact] [Penetration] Under Pretext of Medical Treatment – Incapacitated Patient. (6/2020)		C
	Assaults.		
208.01	Assault on [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (6/2011)	H	I
208.01A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (4/2004)	H	I
208.02	Assault on a(n) [Legislative] [Executive] [Court] Officer with a Deadly Weapon. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.02A	Making a Violent Attack with a Deadly Weapon upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.03	Assault on a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury. G.S. 14-16.6(c). (4/2004)	F	F
208.03A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury to a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(c). (4/2004)	F	F
208.04	Threatening to Kill or Inflict Serious Bodily Injury upon a [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(a), 14-16.8. (6/2022)	J	I
208.04A	Mailing a Threat to Kill or Inflict Serious Bodily Injury upon a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(b), 14-16.8. (4/2022)	J	I
208.04B	Threatening to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(a) (6/2022)		I
208.04C	Mailing a Threat to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(b) (6/2022)		I
208.05	Malicious Castration. G.S. 14-28, -29. (3/2002)	D, H	C, E
208.06	Castration or Other Maiming without Malice Aforethought. G.S. 14-29. (3/2002)	H	E
208.07	Malicious Maiming. G.S. 14-30. (3/2002)	H	C
208.08	Malicious Throwing of Corrosive Acid or Alkali. G.S. 14-30.1. (3/2002)	H	E
208.09	Malicious Assault and Battery in a Secret Manner with a Deadly Weapon with Intent to Kill. G.S. 14-31. (3/2002)	F	E
208.10	Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury. G.S. 14-32(a). (3/2002)	F	C
208.13	Hazing. G.S. 14-35. (4/2004)		Misd 2
208.14	Assault upon a Sports Official. G.S. 14-33(b)(9). (6/2011)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
208.15	Assault with a Deadly Weapon Inflicting Serious Injury. G.S. 14-32(b). (6/2008)	H	E
208.16	Felonious Assault Inflicting Serious Bodily Injury. G.S. 14-32.4. (3/2002)		F
208.25	Assault with a Deadly Weapon with Intent to Kill. G.S. 14-32(c). (3/2002)	H	E
208.30	Assault Offense Classification Chart. (12/1995)		
208.40	Simple Assault—(Not Involving Physical Contact) G.S. 14-33(a). (6/2011)	Misd	Misd 2
208.40A	Simple Assault on an Individual with a Disability. G.S. 14-32.1(f). (6/2019)	Misd	Misd 1
208.41	Simple Assault—(Involving Physical Contact) G.S. 14-33(a). (6/2010)	Misd	Misd 2
208.43	Simple Affray. G.S. 14-33. (6/2017)		Misd 2
208.45	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2011)		H
208.45A	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.45A.1	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.50	Assault with a Deadly Weapon. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.50A	Aggravated Assault on an Individual with a Disability. G.S. 14-32.1(e). (6/2019)	I	F
208.55	Assault Attempting to Inflict Serious Injury. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.60	Assault Inflicting Serious Injury. G.S. 14-33(c)(1). (6/2020)	Misd	Misd A1
208.61	Assault Inflicting Physical Injury by Strangulation. G.S. 14-32.4. (2/2005)		H
208.65	Assault by a Prisoner with a Deadly Weapon Inflicting Bodily Injury. G.S. 14-258.2. (3/2002)	H	F
208.67	Malicious Conduct by a Prisoner—Throwing of [Bodily Fluids] [Excrement] [Unknown Substance] by a Prisoner at a [State] [Local Government] Employee in the Performance of Employee’s Duties. G.S. 14-258.4. (6/2019)		F
208.68	Malicious Conduct by a Prisoner—Exposing Genitalia by a Prisoner to an Employee of [State] [Local Government] in the Performance of Employee’s Duties. G.S. 14-258.4 (6/2019)		I
208.70	Assault on a Female by a Male Person. G.S. 14-33(c)(2). (6/2015)	Misd	Misd A1
208.72	Assault by [Inflicting Serious Injury] [Using a Deadly Weapon] in the Presence of a Minor G.S. 14-33(d). (6/2017)		Misd A1
208.75	Assault on a Child under the Age of Twelve Years. G.S. 14-33(c)(3). (6/2011)	Misd	Misd A1
208.76	Assault on an Unborn Child (6/2012)		Misd A1
208.77	Assault Inflicting Serious Bodily Injury—Unborn Child 6/2012)		F
208.80 Series	Notes to 208.80, 208.80A, 208.80B, 208.80C		
208.80	Index to Instructions in 208.81 Series. Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81	Model Instruction—Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81A	Assault on an Officer—Arrest Situations (Only Officer’s and Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1

		Before 10/1/94	On or After 10/1/94
208.81B	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest and Defendant’s Force). G.S. 14-33(c)(4); 15A-401, 15A-402. (6/2015)	Misd	Misd A1
208.81C	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest without a Warrant, and as to Force Used by Officer and Defendant). G.S.14-33(c)(4). (6/2015)	Misd	Misd A1
208.81D	Simple Assault—Arrest Situations (Issue as to Force Used by Defendant to Resist Unlawful Arrest). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81E	Assault on an Officer—Arrest Situations (Issues as to Officer Status of Victim, Fact of Arrest, and Lawfulness of Arrest—Neither Officer’s Nor Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81F	Assault on an Officer and Simple Assault—Arrest Situations (All Issues in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81G	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2013)		F
208.82	Assault upon an Officer or Employee of the State or of Any Political Subdivision of the State or Public Transit Operator. G.S. 14-33(c)(4). (6/2011)	Misd	Misd A1
208.83	Assault upon a School Employee or Volunteer. G.S. 14-33(c)(6). (6/2011)	-	Misd A1
208.84	Ethnic Intimidation. G.S. 14-401.14. (4/2002)	Misd	Misd 1
208.85	Assault by Pointing a Gun. G.S. 14-34. (4/2002)	Misd	Misd A1
208.90	Discharging a Firearm into Occupied Property. G.S. 14-34.1. (6/2020)	H	E
208.90A	Discharging Barreled Weapon into Occupied Property. G.S. 14-34.1. (6/2011)	H	E
208.90B	[Discharging] [Attempting to Discharge] a Firearm Within an Occupied Building or Other Enclosure With Intent to Incite Fear. G.S. 14-34.10. (6/2018)		F
208.90C	Discharging a Barreled Weapon into Occupied Dwelling. G.S. 14-34.1. (6/2016)		D
208.90D	Discharging a Firearm into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2021)		D
208.90E	Discharging a Barreled Weapon into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2011)		D
208.90F	Discharging a Firearm into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90G	Discharging a Barreled Weapon into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). 6/2011)		C
208.90H	Discharging a Firearm into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90I	Discharging a Barreled Weapon into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90J	Discharging a Firearm into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.(c). (6/2011)		C
208.90K	Discharging a Barreled Weapon into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C

208.94	Assault Inflicting [Serious Bodily] [Serious] Injury on a [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2017)		F
208.95	Assault with a Firearm on a Law Enforcement, Probation, or Parole Officer or on a Person Employed at a State or Local Detention Facility. G.S. 14-34.5. (11/1998)	I	E, G
208.95A	Assault with a Firearm or Other Deadly Weapon upon Emergency Medical Services Personnel. G.S. 14-34.6. (2/1999)	I	I, F
208.95B	Assault with a Firearm or Other Deadly Weapon upon an Officer or Employee of the State or of any Political Subdivision of the State, Company Police Officer, or Campus Police Officer. G.S. 14-34.2. (3/1999)	I	F
208.95C	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]—Physical Injury. G.S. 14-34.7(c) (6/2017)		I
208.95D	Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] [Licensed Health Provider]. (6/2018)		I
208.95E	[Serious Bodily Injury Inflicted] [Deadly Weapon Used Other Than a Firearm] in Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] (6/2012)		H
208.95F	Assault on Emergency Personnel—Dangerous [Weapon] [Substance] (6/2012)		I, F
208.95G	Assault on Emergency Personnel—Physical Injury (6/2012)		
208.96A	Adulteration or Misbranding of Food, Drugs or Cosmetics with Intent to Inflict Serious Injury or Death. G.S. 14-34.4(a). (4/2002)	C	C
208.96B	Extortion by Adulteration or Misbranding of Food, Drugs, or Cosmetics. G.S. 14-34.4(b). (4/2002)	C	C
	Kidnapping.		
210.15	False Imprisonment. (4/2002)	Misd	Misd 1
210.20	First Degree Kidnapping (Hostage, Ransom, Shield, or Terror) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2011)	D, E	C, E
210.25	First Degree Kidnapping to Commit [Felony] [Serious Injury] Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2016)	D, E	C, E
210.26	First Degree Kidnapping (Involuntary Servitude) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39; 14-43.2. (3/2005)	D, E	C, E
210.30	Second Degree Kidnapping (Hostage, Ransom, Shield, or Terror). G.S. 14-39. (6/2017)	E	E
210.35	Second Degree Kidnapping (to Commit Felony or Serious Injury). G.S. 14-39. (6/2017)	E	E
210.36	Second Degree Kidnapping (Involuntary Servitude). G.S. 14-39; 14-43.2. (4/2002)	E	E
210.40	Felonious Restraint. G.S. 14-43.3. (6/2011)	J	F

		Before 10/1/94	On or After 10/1/94
210.50	Involuntary Servitude (offenses prior to Dec. 1, 2006). G.S. 14-43.2. (6/2011)	I	F
210.50A	Involuntary Servitude. G.S. 14-43.12. (6/2019)	I	F
210.52	Involuntary Servitude of a Minor. G.S. 14-43.12. (6/2019)		C
210.60	Child Abduction. G.S. 14-41. (6/2011)	G	F
210.70	Sexual Servitude. G.S. 14-43.13. (6/2020)		F
210.72	Sexual Servitude of a Minor. G.S. 14-43.13. (6/2020)		C
210.80	Human Trafficking Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		F
210.82	Human Trafficking Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		F
210.84	Human Trafficking of a Minor Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		C
210.86	Human Trafficking of a Minor Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		C
210.88	Unlawful [Sale] [Surrender] [Purchase] of a Minor. G.S. 14-43.14. (6/2019)		F
210.89	Promoting Travel For Unlawful Sexual Conduct. (6/2020)		G
210.90	Unlawful Transfer of Custody of a Minor Child by a Parent. G.S. 14-321.2(a)(1). (6/2017)		Misd 2
210.91	Unlawful Transfer of Custody of a Minor Child by a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(1). (6/2017)		G
210.92	Unlawful Acceptance of Custody of a Minor Child from a Parent. G.S. 14-321.2(a)(2). (6/2017)		Misd 2
210.93	Unlawful Acceptance of Custody of a Minor Child from a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(2). (6/2017)		G
210.94	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] or [Assisting] in the Unlawful Transfer of Custody of a Minor Child. G.S. 14-321.2(a)(3). (6/2017)		Misd 2
210.95	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] [Assisting] in the Unlawful Transfer of Custody of a Minor Child Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(3). (6/2017)		G
210.96	Knowingly Mutilating The Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.97	[Consenting to] [Permitting] the Mutilation of the Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.98	Knowingly [Removing] [Permitting the Removal of] a Child Less Than 18 Years of Age From The State For The Purpose of Mutilating The Child's Female Genitals. (6/2020)		C
	Abortion and Similar Offenses.		
211.50	Concealing Birth of a Child. G.S. 14-46. (5/2002)	H	H
211.60	Unlawful Sale of the Remains of an Unborn Child from [Abortion] [Miscarriage]. G.S. 14-46.1 (6/2016)		
	Libel and Slander.		
212.10	Communicating Libelous Matter to Newspapers. G.S. 14-47. (5/2002)	Misd	Misd 2

		Before	On or After
		10/1/94	10/1/94
	Use of Explosives or Incendiary Devices.		
213.10	Malicious Use of Explosive or Incendiary Device—Personal Injury. G.S. 14-49(a). (5/2002)	E	D
213.15	Malicious Use of Explosive or Incendiary Device—Property Damage. G.S. 14-49(b). (5/2002)	E	G
213.20	Malicious Damage of Occupied Property by Use of Explosive or Incendiary [Device] [Material]. G.S. 14-49.1. (11/2003)	C	D
213.25	Maliciously Damaging Church or Other Building of Worship by Use of an Explosive or Incendiary Device. G.S. 14-49(b1). (1/2004)		E
213.30	Maliciously Damaging State or Local Government Buildings by Use of an Explosive or Incendiary Device. G.S. 14/49(b2). (1/2004)		E
	Burglary and Breaking and Entering.		
214.10	First Degree Burglary Covering Second Degree Burglary, Felonious Breaking or Entering and Nonfelonious Breaking or Entering as Lesser Included Offenses. G.S. 14-51, -52, -54. (6/2011)	C, D, H, Misd	D, G, H, Misd 1
214.11	Second Degree Burglary. G.S. 14-51, -52. (6/2011)	D	G
214.20	Habitual Breaking or Entering (6/2018)		E
214.30	Felonious Breaking or Entering. G.S. 14-54. (5/2002)	H, Misd	H, Misd 1
214.31	First-Degree Trespass. G.S. 14-159.12. (5/2019)	Misd	Misd 2
214.31A	Second-Degree Trespass. G.S. 14-159.13. (5/2002)	Misd	Misd 3
214.31B	First-Degree Trespass. G.S. 14-159.12(f). (6/2017)		I
214.32	Felonious Breaking or Entering. G.S. 14-54. Felonious Larceny—Pursuant to a Breaking or Entering Where the Property Is Worth More Than \$1,000. G.S. 14-70, 14-72(a), (b)(2). (6/2012)	H, Misd	H, Misd 1
214.34	Misdemeanor Breaking or Entering. G.S. 14-54. (5/2002)	Misd	Misd 1
214.35	Possession without Lawful Excuse of an Implement of Housebreaking. G.S. 14-55. (6/2011)	E	I
214.40	Breaking or Entering into Motor Vehicle. G.S. 14-56. (6/2022)	I	I
214.41	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		Misd 1
214.42	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		I, Misd 1
214.43	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		Misd 1
214.44	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		I, Misd 1
214.45	Felonious Breaking or Entering—Place of Religious Worship. G.S. 14-54.1. (6/2006)		G

214.46	Breaking or Entering into Certain Law Enforcement Vehicles. (6/2022)		H
214.47	Felonious Breaking or Entering—Intent to [Injure] [Terrorize] Occupant. G.S. 14-54. (6/2014)		H
214.50	(Misdemeanor) Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	Misd	Misd 1
214.51	Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	H, Misd	H, Misd 1
214.55	(Misdemeanor) Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	Misd	Misd 1
214.56	Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	H, Misd	H, Misd 1
214.60	Destroying or Damaging Coin- or Currency-Operated Machines. G.S. 14-56.2. (5/2002)	Misd	Misd 1
214.65	Burglary with Explosives or Acetylene Torch. G.S. 14-57. (5/2002)	E, H, Misd	D, H, Misd 1
214.70	Breaking or Entering of a Pharmacy With The Intent To Commit Larceny of a Controlled Substance. (6/2020)		E
	Arson and Other Burnings.		
215.11	First Degree Arson (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (5/2002)	C, D, E	D, G, F
215.11A	First Degree Arson, Burning a Structure within the Curtilage of the Dwelling House (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (3/2005)	C, D, E	D, G, F
215.12	Second Degree Arson. G.S. 14-58. (5/2002)	D	G
215.25	Wanton and Willful Burning—Property. G.S. 14-58 through 14-67.1. (5/2002)	E	D-H
215.30	Wanton and Willful Burning of a [Boat] [Barge] [Ferry] [Float]. G.S. 14-63. (5/2002)	H	H
215.35	Wanton and Willful Burning of a [Ginhouse] [Tobacco House] [Miscellaneous Structure]. G.S. 14-64, -67.1. (5/2002)	H	H
215.40	Wanton and Willful or Fraudulent Burning of a Dwelling House by the Owner or Occupant. G.S. 14-65. (5/2002)	H	H
215.45	Burning Personal Property with Intent to Injure or Prejudice. G.S. 14-66. (5/2002)	H	H
215.50	Arson or Other Unlawful Burning Resulting in Serious Bodily Injury to a Firefighter, Law Enforcement Officer, or Emergency Medical Technician. G.S. 14-69.3. (6/2019)		E
215.60	Burning Caused During Commission of Another Felony. G.S. 14-67.2 (6/2019)		D
215.85	Making a False Report concerning a Destructive Device. (Other Than Public Building). G.S. 14-69.1(a). (6/2006)	-	H
215.85B	Making a False Report concerning a Destructive Device—(Public Building). G.S. 14-69.1(c). (6/2006)	-	H, G
215.86	Perpetrating Hoax by Use of a False Bomb or Other Device—(Other Than Public Building). G.S. 14-69.2(a). (2/2000)	-	H
215.86B	Perpetrating Hoax by Use of a False Bomb or Other Device—(Public Building). G.S. 14-69.2(c). (2/2000)	-	H, G
215.87	Making a False Report Concerning a Threat of Mass Violence on Educational Property. G.S. 14-277.5(b). (6/2008)	H	

215.90	Communicating a Threat of Mass Violence on Educational Property. G.S. 14-277.6 (6/2019)		H
215.91	Communicating a Threat of Mass Violence at a Place of Religious Worship. G.S. 14-277.7 (6/2019)		H
	Larceny.		
216.05	Misdemeanor Larceny. G.S. 14-72(a). (6/2013)	Misd	Misd 1
216.07	Larceny of Motor Fuel Valued at Less Than \$1,000. G.S. 14-72.5(a). (6/2010)		Misd 1
216.08	Felonious Larceny—Habitual Misdemeanor Larceny. G.S. 14-72(b)(6). (6/2013).		H
216.10	Felonious Larceny—Goods Worth More Than \$1,000. G.S. 14-70, -72(a). (6/2021)	H, Misd	H, Misd 1
216.11	Felonious Larceny—[Explosive Device] [Incendiary Device]. G.S. 14-70, -72(b)(3). (2/2000)	H, Misd	H, Misd 1
216.11A	Felonious Larceny—Firearm. G.S. 14-70, -72(b)(4). (12/1999)	H, Misd	H, Misd 1
216.13	Larceny of Chose in Action. G.S. 14-75. (6/2017)		H
216.15	Felonious Larceny—by Trick. G.S. 14-70, -72. (5/2002)	H, Misd	H, Misd 1
216.20	Felonious Larceny—From the Person. G.S. 14-70, -72(b)(1). (6/2011)	H, Misd	H, Misd 1
216.30	Felonious Larceny—Pursuant to Breaking/Entering Offense. G.S. 14-70, -72(b)(2). (5/2002)	H	H
216.35	Felonious Larceny—Pursuant to Breaking/Entering Offense Where the Property Is Worth More Than \$1,000. G.S. 14-70, -72(a), (b)(2). (5/2002)	H, Misd	H, Misd 1
216.36	Larceny from a Permitted Construction Site—Goods Worth More Than \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.37	Felonious Larceny—Motor Vehicle Parts Worth More Than \$1,000. G.S. 14-72.8 (6/2022)		I
216.38	Larceny of Law Enforcement Equipment Worth More Than \$1,000 from Certain Law Enforcement Vehicles. (6/2022)		G
216.39	Larceny of Law Enforcement Equipment from Certain Law Enforcement Vehicles Worth Less Than \$1,000. (6/2022)		H
216.40	Feloniously Receiving Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.41	Feloniously Receiving Stolen Goods from a Permitted Construction Site—Goods Valued in Excess of \$300 and Less Than \$1,000. G.S. 14-72.6. (6/2006)		I
216.42	Felonious [Receiving] [Possessing] Property in the Custody of a Law Enforcement Agency. G.S. 14-71(b). (6/2009)		H
216.43	Receiving Stolen Controlled Substances – Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.45	Felonious Receiving Stolen Goods—Pursuant to a Breaking or Entering. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.46	Misdemeanor Possession of Stolen Goods. G.S. 14-70, -72(a). (5/2002)	Misd	Misd 1
216.47	Felonious Possession of Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.48	Possession of Property Stolen Pursuant to a Breaking or Entering. G.S. 14-71.1, -72(b)(1) and (2). (5/2002)	H	H

		Before 10/1/94	On or After 10/1/94
216.48A	Felonious Possession of Stolen Goods—Stolen Pursuant to a Breaking or Entering or Worth More Than \$1,000 (Including Non-Felonious Possession). G.S. 14-71.1, -72(b)(1) and (2). (6/2008)	H, Misd	H, Misd 1
216.48B	Possession of Controlled Substances—Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.49	Possession of Stolen Explosives, Public Records. G.S. 14-71.1, -72(b)(3), (4), and (5). (5/2002)	H	H
216.49A	Possession of Feloniously Taken Property Other Than by Larceny (e.g., Embezzlement). G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.49B	Possession of Stolen Firearm. G.S. 14-71.1 and -72(b)(4). (5/2002)	H	H
216.49C	Felonious Possession of Stolen Goods from Permitted Construction Site—Goods Valued in Excess of \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.50	Willfully Concealing the Merchandise of a Store—Shoplifting. G.S. 14-72.1(a). (3/2003)	Misd	Misd 3
216.52	Larceny by Price Tag Change. G.S. 14-72.1(d). (5/2002)	Misd	Misd 3
216.55	Willfully Concealing the Merchandise of a Store—Using Lead- or Aluminum-Lined Bag or Article of Clothing to Prevent Activation of Anti-Shoplifting Device or Inventory Control Device. G.S. 14-72.1(a), (d1). (5/2004)		H
216.56	Larceny from a Merchant. G.S. 14-72.11. (6/2018)		H
216.57	Organized Retail Theft. Retail Property with Value Exceeding \$1,500, Aggregated Over 90-Day Period. G.S. 14-86.6(a)(1). (6/2018)		H
216.57A	Organized Retail Theft Conspiracy — Retail Property with Value Exceeding \$20,000, Aggregated Over 90-Day Period. (6/2018)		
216.58	[Receiving] [Possessing] Retail Property Obtained by Organized Retail Theft. G.S. 14-86.6(a)(2). (6/2009)		H
216.59	Organized Retail Theft — Acting as Leader. (6/2018)		
216.60	Larceny by an Employee. G.S. 14-74. (3/1998)	H	H
216.60A	Larceny by an Employee. G.S. 14-74, -75. (4/1998)		C, H (12/97)
216.61	Appropriation of Partnership Funds by Partner to Personal Use. G.S. 14-97. (5/1998)		C, H
216.62	Embezzlement by Insurance [Agents] [Brokers] [Administrators]. G.S. 58-2-162. (6/2010)		C, H
216.70	Felonious [Altering] [Destroying] [Disassembling] [Dismantling] [Reassembling] [Storing] of Any [Motor Vehicle] [Motor Vehicle Part] Illegally Obtained by [Theft] [Fraud] [Other Illegal Means]. G.S. 14-72.7(a)(1). (6/2014)		
216.71	Felonious Permitting of Chop Shop Activity on Property. G.S. 14-72.7(a)(2). (6/2014)		H
216.72	Felonious [Purchasing] [Disposing] [Selling] [Transferring] [Receiving] [Possessing] of [Motor Vehicles] [Motor Vehicle Parts] with an Altered [Vehicle Identification Number] [Vehicle Part Identification Number]. G.S. 14-72.7(a)(3). (6/2014)		H

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
216.73	Felonious [Purchasing] [Disposing of] [Selling] [Transferring] [Receiving] [Possessing] a [Motor Vehicle] [Motor Vehicle Part] from a Person Engaged in a Chop Shop Activity. G.S. 14-72.7(a)(4). (6/2014)		H
216.77	Purchasing of Vehicles for the Purpose of Scrap Parts Only and Failing to Comply with Certain Requirements Mandated by Law. G.S. 20-62.1 (6/2019)		I
216.80	Purchase of Regulated Metals by Secondary Metals Recyclers from Other Than a Fixed Location. G.S. 66-11(d)(1). (6/2008)		Misd 1
216.81	[Purchasing] [Receiving] of Regulated Metals by Secondary Metals Recyclers from (a) Minor(s). G.S. 66-11(d)(1). (6/2008)		Misd 1
216.82	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] Less than \$1,000. G.S. 14-159.4(c)(1) (6/2013)		Misd 1
216.83	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$1,000 or More (But Less than \$10,000). G.S. 14-159.4(c)(1) (6/2013)		H
216.84	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$10,000 or More. G.S. 14-159.4(c)(1) (6/2013)		F
216.85	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Injury. G.S. 14-159.4(c)(2) (6/2013)		Misd A1
216.86	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Bodily Injury. G.S. 14-159.4(c)(3). (6/2013)		F
216.87	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Death. G.S. 14-159.4(c)(4) (6/2013)		D
216.88	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Critical Infrastructure. G.S. 14-159.4(c)(5) (6/2013)		Misd 1
216.90	Unauthorized Use of a Conveyance. G.S. 14-72.2. (5/2002)	I, Misd	I, Misd 7
216.93	Larceny of Pinestraw. G.S. 14-79.1. (11/1998)		H
216.95	Felonious Larceny of Ungathered Crops. G.S. 14-78. (5/2002)	H, Misd	H, Misd 1
216.96	Felonious Larceny of Horses, Mules, Swine, Cattle, or Dogs. G.S. 14-81. (2/2003)	H, J	H, I
216.97	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Deprive the Owner of the [Special] [Temporary] Use of Such Property. G.S. 14-82. (2/2003)	Misd	Misd 2
216.98	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Use Such Property for a [Special] [Temporary] Purpose. G.S. 14-82. (2/2003)	Misd	Misd 2
	Robbery.		
217.10	Common Law Robbery. G.S. 4-1, 14-2, 14-87.1. (6/2022)	H	G
217.20	Robbery with a Firearm. G.S. 14-87. (6/2022)	D	D
217.25	Attempted Robbery with a Firearm. G.S. 14-87. (5/2003)	D	D

217.30	Robbery with a Dangerous Weapon—Other Than a Firearm Covering Common Law Robbery as a Lesser Included Offense. G.S. 14-87, 14-87.1, 14.1, 14.2. (6/2022)	D, H	D
217.50	Safecracking—By Explosives, Drills, or Tools. G.S. 14-89.1(a)(1). (6/2017)	H	I
217.51	Safecracking—By Stolen Combination, Key, Electronic Device or Fraudulently Acquired Implement or Means. G.S. 14-89.1(a)(2). (6/2017)	H	I
217.52	Safecracking—By Use of [[Master Key] [Duplicate Key] [Device] [[Made] [Obtained]] in an Unauthorized Manner] [Stethoscope] [Listening Device] [Surreptitious Means]. G.S. 14-89.1(a)(3). (6/2017)	H	I
217.53	Safecracking—All Other Means. G.S. 14-89.1(a)(3) and (4). (6/2017)	H	I
217.54	Safecracking—Removing Safe or Vault from Premises. G.S. 14-89.1(b). (5/2003)	H	I
	Embezzlement.		
218.10	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162. (6/2010)	H	H
218.10A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90; 58-2-162. (6/2010)		C, H (12/97)
218.15	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		H
218.15A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		C
218.20	Willful Misapplication of Corporate Money, Funds or Credits. G.S. 14-254. (5/2003)	G	H
218.21	Unauthorized Issuance of Corporate Instruments. G.S. 14-254. (5/2003)	G	H
218.22	False Entries by Corporate Officers or Agents. G.S. 14-254. (5/2003)	G	H
218.25	Embezzlement of State Property by Public Officers and Employees. G.S. 14-91. (6/2010)		F
218.25A	Embezzlement of State Property Valued at \$100,000 or More by Public Officers and Employees. G.S. 14-91. (6/2010)		C
218.30	[Misapplication] [Embezzlement] of Bank Funds (6/2013)		C, H
	False Pretenses and Cheats.		
219.10	Obtaining Property by False Pretenses. G.S. 14-100. (6/2021)	H	H
219.10A	Obtaining Property by False Pretenses (Value of Property \$100,000 or More). G.S. 14-100. (6/2020)		C, H (12/97)
219.11	Fraudulent Misrepresentation Involving Child Care Subsidies. G.S. 110-107. (4/2000)	-	Class 1; I
219.20	Obtaining Advances under Promise to Work. G.S. 14-104. (10/1998)	-	Misd 2
219.40	Obtaining Property in Return for Worthless Check, with Intent to Cheat and Defraud. G.S. 14-106. (3/2003)	Misd	Misd 2
219.50A	Worthless Check—Insufficient Funds (Less Than \$2,000). G.S. 14-107(a), (d)(1). (6/2014)	-	Misd 2

		Before 10/1/94	On or After 10/1/94
219.51A	Worthless Check—Insufficient Funds (More Than \$2,000). G.S. 14-107(a), (d). (6/2014)	J	I
219.52	Worthless Check—Drawn on Non-Existent Account. G.S. 14-107(d)(3). (5/2000)	Misd	Misd 1
219.53	Worthless Check—Drawn on Closed Account. G.S. 14-107(d)(4). (5/2000)	Misd	Misd 1
	Credit Card Crime Act.		
219B.10	Credit Card (Financial Transaction Card) Theft. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.11	Credit Card (Financial Transaction Card) Theft—Receiving Stolen Card. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.20	Credit Card (Financial Transaction Card) Theft—Use of Lost, Mislaid, or Mistakenly Delivered Card. G.S. 14-113.9(a)(2). (4/2003)	J	I
219B.25	Credit Card (Financial Transaction Card) Theft—Buying a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.26	Credit Card (Financial Transaction Card) Theft—Selling a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.30	Forgery of a Credit Card (Financial Transaction Card)—Making or Embossing Credit Card. G.S. 14-113.11(a)(1). (4/2003)	J	I
219B.31	Forgery or Uttering of a Forged Credit Card (Financial Transaction Card)—Falsely Encoded, Duplicated, Altered, or Uttered. G.S. 14-113.11(a)(2). (4/2003)	J	I
219B.35	Forgery of a Credit Card (Financial Transaction Card)— Unauthorized Signing of a Credit Card. G.S. 14-113.11(a)(3). (4/2003)	J	I
219B.40	Credit Card (Financial Transaction Card) Fraud—Credit Card Stolen, Forged, Falsely Represented, Expired, or Revoked. G.S. 14-113.13(a)(1)(2); (b). (4/2003)	J, Misd	I, Misd 2
219B.41	Credit Card Fraud—False Representation as to Holding or Issuance of Card. G.S. 14-113.13(a)(2). (5/2003)	J, Misd	I, Misd 2
219B.42	Credit Card Fraud—Where Defendant Held or Controlled Card as Security for Debt. G.S. 14-113.13(a)(3). (5/2003)	J, Misd	I, Misd 2
219B.43	Credit Card Fraud—By Furnisher of Goods and Services. G.S. 14-113.13(b)(1). (4/2003)	J, Misd	I, Misd 2
219B.44	Credit Card (Financial Transaction Card)—Fraud by Misrepresentation to Issuer. G.S. 14-113.13(b)(2). (4/2003)	J, Misd	I, Misd 2
219B.50	Criminal Possession of Incomplete Credit Cards (Financial Transaction Card). G.S. 14-113.14(a)(1). (4/2003)	J	I
219B.55	Criminal Possession of Credit Card (Financial Transaction Card)—Reproduction Device. G.S. 14-113.14(a)(2). (4/2003)	J	I
219B.60	Credit Card Fraud—Criminal Factoring of Transaction Card Records of Sale. G.S. 14-113.15A. (4/2003)	I	I
219B.65	[Possessing] [Selling] [Delivering] a Skimming Device. (6/2022)		I
219B.80	Identity Theft. G.S. 14-113.20, 14-113.22. (6/2020)		F, G
219B.80A	Identity Theft—Financial Fraud Resulting in Another Person’s [Arrest] [Detention] [Conviction of a Criminal Offense]. G.S. 14-113.20, -113.22. (6/2010)	-	F, G
219B.80B	Identity Theft—Possession of Identifying Information Pertaining to Three or More Persons. G.S. 14-113.20, - 113.22. (6/2010)		F, G

		Before	On or After
		10/1/94	10/1/94
219B.85	Identity Theft—Trafficking in Stolen Identities. G.S. 14-113.20A. (6/2010)		E
219C.05	Willfully Failing to Make North Carolina Income Tax Returns. G.S. 105-236(9). Deleted. (6/2013).	Misd	Misd 1
219D.10	Fraudulent Misrepresentation Involving a [License Application] [Other Document] Filed Pursuant to the North Carolina Money Transmitters Act. G.S. 53-208.58(b). (6/2017)		Misd 1
219D.15	Engaging in the Business of Money Transmission Without a License. G.S. 53-208.58(c). (6/2017)		Misd 1
219D.20	Unlawfully Engaging in the Business of Money Transmission—Any Reason. G.S. 53-208.58(a). (6/2017)		Misd 1
	Frauds.		
220.10	Fraudulent Disposal of Personal Property on Which There Is a Security Interest. G.S. 14-114. (5/2003)	Misd	Misd 2
220.20	Secreting Property to Hinder Enforcement of Lien or Security Interest. G.S. 14-115. (5/2003)	Misd	Misd 2
220.22	Filing False Security Agreements (6/2013)		I
220.24	Improper Filing of Lien on [Real Property] [Other Document]. G.S. 44A-12.1(c). (6/2013)		I
220.26	Filing [False Lien] [Encumbrance]. G.S. 14-118.6. (6/2020)		I
220.28	Simulation of Court Process in Connection with Collection of [a Claim] [a Demand] [an Account]. G.S. 14-118.1 (6/2013)		I
220.30	Residential Mortgage Fraud. G.S. 14-118.12(a)(1)–(2). (6/2013)		H
220.31	[Receiving] [Attempting to Receive] Proceeds from Residential Mortgage Fraud. G.S. 14-118.12(a)(3). (6/2008)		H
220.32	Conspiracy to Commit Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.33	Solicitation of Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.34	Pattern of Residential Mortgage Fraud. G.S. 14-118.15. (6/2008)		H, E
220.35	False Statement of Sums Due for [Labor] [Materials] Furnished at Site of Improvements to Real Property (6/2013)		Misd 1
220.40	Fraudulent and Deceptive Advertising. G.S. 14-117. (5/2003)	Misd	Misd 2
220.50	[Improper] [Fraudulent] Receipt of Decedent’s [Retirement Allowance] [Disability Benefit]. G.S. 135-18.11. (6/2013)		Misd 1
220.53	Improper Receipt of a Decedent’s Disability Income Plan Allowance from the State of North Carolina. G.S. 135.111.1. (6/2014)		Misd 1
220.55	Fraudulently [Obtaining] [Increasing] Benefit Under Unemployment Insurance. G.S. 96-18.A. (6/2013)		I, Misd 1
220.60	Blackmail—Other Than by Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.65	Blackmail—By Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.70	Obtaining Academic Credit by Fraudulent Means. G.S. 14-118.2. (5/2003)	Misd	Misd 2
220.80	Extortion. G.S. 14-118.4. (5/2003)	H	F
220.85	Exploitation of [Disabled] [Older] Adult by a Person in a [Position of Trust] [Business Relationship with the Adult]. G.S. 14-112.2(b), (d). (6/2014)		F, G, H
220.90	Fraud in Connection with Rental of Motor Vehicle. G.S. 20-106.1. (3/2003)	J	I

220.91	Failing to Return Rented Property on Which There Is a Purchase Option (Rent to Own). G.S. 14-168.4. (5/2003)	Misd	Misd 2
220.95	Interfering with Gas, Electric, and Steam [Appliances] [Meters]. G.S. 14-151. (6/2014)		Misd 1
220.97	[Possession] [Transfer] [Use] of Automated Sale Suppression Device. G.S. 14-118.7. (6/2014)		H
	Forgery.		
221.10	Forgery of Notes, Checks, and Other Securities. G.S. 14-119(a). (6/2008)	I	I
221.12	Possession of Counterfeit Instrument(s). G.S. 14-119(a). (6/2008)		I
221.14	Possession of Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.16	Transporting Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.20	Uttering Forged Instrument or Instrument Containing a Forged Endorsement. G.S. 14-120. (4/2003)	I	I
221.40	Forgery of Deeds, Wills and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.41	Showing Forth in Evidence Forged Deeds, Wills, and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.80	Forgery of Writings (Common Law Misdemeanor). (5/2003)	Misd	Misd 1; H
	Trespasses to Land and Fixtures.		
222.15	Willful and Wanton Injury to Real Property. G.S. 14-127. (5/2003)	Misd	Misd 1
222.16	Felonious Injury to Houses or Other Buildings Including Lesser Offense (6/2009)		I
222.17	Misdemeanor Injury to Houses or Other Buildings. G.S. 14-144. (6/2009)		Misd 2
222.18	Felonious Injury to Fences or Walls Including Lesser Offense. G.S. 14-144. (6/2009)		I
222.19	Misdemeanor Injury to Fences or Walls. G.S. 14-144. (6/2009)		Misd 2
222.20	Forcible Trespass to Real Property (Common Law Misdemeanor). (5/2003)	Misd	Misd 1
222.22	Unlawfully [Stopping] [Impeding] [Delaying] [Detaining] a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.23	Refusing to Leave a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.24	Trespassing on Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.26	Trespass—Electric Power Supplier—Basic Offense. G.S. 14-159.12(c). (6/2013)		Misd A1
222.28	Trespass—Electric Power Supplier—[Intent to Disrupt Normal Operation of Facility] [Act that Placed [Offender] [Another Person] at Risk of Serious Bodily Injury]. G.S. 14-159.12(d). (6/2013)		H
222.30	Domestic Criminal Trespass. G.S. 14-134.3(a). (5/2003)		Misd 1
222.31	Aggravated Domestic Criminal Trespass. G.S. 14-134.3(b). (5/2003)		G

222.32	Interfering with Emergency Communications. G.S. 14-286.2. (5/2002)		Misd A1
222.33	Trespassing by Person Subject to Valid Protective Order onto Property Operated as a Safe House or Haven for Victims of Domestic Violence. (6/2011)		H
222.40	Setting Fire to [Grassland] [Brushland] [Woodland] Property of Another. G.S. 14-136. (4/2003)	Misd	Misd 2
222.40A	Setting Fire to [Grassland] [Brushland] [Woodland] (Defendant's Property). G.S. 14-136. (4/2003)	Misd	Misd 2
222.41	Setting Fire to [Grassland] [Brushland] [Woodland] with Intent to Damage Property of Another. G.S. 14-136. (3/2003)	I	I
222.42	[Cutting] [Injuring] [Removing] Another's Timber. G.S. 14-135, 14-72.		Misd 1, H
222.45	Toxic Substances, Dumping. G.S. 14-284.2. (5/2003)		F
222.50	Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		Misd 1
222.51	Desecration of Human Remains. G.S. 14-149. (6/2008)		H
222.52	Felonious Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		I
222.60	Injuring Telecommunication Wires. G.S. 14-154. (6/2008)		I
222.65	Trespassing for the Purpose of [Hunting] [Fishing] [Trapping] (6/2012)		Misd 1
222.66	Trespassing for the Purpose of [Raking] [Removing] Pine Straw (6/2012)		Misd 1
222.68	Improper Taking of [Menhaden] [Atlantic Thread] Herring. G.S. 113-187. (6/2013)		Misd A1
222.69	Unlawful Dealings with [Ginseng] [Galax] [Venus Flytrap]. G.S. 106-202.19(a). (6/2013)		Misd 2
222.70	Trespass to Land on a Motorized All Terrain Vehicle. G.S. 14-159.3. (6/2015)		Misd 2
222.75	Collection of [Seismic] [Geophysical] Data on Another's Property Without Written Consent. G.S. 113-395.4. (6/2015)		Misd 1
222.80	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		Misd
222.85	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		
	Trespasses to Personal Property.		
223.15	Willful and Wanton Injury to Personal Property Causing Damage of More Than \$200. G.S. 14-160. (5/2003)	Misd	Misd 1, 2
223.20	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property. G.S. 14-160.1(a). (3/2022)	Misd	Misd 1
223.20A	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property Worth More Than \$1,000. (6/.2022)		H
223.21	[Buying] [Selling] [Possessing] Item of Personal Property on Which the Permanent Identification Mark Has Been [Altered] [Destroyed] [Defaced] [Removed]. G.S. 14-160.1(b). (3/2022)	Misd	Misd 1
223.21A	[Buying] [Selling] [Possessing] Item of Personal Property Worth More Than \$1,000 on Which the Permanent Identification Mark has Been [Altered] [Destroyed] [Defaced] [Removed]. (6/2022)		I
223.25	Felonious Computer Trespass. G.S. 14-453, -458. (4/2000)		Class 3; 1/I
223.30	Willfully Damaging [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455. (6/2009)		Misd 1

223.31	Willfully Damaging Government [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455(b). (6/2009)		F
223.40	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		Misd 1
223.45	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		I, Misd 1
223.70	Injuring, Destroying, Removing, Vandalizing, or Tampering with Firefighting or Emergency Medical Services Machinery or Equipment. (6/2018)		
223.71	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System. (6/2020)		Misd 2
223.72	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System in a [Prison] [Local Confinement Facility]. (6/2020)		H
223.73	Giving False Alarms. (6/2020)		Misd 2
223.74	Willfully [Misusing] [Damaging] a Portable Fire Extinguisher. (6/2020)		Misd 2
	Vehicles and Draft Animals—Protection of Bailor against Acts of Bailee.		
224.10	[Willful] [Malicious] Injury to [Rented] [Hired] Personal Property. G.S. 14-165. (3/2003)	Misd	Misd 2
224.20	Failure to Return [Rented] [Hired] Property. G.S. 14-167. (3/2003)	Misd	Misd 2
224.25	Failure to Return [Rented] [Hired] [Leased] Motor Vehicle Valued in Excess of \$4,000. G.S. 14-167. (6/2006)		
224.30	Felonious Conversion by Bailee. G.S. 14-168.1 (4/2003)	H, Misd	H, Misd 1
	Offenses against Public Morality and Decency.		
225.10	[Knowingly] [Willingly] [Abusing] [Mutilating] a Dead Human Body in a Person's Custody. 90-210.25(5)(2) (6/2019)		Misd 2
225.15	Unauthorized Practice of [Embalming] [Funeral Directing] [Funeral Service] [Operating Funeral Establishment]—Practicing Without a License (Including While Representing Oneself as Being Licensed. G.S. 90-210.25(f)(1) (6/2019)		Misd 2
226.10	Crime against Nature—Animals. G.S. 14-177. (6/2006)	H	I
226.10A	Crime against Nature—Persons. G.S. 14-177. (6/2019)		
226.20	Incest. G.S. 14-178. (3/2003)	G	F
226.20A	Incest with a Person under the Age of Thirteen Years. G.S. 14-178. (3/2003)	G	B1
226.20B	Incest with a Person [Thirteen] [Fourteen] [Fifteen] Years of Age. G.S. 14-178. (3/2003)		B1, C
226.45	Bigamy. G.S. 14-183. (3/2003)	H	I
226.46	Bigamous Cohabitation. G.S. 14-183. (4/2003)	H	I
226.50	Fornication and Adultery. G.S. 14-184. (1/2004)	Misd	Misd 2
226.55	Using Profane or Indecent Language over a Telephone. G.S. 14-196(a)(1). (3/2001)	Misd	Misd 2
226.56	Using Threatening Language by Way of Telephone. G.S. 14-196(a)(2). (3/2001)	Misd	Misd 2
226.57	Harassing by Repeated Telephone Calls. G.S. 14-196(a)(3). (3/2001)	Misd	Misd 2
226.58	Disrupting Telephone Service of Another. G.S. 14-196(a)(4). (3/2001)	Misd	Misd 2

		Before 10/1/94	On or After 10/1/94
226.59	Harassing by Imparting False Information by Telephone. G.S. 14-196(a)(5). (3/2001)	Misd	Misd 2
226.60	Cyberstalking—Threatening Language. G.S. 14-196.3(b)(1). (3/2001)		Misd 2
226.60A	Cyberstalking—Harassment. G.S. 14-196.3(b)(2). (1/2001)		Misd 2
226.60B	Cyberstalking—False Statement. G.S. 14-196.3(b)(3). (3/2001)		Misd 2
226.60C	Cyberstalking—Permitting Communication. G.S. 14-196.3(b)(4). (3/2001)		Misd 2
226.62	Cyberstalking Through Use of An Electronic Tracking Device. G.S. 14-196.3 (6/2016)		
226.65	Cyber-bullying with Intent to [Intimidate] [Torment] a Minor. G.S. 14-458.1(a)(1). (6/2017)		Misd 1, Misd 2
226.66	Cyber-bullying with Intent to [Intimidate] [Torment] [a Minor] [a Minor’s [Parent] or [Guardian]]. G.S. 14-458.1(a)(2). (6/2010)		Misd 1, Misd 2
226.67	Cyber-bullying—Using a [Computer] [Computer Network] to Plant any Statement to Provoke a Third Party to [Stalk] [Harass] a Minor. G.S. 14-458.1(a)(3). (6/2010)		Misd 1, Misd 2
226.68	Cyber-bullying—Using a [Computer] [Computer Network] to [Copy and Disseminate] [Cause to be Made] an Unauthorized Copy of Data Pertaining to a Minor for the Purpose of [Intimidating] [Tormenting] that Minor. G.S. 14-458.1(a)(4). (6/2010)		Misd 1, Misd 2
226.69	Cyber-bullying—Signing up a Minor for a Pornographic Internet Site. G.S. 14-458.1(a)(5). (6/2010)		Misd 1, Misd 2
226.70	Cyber-bullying—Using a [Computer] [Computer Network] to Sign up a Minor for [Electronic Mailing List] [Electronic Messages] Without Consent of the [Minor] [Minor’s [Parent] [Guardian]] Resulting in [Intimidation] [Torment] of the Minor. G.S. 14-458.1(a)(6). (6/2010)		Misd 1, Misd 2
226.71A	Cyber-bullying of School Employee by Student—[Computer] [Internet] Interference with Employee. G.S. 14-458.2(b)(1). (6/2013)		Misd 2
226.72B	Cyber-bullying of School Employee by Student—Statements Likely to Provoke Action. G.S. 14-458.2(b)(2). (6/2013)		Misd 2
226.72C	Cyber-bullying of School Employee by Student—Unauthorized Copying of Data. G.S. 14-458.2(b)(3). (6/2013)		Misd 2
226.72D	Cyber-bullying of School Employee by Student—Pornographic Internet Site. G.S. 14-458.2(b)(4). (6/2013)		Misd 2
226.72E	Cyber-bullying of School Employee by Student—Electronic Mailing Lists. G.S. 14-458.2(b)(5). (6/2013)		Misd 2
226.75	Secretly Peeping into Room Occupied by Another Person. G.S. 14-202(a). (12/2003)	Misd	Misd 1
226.75A	Secretly Peeping through the Use of a Mirror or Other Device. G.S. 14-202(a1). (2/2005)		Misd 1
226.76	Secretly Peeping into Room While in Possession of a Device Used to Create a Photographic Image. G.S. 14-202(c). (4/2004)		Misd A1
226.77	Felonious Secretly Peeping into Room Occupied by Another Person and Using a Device to Create a Photographic Image of a Person in That Room for the Purpose of Sexual Arousal or Gratification. G.S. 14-202(d). (4/2004)		

		Before	On or After
		10/1/94	10/1/94
226.78	Secretly or Surreptitiously Using a Device to Create a Photographic Image of Another Person Underneath or through the Clothing. G.S. 14-202(e). (4/2004)		I
226.79	Secretly or Surreptitiously Installing a Device Used to Create a Photographic Image. G.S. 14-202(f). (4/2004)		I
226.80	Knowingly Possessing a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(g). (5/2004)		I
226.81	Knowingly Disseminating a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(h). (5/2004)		H
226.85	Taking an Indecent Liberty with a Child. G.S. 14-202.1. (4/2003)	H	F
226.86A	Taking Indecent Liberties with a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	I
226.86B	Taking Indecent Liberties with a Student (by Member of School Personnel Other Than Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	Misd A1
226.90	Promoting Prostitution. G.S. 14-205.3. (6/2014)		E, F
226.91	Patronizing a Prostitute. G.S. 14-205.2. (6/2014)		E, F
226.92	Patronizing a Prostitute G.S. 14-205.2. (6/2014)		E, F
226.93	Patronizing a Prostitute who Had a [Severe] [Profound] Mental Disability. G.S. 14-205.2. (6/2019)		D
226.94	Promoting Prostitution of a Person Who Had a [Severe] [Profound] Mental Disability. G.S. 14-205/3(b) (6/2019)		Misd A1, G
226.96	Solicitation for Prostitution with a Person who Has a [Severe] [Profound] Mental Disability. G.S. 14-204(5), 14-205.1. (6/2019)		E
226.97	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)		G, H
226.98	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)	Misd	Misd 1
227.10	Massage and Bodywork Therapy Licensing Violation. (6/2018)		
227.15	[Sexual Activity] [Solicitation of Sexual Activity] in a Message and Bodywork Therapy Establishment. (6/2018)		
227.20	Owner of Massage and Bodywork Therapy Establishment Permitting or Engaging in Sexual Activity. (6/2018)		
	Perjury.		
228.10	Perjury. G.S. 14-209. (1/2001)	H	F
228.20	Subornation of Perjury. G.S. 14-210. (1/2001)	H	I
228.30	Presenting a False Statement to Procure Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.30A	Presenting a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.35	Making (or Participating in) a False Statement to Procure Benefit of an Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
228.35A	Making (or Participating in) a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
	Bribery.		
229.05	Bribery of Officials. G.S. 14-217. (5/2005)	I	F
229.10	Offering a Bribe to Public Officials. G.S. 14-218. (4/2003)	I	F
229.15	[Buying] [Selling] Public Offices. G.S. 14-228. (6/2016)		

229.20	Commercial Bribery. G.S. 14-353. (6/2014)	Misd	Misd 2
229.21	Commercial Bribery (Making Bribe). G.S. 14-353. (6/2014)	Misd	Misd 2
	Obstructing Justice.		
230.20	Breaking or Entering with the Intent of Altering, Destroying, or Stealing Evidence. G.S. 14-221.1. (1/1999)	I	I
230.21	[Altering] [Destroying] [Stealing] Evidence of Criminal Conduct. G.S. 14-221.1. (6/2010)	I	I
230.25	[Destroying] [Altering] [Concealing] [Tampering With] Biological Evidence of Criminal Conduct. G.S. 15A-268. (6/2010)		H, I
230.26	Felonious Misrepresentation of Evidence (6/2012)		H
230.27	Non-Felonious Misrepresentation of Evidence (6/2012)		Misd 1
230.30	Resisting, Delaying, or Obstructing a Public Officer—All Situations Other Than Arrest. G.S. 14-223. (6/2022)	Misd	Misd 2
230.31	Resisting Arrest—Lawfulness of Arrest. G.S. 14-223. (1/1999)	Misd	Misd 2
230.32	Resisting, Delaying or Obstructing an Officer—Excessive Force by the Officer. G.S. 14-223. (6/2022)	Misd	Misd 2
230.34	Resisting, Delaying, or Obstructing a Public Officer—Serious Bodily Injury. (6/2022)		F, I, Misd 2
230.36	Resisting, Delaying, or Obstructing a Public Officer—Serious Injury. (6/2022)		I, Misd 2
230.40	Obstructing the Administration of Justice by [Picketing] [Parading] [Use of a Sound Truck or Similar Device]. G.S. 14-225.1. (12/1998)	Misd	Misd 1
230.60	Harassment or Intimidation of or Communication with Juror. G.S. 14-225.2. (12/1998)	I	H, I
230.60A	Harassment or Intimidation of or Communication with Juror’s Spouse. G.S. 14-225.2. (1/1999)	I	H, I
230.61A	Intimidating Witnesses by Threatening the Assertion or Denial of Parental Rights. G.S. 14-226. (2/2005)		H
230.62	Obstruction of Justice. Common Law Misdemeanor. (3/2003)	Misd	Misd 1, H
230.65	[Intimidating] [Interfering] With a Witness. G.S. 14-226(a). (Delete Sheet). (6/2022)		G
230.66	Intimidating a Witness. (6/2022)		G
230.67	Interfering with a Witness. (6/2022)		G
230.70	Impersonation of Law-Enforcement Officer by [Verbally Informing Another] [Displaying any Badge or Identification] [Unlawfully Operating a Vehicle with an Operating Red Light]. Misdemeanor. G.S. 14-277(a). (6/2011)	Misd	Misd 1
230.70A	Impersonating of Law-Enforcement Officer by Operating a Vehicle with an Operating Blue Light. Felony. (6/2011)		H, I
230.71	Impersonating a Law Enforcement Officer by Operating a Vehicle with an Operating Blue Light Causing a Person to [Stop] [Yield] (Blue Light Bandit). G.S. 14-277(a)(4), (b)(5). (12/1997)		H, I
230.73	Impersonation of [a Firefighter] [an Emergency Medical Services Personnel]. G.S. 14-276.1 (6/2016)		
230.75	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Misdemeanor. G.S. 14-277(b). (6/2011)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
230.75A	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Felony. G.S. 14-277(b). (6/2011)		H, I
230.77	Driving with a Light Bar. (6/2018)		
230.80	Concealment of Death. G.S. 14-401.22. (6/2006)		Felony
230.81	Harassment of a Participant in a Neighborhood Crime Watch Program. G.S. 14-226.2. (6/2007)		Misd 1
230.91	Concealment of Death—Intent to Conceal Death by Dismembering or Destroying Human Remains (6/2012)		H
230.92	Concealment of Death—Intent to Conceal Unnatural Death by Dismembering or Destroying Human Remains (6/2012)		D
230.93	Concealment of Death—Aiding, Counseling, and Abetting (6/2012)		Misd 1
230.94	Disturbing Human Remains—Physical Alteration or Manipulation (6/2012)		I
230.95	Disturbing Human Remains—Acts of Sexual Penetration (6/2012)		I
	Prison Breach and Prisoners.		
233.45	Prison Breach and Escape from [County] [Municipal] Confinement [Facilities] [Officers]. G.S. 14-256. (6/2014)		Misd 1, H
233.47	Possession of Tools for Escape by a Prisoner G.S. 14-258(c) (6/2019)		H
233.50	Feloniously Harboring or Aiding an Escaped Prisoner. G.S. 14-259. (12/1998)	I	I
233.60	Injury to Prisoner by Jailer. G.S. 162-55. (12/1998)	Misd	Misd 1
233.70	Harboring a Fugitive. G.S. 14-267. (2/1999)	Misd	Misd 1
233.80	Furnishing a Controlled Substance to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.81	Furnishing a Deadly Weapon, Cartridge or Ammunition to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.82	Furnishing an Alcoholic Beverage to an Inmate. G.S. 14-258.1(b). (6/2010)	Misd	Misd 1
233.83	Furnishing a Tobacco Product (Including Vapor Products) to an Inmate. G.S. 14-258.1(c). (6/2015)	Misd	Misd 1
233.84	Furnishing a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]] to an Inmate. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
233.85	Providing [Forbidden Articles] [Tools to Escape] to a Prisoner. G.S. 14-258(a) (6/2019)		H
233.90	Possession of Tobacco Product (Including Vapor Products) by an Inmate. G.S. 14-258.1(e). (6/2015)	Misd	Misd 1
233.95	Possession of a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]]. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
	Offenses against the Public Peace.		
235.10	Carrying a Concealed Weapon Other Than a Pistol or Handgun. G.S. 14-269(a). (6/2014)	Misd	Misd 2
235.12	Carrying a Concealed [Pistol] [Handgun]. G.S. 14-269(a1). (6/2015)		Misd 2, H
235.15	Carrying Weapons into Assemblies. G.S. 14-269.3. (6/2014)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
235.16	Carrying Weapons into Establishments Where Alcoholic Beverages Are Sold and Consumed. G.S. 14-269.3. (6/2014)	Misd	Misd 1
235.17	[Carrying] [Possessing] Weapons [on Educational Property] [at School Sponsored Activity]. G.S. 14-269.2(b) and (b1). (6/2016)	I, Misd	I, Misd 1
235.17A	[Causing] [Encouraging] [Aiding] a Minor to [Carry] [Possess] Weapons on Educational Property. G.S. 14-269.2(c) and (c1). (6/2014)	I, Misd	I, Misd 1
235.17B	Willfully Discharging a Firearm on Educational Property or at School Sponsored Activity. G.S. 14-269.2(b) and (b1). (6/2014)		F
235.18	Communicating Threats. G.S. 14-277.1. (2/2000)	Misd	Misd 1
235.19	Stalking. G.S. 14-277.3A(c)(d). (6/2009)	I, Misd	F, H, Misd A1
235.19A	Stalking (Court Order in Effect). G.S. 14-277.3A(c)(d). (6/2009)		H
235.19B	Stalking (Previously Convicted). G.S. 14-277.3A(c)(d). (6/2009)		F
235.20	Going about Armed with Unusual and Dangerous Weapons to the Terror of the People (Common Law Misdemeanor). (4/1999)	Misd	Misd 1
235.30	Pointing a Laser Device towards an Aircraft. G.S. 14-280.2. (6/2006)		H
235.35	Interference with Manned Aircraft by Unmanned Aircraft Systems. G.S. 14-280.3. (6/2015)		H
235.37	Use of Unmanned Aircraft System Near a [Confinement] [Correctional] Facility. (6/2018)		
235.38	Use of an Unmanned Aircraft System Near a [Confinement] [Correctional] Facility to [[Deliver] [Attempt to Deliver]] [[a Weapon] [Contraband]]. (6/2018)		
235.50	Terrorism (Basic Offense). G.S. 14-10.1. (6/2013)		B1*
235.51	Terrorism—Continuing Criminal Enterprise. G.S. 14-7.20. (6/2013)		D
235.61	Unlawful Distribution Of Images Taken by Unmanned Aircraft. G.S. 14-401.25. (6/2015)		Misd A1
235.65	Disclosure of Private Images by Offender Under the Age of 18. G.S. 14-190.5A(c)(2). (6/2018)		Misd 1
235.65A	Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(2). (6/2018)		Misd
235.67	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(c)(1). (6/2018)		H
235.67A	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(b), (c)(1). (6/2018)		F
235.69	Felonious Disclosure of Private Images by Offender Under the Age of 18 G.S. 14-190.5A(c)(3). (6/2018)		H
235.69A	Riots and Civil Disorders. Felonious Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(3). (6/2018)		

* If the underlying act of violence is a Class A or B1 felony offense. Otherwise, it is one class higher than felony for underlying act of violence.

236A.10	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—More Than \$1,500 Property Damage or Serious Injury. G.S. 14-288.2(c)(1). (5/1999)	I, Misd	H, Misd 1
236A.15	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—Dangerous Weapon or Substance. G.S. 14-288.2(c)(2). (5/1999)	I, Misd	H, Misd 1
236A.20	Inciting to Riot—\$1,500 or Less in Damage—Misdemeanor. G.S. 14-288.2(d). (5/1999)	Misd	Misd 1
236A.25	Felonious Inciting to Riot—Damage in Excess of \$1,500 or Serious Bodily Injury (with Misdemeanor Inciting as a Lesser Included Offense). G.S. 14-288.2(e). (5/1999)	H, Misd	F, Misd 1
236A.27	Failure to Disperse. G.S. 14-288.5. (6/2013)		Misd 2
236A.28	[Standing] [Sitting] [Lying] Upon [Highways] [Streets]. G.S. 20-174.1. (6/2015)		Misd 2
236A.30	Disorderly Conduct (Fighting or Other Violent Conduct). G.S. 14-288.4(a)(1). (5/1999)	Misd	Misd 2
236A.31	Disorderly Conduct (Abusive Language or Gestures). G.S. 14-288.4(a)(2). (5/1999)	Misd	Misd 2
236A.33	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8). (6/2014)		Misd 1, H, I
236A.35	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8) (6/2014)		Misd 1, H, I
236A.40	Disorderly Conduct [In] [Near] a Public [Building] [Facility]. G.S. 14-132(a)(1). (6/2016)		
236A.60	Looting (Lesser Included Offense of Trespass during Emergency). G.S. 14-288.6. (5/1999)	I, Misd	H, Misd 1
	Lotteries and Gaming.		
237.20	Possession of Lottery Tickets Used in the Operation of a Lottery. G.S. 14-290. (6/2006)	Misd	Misd 2
237.25	Sale of Lottery Tickets. G.S. 14-291. (6/2006)	Misd	Misd 2
237.26	Sale of Tickets Used in a Numbers Lottery. G.S. 14-291.1. (6/2006)	Misd	Misd 2
237.30	Gambling. G.S. 14-292. (1/2000)	Misd	Misd 2
237.40	Unlicensed Operation of a Beach Bingo Game. G.S. 14-309.14(5). (6/2017)		Misd 2
237.45	Providing False Information in Order to Obtain a License to Operate a Beach Bingo Game. G.S. 14-309.14(5)(c). (6/2017)		Misd 2
237.60	Possession of Illegal Slot Machine. G.S. 14-301. (8/1999)	Misd	Misd 2
237.70	Unlawful [Operation] [Possession] of Video Gaming Machines. G.S. 14-306.1, -306.1A. (6/2007).		Misd 1, H, G
237.75	Operating Electronic Sweepstakes. G.S. 14-306.4(b). (6/2013)		Misd 1, H, G
237.80	Unlawful [Promotion] [Operation] [Conducting] of a Server-Based Electronic Game Promotion. G.S. 14-306.3(a). (6/2009)		Misd 1, H, G
237.90	Unlawful Possession of Game Terminal for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3(b). (6/2009)		Misd 1

237.91	Felonious Possession of Game Terminals for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3; 14-309(c). (6/2009)		G
238.10	Obscenity. Disseminating Obscenity Intentionally (Physical Transfers). G.S. 14-190.1(a)(1), (3). (11/1999)	J	I
238.10A	Disseminating Obscenity Intentionally (Live Performance). G.S. 14-190.1(a)(2). (12/1999)	J	I
238.10B	Disseminating Obscenity Intentionally (Transmissions or Deliveries of Actual Images—Not Drawings). G.S. 14-190.1(a)(4). (12/1999)	J	I
238.11	Creating, Buying, Procuring, or Possessing Obscene Material with the Intent to Disseminate. G.S. 14-190.1(e). (12/1999)	J	I
238.12	Advertising or Promoting Sale of Material as Obscene. G.S. 14-190.1(f). (12/1999)	J	I
238.13	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] of Himself or Another for the Purpose of Dissemination. G.S. 14-190.5(1). (12/1999)	Misd	Misd 1
238.13A	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] for the Purpose of Dissemination (Modeling or Assisting the Photographer). G.S. 14-190.5(2). (12/1999)	Misd	Misd 1
238.14	Intentionally [Employing] [Permitting] Minor to Assist in Obscenity Offense. G.S. 14-190.6. (12/1999)	I	I
238.15	Disseminating Obscene Material to Minors under the Age of Sixteen. G.S. 14-190.7. (12/1999)	I	I
238.16	Disseminating Obscene Material to Minors under the Age of Thirteen. G.S. 14-190.8. (12/1999)	H	I
238.17	Indecent Exposure. G.S. 14-190.9. (6/2006)	Misd	Misd 2
238.17A	Indecent Exposure to Minor for Purpose of Arousing or Gratifying Sexual Desire. G.S. 14-190.9. (6/2020)		
238.18	Displaying Material Harmful to Minors. G.S. 14-190.14. (12/1999)	Misd	Misd 2
238.19	Disseminating Harmful Material to Minors (Distribution). G.S. 14-190.15(a)(1). (12/1999)	Misd	Misd 1
238.19A	Disseminating Harmful Material to Minors (Allowing Minor to Review). G.S. 14-190.15(a)(2). (12/1999)	Misd	Misd 1
238.20	Exhibiting a Harmful Performance to Minors. G.S. 14-190.15(b). (12/1999)	Misd	Misd 1
238.21	First Degree Sexual Exploitation of a Minor (Using or Employing a Minor to Engage in or Assist Others in Engaging in Sexual Activity). G.S. 14-190.16(a)(1). (1/2000)	G	D
238.21A	First Degree Sexual Exploitation of a Minor (Permitting a Minor to Engage in Sexual Activity for Live Performance, etc.) G.S. 14-190.16(a)(2). (1/2000)	G	D
238.21B	First Degree Sexual Exploitation of a Minor by Transporting a Minor. G.S. 14-190.16(a)(3). (1/2000)	G	D
238.21C	First Degree Sexual Exploitation of a Minor by Photographing, etc. G.S. 14-190.16(a)(4). (1/2000)	G	D
238.22	Second Degree Sexual Exploitation of a Minor (Producing Material). G.S. 14-190.17(a)(1). (1/2000)	H	F
238.22A	Second Degree Sexual Exploitation of a Minor (Circulating Material). G.S. 14-190.17(a)(2). (1/2000)	H	F

		Before 10/1/94	On or After 10/1/94
238.22B	Third Degree Sexual Exploitation of a Minor. G.S. 14-190.17A. (6/2015)	J	I
238.23	Promoting Prostitution of a Minor (Enticing Prostitution). G.S. 14-190.18(a)(1). (6/2014)	G	D
238.23A	Promoting Prostitution of a Minor (Supervising Prostitution). G.S. 14-190.18(a)(2). (6/2014)	G	D
238.23C	Patronizing a Prostitute, a Minor. G.S. 14-205.2. (6/2014)		Misd 1, D, F, G
238.24	Participating in Prostitution of a Minor. G.S. 14-190.19(a). (6/2014)	H	F
238.26A	Solicitation for Prostitution with a Minor. G.S. 14-204(5), 14-205.1 (6/2014)		Misd 1, E, G, H
238.30	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act. G.S. 14-202.3. (6/2017)		H
238.35	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act and Appearing at Location. G.S. 14-202.3(c)(2). (6/2017)		G
238.40	DELETE SHEET. Soliciting a Child by [Computer] [Electronic Device] to Commit an Unlawful Sex Act. (Offenses after December 1, 2009). G.S. 14-202.3 (6/2017)		H, G
	Protection of Minors.		
239.10	[Selling] [Giving] a Weapon to a Minor. G.S. 14-315. (11/1999)	-	H, Misd 1
239.11	Improper Storage of Firearms to Protect Minors. G.S. 14-315.1. (8/1999)	Misd	Misd 1
239.20	Permitting a Young Child Under the Age of Twelve to Use a Dangerous Firearm. G.S. 14-316. (6/2014)	Misd	Misd 2
239.21	Furnishing a Young Child a Dangerous Firearm—Nonparent. G.S. 14-316. (Delete Sheet) (6/2014)	Misd	Misd 2
239.23	Possession of Handguns by Minors (6/2012)		Misd 1
239.25	Contributing to the Delinquency and Neglect by Parents and Others. G.S. 14-316.1; 7B-101(1), (15); 7B-1501(7), (27). (6/2019)	Misd	Misd 1
239.30	Child Care Facility Report of Missing Child. G.S. 110-102.1(a). (6/2014)		
239.31	Concealment of Death—Failure to Notify Law Enforcement of Death of Child or Secretly Burying Child. G.S. 14-401.22(a1). (6/2014)		H
239.32	Failure to Report the Disappearance of a Child to Law Enforcement. G.S. 14-318.5. (6/2014)		I
239.33	False Reports to Law Enforcement [Agency] [Officer] Related to the Disappearance of a Child. G.S. 14-225(b). (6/2014)		Misd 2, H
239.34	False Reports to Law Enforcement [Agency] [Officer]. G.S. 14-225(a). (6/2014)		Misd 2
239.35	Failure to Report [Abuse] [Neglect] [Dependency] [Death] Due to Maltreatment of a Juvenile. G.S. 7B-301(a), (b). (6/2019)		Misd 1
239.36	Failure of Department of Social Services Director to Notify the State Bureau of Investigations of a Report of Sexual Abuse of a Juvenile in a Child Care Facility. G.S. 7B-301(a), (c) (6/2014)		Misd 1

		Before	On or After
		10/1/94	10/1/94
239.37	Failure to Report Crimes Against Juveniles. Misdemeanor. (6/2020)		Misd 1
239.55	Felonious Child Abuse. G.S. 14-318.4(a); 14-318.2. (6/2009)	H, Misd	E, Misd 1
239.55A	Felonious Child Abuse by Prostitution. G.S. 14-318.4(a1). (5/2000)	H	E
239.55B	Felonious Child Abuse by a Sexual Act by a [Parent] [Legal Guardian]. G.S. 14-318.4(a2). (5/2020)	H	H
239.55C	Felonious Child Abuse (Reckless Disregard—Serious Bodily Injury). G.S. 14-318.4(a4); 2414-318.2. (6/2014)		E
239.55D	Felonious Child Abuse (Reckless Disregard—Serious Physical Injury). G.S. 14-318.4(a5); 14-318.2 (6/2014)		H
239.57	Felonious Child Abuse [Inflicting Serious Bodily Injury] [Resulting in Permanent or Protracted Loss or Impairment of any Mental or Emotional Function]. G.S. 14-318.4(a3). (6/2009)		C
239.60	Child Abuse. G.S. 14-318.2. (6/2009)	Misd	Misd 1
239.65	Permitting a Child under 16 Years of Age to [Operate] [Be a Passenger on] a Bicycle without a Protective Bicycle Helmet. G.S. 20-171.9. (2/2002)		Infraction
239.70	Failure to Secure a Child in a Restraint System. G.S. 20-137.1. (2/2005)		Infraction
239.80	[Transporting] [Keeping] Child Outside the State with Intent to Violate Custody Order. G.S. 14-320.1. (5/2000)	J	I
239.90	Felonious Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		F, Misd A1
239.91	Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		Misd A1
239.95	Distribution of Certain Food at Halloween and All Other Times Prohibited—Controlled Substance. G.S. 14-401.11. (6/2020)		F
239.96	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Greater Than Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		H
239.97	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		I
239.98	Distribution of Certain Food at Halloween and All Other Times Prohibited—Poisonous Chemical, Compound, or Foreign Substance. G.S. 14-401.11. (6/2020)		C
	Protection of Family.		
240.05	Abandonment by Supporting Spouse. G.S. 14-322(b). (5/2000)	Misd	Misd 2
240.06	Failure to Support Child. G.S. 14-322(d). (5/2000)	Misd	Misd 2
240.07	Felonious Abandonment and Lesser Included Offense of Failure to Support by Parent. G.S. 14-322.1, -322(d). (6/2014)	I, Misd	I, Misd 2
240.10	Failure of Supporting Spouse to Provide Adequate Support for Dependent Spouse. G.S. 14-322(c). (5/2000)	Misd	Misd 2
240.40	Willful Neglect or Refusal to Adequately Support and Maintain a Born Out of Wedlock Child. G.S. 49-2. (6/2014)	Misd	Misd 2
240.50	Violation of Valid Protective Order. G.S. 50B.4.1(a). (6/2016)		Misd A1

240.51	Violation of a Protective Order While in Possession of a Deadly Weapon. G.S. 50B-4.1(g). (6/2016)		H
240.55	Felonious Violation of Valid Protective Order. G.S. 50B.4.1(f). (6/2009)		H
240.60	Violation of Permanent Civil No-Contact Order. G.S. 50D-10. (6/2016)		
240.70	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		II, H
240.71	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		I, H
240.75	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		F
240.76	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		F
240.80	[Employee] [Volunteer] At a [Care] [Treatment] [Habilitation] [Rehabilitation] Facility of Individuals With [Mental Illness] [Developmental Disabilities] [Substance Abuse Disorders] Causes [Pain] [Injury] to a Client Other Than as Part of a Generally Accepted [Medical] [Therapeutic] Procedure. G.S. 122C-66(a). (6/2016)		Misd A1
240.82	[Employee] [Volunteer] at a Facility Who [Borrows] [Takes] Personal Property From a Client. G.S. 122C-66(a1). (6/2016)		Misd 1
240.84	[Employee] [Volunteer] at a Facility Failed to Report Violations of Client Abuse. G.S. 122C-66(b). (6/2016)		Misd 1
240.86	[Employee] [Volunteer] at a Facility Failed to Report Violations of [Borrowing] [Taking] Client Property. G.S. 122C-66(a1)-(b). (6/2016)		Misd 1
240.88	[Employee] [Volunteer] at a Facility Failed to Report Accidental Injury to a Client. G.S. 122C-66(b). (6/2016)		Misd A1
240.90	Furnishing False Information on an Employment Application to a Child Care Institution. Misdemeanor. (6/2021)		
	Intoxicating Liquors.		
241.05	Manufacturing Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(a). (8/2000)	H	H
241.10	Selling Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.11	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] of Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.15	Selling Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.16	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] Poisonous Spirituous Liquor. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.20	[Transportation] [Possession] of Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(d). (8/2000)	Misd	Misd 1
242.10	Intentional Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(1). (6/2008)		C
242.15	Culpably Negligent Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(2). (6/2008)		E
242.20	Patient Abuse Resulting in Serious Bodily Injury. G.S. 14-32.2(a)-(b)(3). (6/2008)		F

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
242.25	Pattern of Patient Abuse Resulting in Bodily Injury. G.S. 14-32.2(a)-(b)(4). (6/2008)		H
247.10	Cruelty to Animals. Non-Felonious Cruelty to (an) Animal(s). G.S. 14-360(a). (6/2017)	Misd	Misd 1
247.10A	Felonious Cruelty to (an) Animal(s). G.S. 14-360(b). (6/2017)		H
247.10B	Misdemeanor Cruelty to Animals by Depriving of Necessary Sustenance. G.S. 14-360(a1). (6/2008)		Misd 1
247.15	Willful Killing of [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		H
247.15A	[Causing] [Attempting to Cause] Serious Harm to a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		I
247.15B	Willfully [Taunting] [Teasing] [Harassing] [Delaying] [Obstructing] [Attempting to [Delay] [Obstruct]] a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal in the Performance of its Duties. G.S. 14-163.1. (6/2010)		Misd 2
247.20	Instigating or Promoting Cruelty to an Animal(s). G.S. 14-361. (6/2017)	Misd	Misd 1
247.30	Cockfighting. G.S. 14-362. (1/2001)	Misd	Misd 2
247.31	Dog Fighting and Baiting. G.S. 14-362.2. (6/2008)		H
247.40	Interference with Animal Research Involving Release of an Animal Having an Infectious Disease. G.S. 14-159.2(a)(1), (b), (c). (12/2000)	J, Misd	I, Misd 1
247.50	Interference with Animal Research—Willfully Damaging an Animal Research Facility. G.S. 14-159.2(a)(2). (8/2000)	Misd	Misd 1
247.60	Interference with Animal Research—Willful, Unauthorized Release of an Animal from an Enclosure or Restraining Device. G.S. 14-159.2(a)(3). (12/2000)	Misd	Misd 1
247.70	Interference with Animal Research—Willful Interference with the Care of an Animal Kept within an Animal Research Facility. G.S. 14-159.2(a)(4). (12/2000)	Misd	Misd 1
247.80	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Venomous Reptile not Housed in a Sturdy and Secure Enclosure. G.S. 14-417. (6/2020)		Misd 2, Misd A1
247.80A	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Crocodilian not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.2. (6/2020)		Misd 2, Misd A1
247.80B	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Constricting Snake not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.1. (6/2020)		Misd 2, Misd A1
247.81	Failure to Immediately Notify Local Law Enforcement of Escape of [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-417. (6/2010)		Misd 2, Misd A1
247.82	Handling a [Venomous Reptile] [Large Constricting Snake] [Crocodilian] in a Manner That [Intentionally] [Negligently] Exposes Another to Unsafe Contact with the [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
247.83	Intentionally Releasing into the Wild a Nonnative [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-422. (6/2010)		Misd A1

247.84	[Intentionally] [Negligently] [[Suggesting] [Enticing] [Inviting] [Challenging] [Intimidating] [Exhorting] [Inducing] [Aiding]] Any Person to [Handle] [Be Exposed] in an Unsafe Manner to a [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
252.65	Miscellaneous Police Regulations. Tattooing a Minor. G.S. 14-400. (8/2000)	Misd	Misd 2
254A.10	Felony Firearms. Possession of a Weapon of Mass Death and Destruction. (6/2021)		F
254A.11	Possession of a Firearm or Weapon of Mass Death and Destruction by a Felon. G.S. 14-415.1. (6/2020)		G
254A.15	[Altering] [Defacing] [Destroying] [Removing] the Serial Number of a Firearm. G.S. 14-160.2 (6/2010)		H
254A.17	[Selling] [Buying] [Possessing] Firearm with Serial Number [Altered] [Defaced] [Destroyed] [Removed]. G.S. 14-160.2 (6/2010)		H
254A.19	Purchase or Possession, or Attempted Purchase or Possession of Firearms by Person Subject to Domestic Violence Protective Order. (6/2022)		H
255.01	Miscellaneous. Felony Willful Failure to Appear. G.S. 15A-543. (12/2000)		I
255.02	Misdemeanor Willful Failure to Appear. G.S. 15A-543. (12/2000)	Misd	Misd 2
255.03	Failure to Appear (Alcohol-Related Offenses). G.S. 20-28(a2). (6/2007)		Misd 1
256.10	Intoxicated and Disruptive in Public. G.S. 14-444. (12/2000)	Misd	Misd 3
257.10	Willfully Violating Occupational Safety and Health Act of North Carolina Resulting in Death of an Employee. G.S. 95-139. (6/2010)		Misd 2
257.11	Knowingly Making a False [Statement] [Representation] [Certification] in a(n) [Application] [Record] [Report] [Plan] [Document] Required to be [Filed] [Maintained] Pursuant to the Occupational Safety and Health Act of North Carolina. G.S. 95-139. (6/2010)		Misd 2
257.12	Giving Advance Notice of OSHA Inspection Without Authorization. G.S. 95-139. (6/2010)		Misd 2
258.10	Failure of Secondary Metals Recycler to Issue Receipt for Purchase of Regulated Metals Property. G.S. 66-11(a1) (6/2010)		Misd 1, I
258.12	Failure of Secondary Metals Recycler to Maintain Records of Purchases of Regulated Metals. G.S. 66-11(b) (6/2010)		Misd 1, I
258.14	Failure to Hold and Retain Regulated Metals for Seven Days Before [Selling] [Dismantling] [Defacing] [Altering] [Disposing of] Regulated Metals. G.S. 66-11(d1) (6/2010)		Misd 1, I
258.16	Purchase of [Air Conditioning [Coils] [Condensers]] [Catalytic Converter] by Secondary Metals Recycler. G.S. 66-11(d)(3) (6/2010)		Misd 1, I

258.18	Purchase of Nonferrous Metal by Secondary Metals Recycler. G.S. 66-11(d)(4) (6/2010)	Misd 1, I
258.20	Purchase of Prohibited Material by Secondary Metals Recycler. G.S. 66-11(d)(5). G.S. 136-32(a). (6/2010)	Misd 1, I
258.30	Erecting or Maintaining Signs on Highways (6/2012)	Misd 3
258.31	Erecting or Maintaining Political Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (b), (c), (d). (6/2012)	Misd 1, 3
258.32	Erecting or Maintaining Commercial Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (d). (6/2012)	Misd 1
258.33	[Stealing] [Defacing] [Vandalizing] [Unlawfully Removing] Political Signs That Are Lawfully Placed. G.S. 136-32(a), (b), (c), (d), (e). (6/2012)	Misd 3
258.35	Removal or Destruction of Warning Signs—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
258.36	Possession of Signs Posted by Department of Environment and Natural Resources—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
259.10	Unauthorized Practice of Medicine—Practicing Without a License. G.S. 90-18. (6/2012)	Misd 1
259.11	Unauthorized Practice of Medicine—Practicing Without a License While Representing Oneself as Being Licensed. G.S. 90-18. (6/2012)	I
259.12	Unauthorized Practice of Medicine—Practicing Without a License in North Carolina By an Out-of-State Practitioner. (G.S. 90-18). (6/2012)	I
259.13	Unauthorized Practice of Medicine—Practicing Without a License Due to Failure to Complete Timely Annual Registration or Practice While Licensed Under Another Article. G.S. 90-18. (6/2012)	Misd 1
259.20	Unauthorized Practice of Law—Non-Members of the State Bar. G.S. 84-4. (6/2017)	Misd 1
259.21	Unauthorized Practice of Law—Corporations. G.S. 84.5. (6/2012)	Misd 1
259.22	Unauthorized Practice of Law—Foreclosure Fees. G.S. 84.6. (6/2012)	Misd 1
259.23	Unauthorized Practice of Law—Appearing for Creditors in [Insolvency] [Bankruptcy] and Other Proceedings. G.S. 84.9. (6/2012)	Misd 1
259.30	Practice as a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(1). (6/2020)	Misd 1
259.31	Practice as a Clinical Addiction Specialist Without a License—Using [Letters] [Words] [Numerical Codes] [Insignia]. G.S. 90-113.43(a)(2). (6/2020)	Misd 1
259.32	[Practice] [Attempt to Practice] as a Clinical Addiction Specialist With a [Revoked] [Lapsed] [Suspended] Certification or License. G.S. 90-113.43(a)(3). (6/2020)	Misd 1
259.33	[Aiding] [Abetting] [Assisting] the Practice of a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(4). (6/2020)	Misd 1
259.34	Knowingly Serving in a Position Required by Law to be Filled by a Clinical Addiction Specialist. G.S. 90-113.43(a)(5). (6/2020)	Misd 1
259.40	Bank Examiner Making False Report. G.S. 53C-8-7. (6/2013)	H

259.41	[Bank Examiner] [Other Employee] Disclosing Confidential Information. G.S. 53C-8-8. (6/2013)		Misd 1
259.42	Willfully and Maliciously Making [False] [Derogatory] Reports about the Financial Condition of a Bank. G.S. 53C-8-10. (6/2013)		Misd 1
259.43	[Bank] [Officer] [Director] [Employee] Making Extension of Credit to a Disqualified Individual. G.S. 53C-8-9. (6/2013)		Misd 1
259.50	Attempt to [Evade] [Defeat] Tax. G.S. 105-236(a)(7). (6/2016)		H
259.51	Willful Failure to [Collect] [Withhold] [Pay Over] Tax. G.S. 105-236(a)(8). (6/2016)		Misd 1
259.52	Willful Failure to [File Return] [Supply Information] [Pay Tax]. G.S. 105-236(a)(9). (6/2016)		Misd 1
259.53	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.53A	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by Any Person Other Than a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.55	Identity Theft – Submission to the Department of Revenue. G.S. 105-236(a)(9b). (6/2018)		
259.57	Identity Theft – Submission to the Department of Revenue Resulting in Adverse Financial Impact. G.S. 105-236(a)(9b). (6/2018)		
259.60	Unlawful Handling of Waste Kitchen Grease. G.S. 14-79.2. (6/2013)		H, Misd 1
259.70	Medicaid Subrogation – Withholding Information. G.S. 108A-57(b). (6/2014)		Misd 1
259.80	Misuse of 911 System. G.S. 14-111.4. (6/2014)		Misd 1
259.85	Subsurface Injection of Waste. G.S. 113-395.2, 143-214.2 (6/2015)		Misd 1
259.90	Member of a [County] [City] Inspection Department Who Willfully [Fails to Perform Duties] [Improperly [Issues Permit] [Gives Certificate of Compliance]] [Improperly Gives a Certificate of Compliance Without First Making the Required Inspections by Law] [Improperly Gives a Certificate of Compliance]. G.S. 153A-356; 160A-416. (6/2016)		Misd 1
259.95	Illegal Operation of Amusement Devices Causing [Death] [Serious Injury]. G.S. 95-111.13. (6/2016)		E
259.97	[Counterfeiting] [Selling] [Lending] [Permitting Use of] Photo Identification for Voting. G.S. 163A-1389(19) (6/2019)		I
259.98	Voting More Than One Time in an Election—Verdict Form. G.S. 163-275(7). (6/2017)		I
	Dangerous Drugs.		
260.10	260 Series—Directory of Dangerous Drug Charges. (6/1996) Possession of a Controlled Substance. G.S. 90-95(a)(3)(d). (6/2014)	I, Misd	I, Misd 1, Misd 2, 3
260.11	Aggravated Possession of a Controlled Substance—Including Lesser Offenses. G.S. 90-95. (6/2014)	I, Misd	I, Misd 1, Misd 2, 3

		Before 10/1/94	On or After 10/1/94
260.12	Possession of a Controlled Substance on Premises of a [Penal Institution] [Local Confinement Facility]. G.S. 90-95(a)(3), (e)(9). (6/2021)	I	I*
260.15	Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offense. G.S. 90-95(a)(1), (3), (b), (d). (6/2014)	H, I, Misd	H, I, Misd 1, Misd 2, 3
260.15A	Possession of a Counterfeit Controlled Substance with Intent to [Sell] [Deliver]. G.S. 90-87(6) and 90-95(a)(2), (c). (6/2014)	I	I
260.15B	Possession of an Immediate Precursor Chemical. G.S. 90-95(d1), (d2). (12/2004)	H	H
260.16	Aggravated Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offenses. G.S. 90-95(a)(1), (b)(2), (e)(1-4). (6/2014)	E, H, I, Misd	E, H, I, Misd 1,2,3
260.17	Drug Trafficking—Possession (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E F, G, H	D, D, E F, G, H
260.18	Forged Prescription—Acquiring or Obtaining Possession of a Controlled Substance by [Misrepresentation] [Fraud] [Forgery] [Deception] [Subterfuge]. G.S. 90-108(a)(10). (6/2014)	I	I
260.19	Manufacturing a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I
260.19A	Creating a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(b). (1/2001)	I	I
260.20	Aggravated Manufacture of Controlled Substance—Lesser Included Offense. G.S. 90-95(a)(1), (e)(1-4). (1/2001)	Misd	Misd 1, 2
260.20A	Drug Trafficking—Manufacturing (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2016)	C, D, E, F, G, H	C, D, E, F, G, H
260.21	[Selling] [Delivering] a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I*
260.21A	[Selling] [Delivering] a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(6). (1/2001)	I	I
260.22	Sale or Delivery of a Controlled Substance to a Minor or Pregnant Woman—Lesser Included Offense. G.S. 90-95(a)(1), (e)(5). (1/2001)	E, H, I	E, H
260.22A	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of School Property. G.S. 90-95(e)(8). (6/2012)		E
260.22B	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of a Public Park G.S. 90-95(e)(10). (6/2008)		E
260.22C	Sale or Delivery of a Controlled Substance on Property Used for a Child Care Center. G.S. 90-95(e)(8). (6/2008)		E

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.
* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

		Before	On or After
		10/1/94	10/1/94
260.23	Drug Trafficking—[Selling] [Delivering] (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones or Synthetic Cannabinoid) G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.30	Drug Trafficking—Transportation (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.40	Employing a Minor to Commit a Drug Law Violation. G.S. 90-95.4. (1/2001)		
260.41	Promoting Drug Sales by a Minor. G.S. 90-95.6. (1/2001)		D
260.42	Participating in a Drug Violation by a Minor. G.S. 90-95.7. (3/2001)		G
260.45	General Aggravating Conditions Applicable to Drug Charges. G.S. 90-95(d), (e)(1-5). (12/2003)		
260.70	Continuing Criminal Enterprise—The Controlled Substances Act. G.S. 90-95.1. (3/2001)	C	C
260.80	Feloniously Dispensing a Controlled Substance (Practitioner or Registrant)—Lesser Included Offense. G.S. 90-108(a)(2) and (b); 90-106. (3/2001)	I, Misd	I, Misd 1
260.81	Feloniously [Diverting] [Embezzling] a Controlled Substance (Practitioner, Registrant, or Employee). G.S. 90-108(b) and 90-108(a)(14) (6/2019)		E
260.82	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (Practitioner, Registrant, or Employee). G.S. 90-108(b)(3) and 90-108(a)(14) (6/2019)		E
260.83	Feloniously [Diverting] [Embezzling] a Controlled Substance (by Virtue of Occupation). G.S. 90-108(b)(2) and 90-108(a)(15) (6/2019)		E
260.84	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (by Virtue of Occupation). G.S. 90-108(b)(3) and 90-108(a)(15) (6/2019)		E
260.85	Felonious Use of Controlled Substances Reporting System—Unauthorized [Disclosure] [Dissemination] G.S. 90-113.74(k)(2) (6/2019)		I
280.86	Felonious Use of Controlled Substances Reporting System—[Commercial Advantage] [Personal Gain] [Maliciously Harm] G.S. 90-113.74(k)(3) (6/2019)		H
260.87	Felonious Use of Controlled Substances Reporting System for an Unauthorized Purpose. G.S. 90-113.74(k)(1) (6/2019)		I
260.90	[Intentionally] [Knowingly] [Keeping] [Maintaining] a Building or Vehicle for the [Use] [Keeping] [Selling] of Controlled Substances. G.S. 90-108(a)(7). (6/2009)	I, Misd	I, Misd 1
260.95	[Possession] [Use] of Drug Paraphernalia. G.S. 90-113.22. (6/2014)	Misd	Misd 1
260.96A	Willfully and Knowingly Offering a [Glass Tube] [Splitter] for Retail Sale by Self-Service. G.S. 90-113.82(a) (6/2010)		Misd 2

260.96B	Failure to Comply with Restrictions on Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(b) (6/2010)		Misd 1
260.96C	Failure to Maintain Records of Purchasers of [Glass Tubes] [Splitters]. G.S. 90-113.82(c) (6/2010)		Misd 2
260.96D	Failure to Train Agents and Employees on Requirements of Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(e) (6/2010)		Misd 2
261.10	Adulterating a [Urine] [Bodily Fluid] Sample with the Intent to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20(b). (4/2003)		Misd 1, I
261.20	Attempt to [Foil] [Defeat] a [Drug] [Alcohol] Screening Test by the [[Substitution] [Spiking] of a Urine Sample] [Advertisement of a [Sample Substitution] [Spiking Device or Measure]]. G.S. 14-401.20(a)(2). (4/2003)		Misd 1, I
261.30	Distributing or Transporting Urine to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20. (4/2003)		Misd 1, I
261.40	[Possessing] [Selling] Adulterants Intended to Be Used to Adulterate a [Urine] [Bodily Fluid] Sample for the Purpose of Defrauding a [Drug] [Alcohol] Screening Test. G.S. 14-401.20(b)(2), (3). (4/2003)		Misd 1, I
261.50	Pseudoephedrine Sales—Retailer. G.S. 90-113.56. (6/2013)		Misd A1, I
261.51	Pseudoephedrine Sales—Purchaser. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.52	Pseudoephedrine Sales—[Employee of Retailer] [Other Person]. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.53	Pseudoephedrine Sales—Retailer Who Fails to Train Employees. G.S. 90-113.56. (6/2012)		Misd A1, I
261.55	Possession of a Pseudoephedrine Product with Prior Conviction for the [Possession] With Intent to [Sell] [Deliver]] [Trafficking] [Manufacture of] a [Methamphetamine] [Immediate Precursor Chemical]. G.S. 90-95(d1)(1)(c). (6/2016)		H
261.60	[Manufacturing] [Distributing] [Dispensing] [Delivering] [Purchasing] Marijuana on Property Lawfully Used for Industrial Hemp Production. G.S. 106-568.57(a). (6/2017)		I
261.65	Providing [False] [Misleading] Information to the Industrial Hemp Commission Related to a License [Application] [Renewal] [Inspection] [Investigation]. G.S. 106-568.57(b). (6/2017)		Misd 1
261.70	[Tampering With] [Adulterating] a Lawfully Planted Industrial Hemp Crop. G.S. 106-568.57(c). (6/2017)		Misd 1
Traffic Offenses.			
270.00	Model Jury Instruction. (6/2011)		
270.05	Punishment Levels For Impaired Driving. (1/1995)		
270.05A	Punishment Levels For Impaired Driving. (1/1999)		
270.15	Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.15A	Verdict Form—Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.20	Impaired Driving. G.S. 20-138.1. (6/2010)	Misd	Misd
270.20A	Impaired Driving. G.S. 20-138.1. (6/2022)		Misd 1

		Before 10/1/94	On or After 10/1/94
270.21	Impaired Driving of a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2010)		Misd 1
270.21A	Impaired Driving in a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2022)		Misd 1
270.23	Operating a [School Bus] [School Activity Bus] [Child Care Vehicle] [Ambulance] [EMS Vehicle] [Firefighting Vehicle] [Law Enforcement Vehicle] After Consuming Alcohol. G.S. 20-138.2B(a). (6/2014)		Misd 3
270.25	Habitual Impaired Driving—Including Chemical Test.). G.S. 20-138.5. (6/2015)	J	F
270.25A	Habitual Impaired Driving—Including Chemical Test. G.S. 20-138.2A. (6/2022)	J	F
270.30	Driving by a person Less Than 21 Years Old [While] [After] Consuming Alcohol or Drugs. G.S. 20-138.3. (5/1999)	Misd	Misd 2
270.35	Possession of an Open Container of Alcoholic Beverage. G.S. 20-138.7(a1). (6/2014)		Infraction
270.40	Transporting an Open Container of Alcoholic Beverage. G.S. 20-138.7(a). (6/2010)		Misd 2, Misd 3
270.50	Speeding in Excess of [15 mph More Than Speed Limit] [80 mph]. G.S. 20-141(j1). (5/2001)	Misd, Infraction	Misd 2, Infraction
270.51	Driving Too Fast for Conditions. G.S. 20-141(a). (4/2001)	Infraction	Infraction
270.52	Speeding Inside Municipal Corporate Limits—No Limit Posted. G.S. 20-141(b). (3/2001)	Infraction	Infraction
270.53	Exceeding the Posted Speed Limit. G.S. 20-141(d), (e), (f). (4/2001)	Infraction	Infraction
270.54	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a). (6/2021)	Misd	Misd 1
270.54A	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a) and (b). (6/2021)		H, Misd 1
270.54B	Operating a Motor Vehicle to Elude Arrest Resulting in Death. G.S. 20-141.5(b1). (6/2006)		H
270.54C	Operating a Motor Vehicle to Elude Arrest Accompanied by Aggravating Factors Resulting in Death. G.S. 20-141.5(b1). (6/2006)		E
270.55	Willfully Engaging in a Speed Competition on a Street or Highway. G.S. 20-141.3(b). (3/2001)	Misd	Misd 1
270.56	Willfully Engaging in a Prearranged Speed Competition on a Street or Highway. G.S. 20-141.3(a). (3/2001)	Misd	Misd 2
270.57	Failure to Slow Down. G.S. 20-141(m). (3/2020)		Infraction
270.58	Turning at Intersections. G.S. 20-153. (4/2001)	Infraction	Infraction
270.59	Turning at Intersections—Local Ordinance. G.S. 20-153(c). (4/2001)		
270.60	Unsafe Movement (Starting, Stopping, or Turning). G.S. 20-154. (6/2014)	Infraction	Infraction
270.60A	Unsafe Movement Causing [Property Damage] [Personal Injury] to Motorcycle Operator. G.S. 20-154(a1). (6/2014)		Infraction
270.60B	Unsafe Movement Causing [Property Damage in Excess of Five Thousand (\$5,000) Dollars] [Serious Bodily Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)		Infraction
270.61	Unsafe Movement (Backing). G.S. 20-154. (6/2012)	Infraction	Infraction
270.61A	Unsafe Movement (Backing) Causing [Property Damage]		

		<u>Offense Classification</u>	Before	On or After
			10/1/94	10/1/94
	[Personal Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1). (6/2014)			Infraction
270.61B	Unsafe Backing Causing [Property Damage in Excess of Five Thousand Dollars (\$5,000)] [Serious Bodily Injury] to a Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)			Infraction
270.62	Willfully Covering Registration Plate. G.S. 20-63(g). (2/2005)			Misd 2
270.65	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle). G.S. 20-157(a); 20-125. (6/2013)	Misd		Misd 2
270.66	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Serious Injury or Death to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (i); 20-125. (6/2006)			I
270.67	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Injury to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (h); 20-125. (6/2006)			Misd 1
270.68	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Damage to Property in Excess of \$500. G.S. 20-157(a), (h); 20-125. (6/2006)			Misd 1
270.70	Failure to Stop for a Traffic Control Signal. G.S. 20-158(b)(2). (12/2004)	Infraction		Infraction
270.71	Failure to Stop for Flashing Red Light. G.S. 20-158(b)(3). (4/2004)	Infraction		Infraction
270.72	Failure to Stop for Stop Sign. G.S. 20-158(b)(1). (4/2004)	Infraction		Infraction
270.73	Failure to Yield to a Pedestrian. G.S. 20-158(b). (3/2005)			
270.75	Passing Stopped School Bus. G.S. 20-217. (6/2006)	Misd		Misd 2
270.76	Passing Stopped School Bus—Striking a Person Causing Serious Bodily Injury. G.S. 20-217. (6/2010)			I
270.76A	Passing Stopped School Bus—Striking a Person Causing Death. G.S. 20-217. (6/2010)			H
270.77	Unlawful Use of Mobile Phone to [Manually Enter Multiple Letters or Text As a Means of Communicating with Another Person] [Read Any [Electronic Mail] [Text Message] [Transmitted to] [Stored Within] the Device] While Operating a School Bus. (Texting While Operating a School Bus) G.S. 20-137.4(b). (6/2010)			Misd 2
270.80	Reckless Driving—Carelessly and Heedlessly. G.S. 20-140(a). (5/2001)	Misd		Misd 2
270.81	Reckless Driving—Driving to Endanger. G.S. 20-140(b). (5/2001)	Misd		Misd 2
270.90	Failure to Maintain Lane Control. G.S. 20-146(d)(1) (6/2019)			Infraction
270A.10	Infliction of Serious Bodily Injury by Operation of Aircraft While Impaired (Flying High). G.S. 63-28. (6/2022)	H		F
270A.15	Operation of Aircraft While Impaired (Flying High). G.S. 63-27. (6/2022)	Misd		Misd 1
270A.20	Operating Vessel in Reckless Manner. G.S. 75A-10(a). (6/2008)			Misd 2
270A.25	Operating Vessel While under the Influence of an Impairing Substance. G.S. 75A-10(b1). (6/2022)			Misd 2

270A.27	[Recklessly] [Negligently] [Operating a [Motorboat] [Vessel]] [Manipulating [Water Skis] [A Surfboard.]]. G.S. 75A-10(a). (6/2017)		Misd 2
270A.27A	Manipulating [Water Skis] [A Surfboard] [Nonmotorized Vessel] [Similar Device] While Under the Influence of an Impairing Substance. G.S. 75A-10(b). (6/2022)		Misd 2
270A.27B	[Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(a),(b),(f). (6/2022)		D
270A.27C	Aggravated [Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(c),(d),(f). (6/2022)		D, F
270A.27D	Repeat Death by Impaired Boating. G.S. 75A-10.3(e),(f). (6/2022)		B2
270A.30	Improper Vessel Registration. G.S. 75A-4. (6/2009)		Misd 3
Non-Traffic Automobile Offenses.			
271.10	Driving a Motor Vehicle on a Highway While License Has Been Suspended or Revoked. G.S. 20-28. (5/2001)	Misd	Misd 1
271.12	Driving a Motor Vehicle on a Highway while License Has Been Revoked for Impaired Driving. G.S. 20-28(a1). (6/2018)		
271.15	Operating a Motor Vehicle in Violation of License Limitation. G.S. 20-7(e). (5/2001)	Misd	Misd 1
271.16	Operating a Motor Vehicle in Violation of a Limited Driving Privilege. G.S. 20-179.3(j). (5/2001)	Misd	Misd 1
271.21	Knowingly Permitting Motor Vehicle to Be Driven by a Person Having No Legal Right to Do So. G.S. 20-34; 20-35. (5/2001)	Misd	Misd 2
271.22	[Driving] Knowingly Permitting Another to Drive] a Vehicle that [was Not Registered with the Division of Motor Vehicles] [Did Not Display a Current Registration Plate]. Misdemeanor. G.S. 20-111(1) (6/2011)		Misd 2
271.23	Sex Offender Driving [Commercial Passenger Vehicle] [School Bus]. G.S. 20-27.1. (6/2010)		F
271.25	[Receiving] [Transferring] a Stolen Vehicle with Intent to [Procure] [Pass] Title to That Vehicle. G.S. 20-106. (5/2001)	I	H
271.26	Possession of a Stolen Vehicle. G.S. 20-106. (6/2016)	I	H
271.28	Forging an Inspection [Sticker] [Receipt]. G.S. 20-183.8(c)(1). (6/2017)		I
271.28A	[Buying] [Selling] [Issuing] [Possessing] a Forged [Inspection Sticker] [An Electronic Inspection Authorization]. G.S. 20-183.8(c)(2). (6/2017)		I
271.28B	Unlawfully [Buying] [Selling] [Issuing] [Possessing] an [Inspection Sticker] [Electronic Inspection Authorization]. G.S. 20-183.8(c)(3). (6/2017)		I
271.28C	Failing the [Safety] [Emissions] Inspection of a Vehicle for an Unlawful Reason. G.S. 20-183.8(c)(5). (6/2017)		I
271.28D	[Soliciting] [Accepting] Something of Value in Order to Pass a Vehicle That Fails [Safety] [Emissions] Inspection. G.S. 20-183.8(c)(4). (6/2017)		I
271.30	Willfully Injuring or Tampering with or Removing Parts from a Vehicle without the Consent of the Owner. G.S. 20-107(a). (5/2001)	Misd	Misd 2

271.31	[Climbing Into] [Attempting to or Setting in Motion] a Vehicle with Intent to Steal, Commit Malicious Injury, etc. G.S. 20-107(b). (5/2001)	Misd	Misd 2
271.34	[Failure] [Refusing] to Surrender to the Division of Motor Vehicles, Upon Demand, Any [Title Certificate] [Registration Card] [Registration Number Plate] Which Has Been [Suspended] [Cancelled] [Revoked]. Misdemeanor. G.S. 20-111(4) (6/2011)		Misd. 2
271.35	Alteration or Change of Engine or Other Number on a Vehicle. G.S. 20-109(a)(1). (5/2001)	Misd	I
271.36	Permitting the Alteration or Change of Engine or Other Numbers on a Vehicle. G.S. 20-109(a)(2). (5/2001)	Misd	I
271.37	Unlawful Placing or Stamping of a Serial or Other Number upon a Vehicle, Where Such Number Has Not Been Assigned to the Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(3). (5/2001)	Misd	I
271.38	Knowingly Permitting the Placing or Stamping of a Serial or Motor Number upon a Motor Vehicle by Its Owner, Where the Number Has Not Been Assigned to Such Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(4). (5/2001)	Misd	I
271.39	Alteration of a Serial or Motor Number Assigned to a Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(1). (5/2001)	I	I
271.40	Permitting by Owner of a Vehicle the Alteration or Use of a Serial or Motor Number Assigned to That Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(2). (5/2001)	I	I
271.41	Unlawful Use of a [Driver's License] [Learner's Permit] [Special Identification Card] Issued by the Division of Motor Vehicles. G.S. 20-30(a); 20-37.8(b). (2/2000)	-	I
271.42	Possession or Manufacture of Certain Fraudulent Forms of Identification. G.S. 14-100.1. (5/2002)		Misd 1
271.43	Willfully Displaying an Expired [License] [Registration Plate] on a Vehicle Knowing the Same to be Expired. G.S. 20-111(2). Misdemeanor. (6/2011)		Misd 2
271.44	[Displaying] [Causing to be Displayed] [Permitting to be Displayed] [Possessing] a [Registration Card] [Certificate of Title] [Registration Number Plate] That Is [Fictitious] [Has Been [Cancelled] [Revoked] [Suspended] [Altered]] Misdemeanor. G.S. 20-111(2). (6/2011)		Misd 2
271.45	Performing [Safety] [Emissions] Inspection on a Motor Vehicle Without a License. G.S. 20-183.8(b)(1). (6/2017)		Misd 3
271.46	[Giving] [Lending] [Borrowing] of a License Plate for the Purpose of Using Same on a Motor Vehicle Other Than That for Which It Was Issued. Misdemeanor. G.S. 20-111(3). (6/2011)		Misd 3
271.47	Knowingly [Making a False Statement] [Concealing a Material Fact] [Committing Fraud] in any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). Misdemeanor. (6/2011)		Misd 1

271.48	Using a [Name] [Address] That Is [False] [Fictitious] in Any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). (6/2011)		Misd 1
271.49	[Giving] [Lending] [Selling] [Obtaining] a Certificate of Title for the Purpose of Using the Certificate of Title for Any Purpose Other Than the [[Registration] [Sale] of a Vehicle] [Use in Connection with the Vehicle for which the Certificate was Issued]. G.S. 20-111(6). (6/2011)		Misd 2
271.50 Series—	Introduction to Hit and Run Instructions. (1/1997)		
271.50	Felonious Hit and Run with Serious Bodily Injury or Death (Failure to Stop), Including Lesser Offense. G.S. 20-166(a), (c)(2). (6/2018)		F, Misd 1
271.51	Hit and Run with Personal Injury or Death (Failure to Stop or Give Required Information). G.S. 20-166(c), (c1). (6/2009)		Misd 1
271.52	Hit and Run with Serious Bodily Injury or Death (Defendant Stopped but Failed to Give Required Information or Render Assistance). G.S. 20-166(b). (6/2009)		Misd 1
271.53	Hit and Run with Property Damage. G.S. 20-166(c), (c1). (6/2009)	Misd	Misd 1
271.54	Felonious Hit and Run with Injury (Failure to Stop) Including Lesser Offense. G.S. 20-166(a1), (c)(2). (6/2009)		H
271.61	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.62	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [[Injury] [Death] to Any Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.66	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.67	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [[Injury] [Death] to Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.70	Leaving Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.71	Leaving Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.72	Failure to Render Assistance—Passenger. G.S. 20-166.2(b) (6/2006)		Misd 1
271.73	Failure to Stop or Give Required Information after Accident—Passenger. G.S. 20-166.2(b). (6/2006)		Misd 1
271.74	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.75	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger Was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1

271.76	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.77	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.80	Tampering with Ignition Interlock Device—Avoiding or Altering Testing in Operation of a Vehicle. G.S. 20-178A. (6/2012)		Misd 1
271.81	Tampering with Ignition Interlock Device—Altering Testing Results on Ignition Interlock Device. G.S. 20-178A. (6/2012)		Misd 1
271.91	Liability Insurance for Motor Vehicles. G.S. 20-279.21, 20-308, 20-309.—Deleted. See G.S. 20-311. (6/2019)		Misd 1
271.92	Operation of Motor Vehicles Without Financial Responsibility G.S. 20-309(b), 20-313 (6/2019)		Misd 1
271.94	Impersonation of a Transportation Network Company Driver. (6/2020)		Misd 2
271.95	Impersonation of a Transportation Network Company Driver While [Committing] [Attempting to Commit] a Felony. (6/2020)		H
271.97	[Import] [Manufacture] [Sale] [Offer of Sale] [Installation] [Reinstallation] of [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		Misd 1
271.98	Contributing to a Person’s [Physical Injury] [Death] By [Importing] [Manufacturing] [Selling] [Offering to Sale] [Installing] [Reinstalling] A [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		H
	Intoxicating Liquors.		
272.10	Possession of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.11	Transporting of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.13	Possession of Nontaxpaid Alcoholic Beverages with the Intent to Sell. G.S. 18B-304(b)(3). (5/2002)		Misd 1
272.14	Knowingly Selling or Giving Cigarettes, Cut Tobacco, Cigarette Wrapping Papers, or Smokeless Tobacco, or Tobacco Product to a Person under the Age of 18 Years. G.S. 14-313. (6/2014)	Misd	Misd 2
272.15A	Selling or Giving Fortified Wine, Spirituous Liquor, or Mixed Beverages to a Person Less Than Twenty-One Years. G.S. 18B-302(a)(2). (5/2001)	Misd	Misd 1
272.18	Purchase or Possession of Fortified Wine, Spirituous Liquor or Mixed Beverages by a Person Less Than Twenty-One. G.S. 18B-302(b)(2). (6/2014)	Misd	Misd 1
272.18A	Attempt to Purchase Fortified Wine, Spirituous Liquor, or Mixed Beverages by a Person Less Than Twenty-One Years. G.S. 18B-302(b)(2). (5/2001)	Misd	Misd 2
272.19	Aiding and Abetting an Underage Person to Purchase or Possess Malt Beverages, Unfortified Wine, Fortified Wine, Spirituous Liquor or Mixed Beverages. G.S. 18B-302(c). (5/2001)	Misd	Misd 1,2

272.20	Transportation within Passenger Area of Motor Vehicle of Fortified Wine or Spirituous Liquor in Other Than Manufacturer's Unopened Original Container. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21	Consuming Malt Beverage or Unfortified Wine by the Driver of Motor Vehicle. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21A	Possession of Malt Beverages with the Intent to Sell without Obtaining Permit or License. G.S. 18B-304(a). (5/2002)		Misd 1
272.22	Fraudulent Use of Identification by an Underage Person in Obtaining or Attempting to Obtain Alcoholic Beverage. G.S. 18B-302(e); (b). (5/2001)	Misd	Misd 1 or Infraction
272.25	Consumption of Alcohol by a Person Less Than 19 Years of Age. G.S. 18B-302(b)(3). (6/2014)		Misd 1
272.26	Consumption of Alcohol by Person Greater Than 19 Years of Age but Less Than 21 Years of Age. G.S. 18B-302 (6/2014)		Misd 3
272.40	[Manufacturer] [Sale] [Transportation] [Importation] [Furnishing] [Consumption] [Possession] of Powdered Alcohol. G.S. 18B-102 (6/2016)		Misd 1
272.60	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container without Child-Resistant Packaging. G.S. 14-401.18A. (6/2016)		Misd A1
272.65	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container for E-liquid Product Containing Nicotine without Labeling Nicotine Contents on Packaging. G.S. 14-401.18A (6/2016)		Misd A1
272.80	Knowingly Making a False Statement in an Application for Reissuance of a Special Occasion Permit. G.S. 18B-903.1(e) (6/2019)		Misd 1
	Game Laws.		
273.10	Firelighting or Spotlighting (Taking Deer by Artificial Light). G.S. 113-291.1(b)(2), -130(7), -294(e). (5/2001)	Misd	Misd 1
273.20	Taking a Deer from a Boat. G.S. 113-109(e). (9/2001)	Misd	Misd 1
273.30	Hunting, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.40	[Purchasing] [Possessing] License to Hunt, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.50	Unlawful Hunting with a Firearm on Sunday. G.S. 103-2(a), (a1). (6/2018)		
273.55	Unlawful Hunting of Migratory Birds on Sunday. (6/2018)		
	Welfare Fraud.		
274.10	Misdemeanor Misrepresentation in Obtaining Public Assistance. G.S. 108A-39(a). (9/2001)	Misd	Misd 1
274.15	Felonious Misrepresentation in Obtaining Public Assistance— More Than \$400. G.S. 108A-39(b). (9/2001)	I,Misd	I,Misd 1
274.20	Misdemeanor Obtaining Food Stamps by Misrepresentation. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.21	Feloniously Obtaining Food Stamps by Misrepresentation— More Than \$400 G.S. 108A-53(a). (10/2001)	I,Misd	I,Misd 1

Criminal Volume Table of Contents Replacement June 2022 Page 50 of 52		<u>Offense Classification</u>	
		Before 10/1/94	On or After 10/1/94
274.22	Misdemeanor Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.23	Feloniously Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	I,Misd	I,Misd 1
275.10	Unsupervised Use of Fully Autonomous Vehicle by a Person Under the Age of 12. G.S. 103-2(a2).(6/2018)		
Escape.			
280.20	Felonious Escape. G.S. 148-45(a), (b); 14-256(1), (2). *(On or after 12/97, Voluntary Manslaughter Is a Class D felony.) (6/2014)	J	I*
280.21	Escape from Private Correction Facility. G.S. 14-256.1. (5/2001)		H
280.40	Escape from Imprisonment by Use of a Dangerous Weapon. G.S. 14-258.2. (5/2001)	H	F
280.41	Assault with a Deadly Weapon Inflicting Bodily Injury While Assisting a Prisoner to Escape or Attempt to Escape. G.S. 14-258.2(b). (12/2001)	H	H
280.42	Using a Deadly Weapon in Assisting a Prisoner to Effect His Escape. G.S. 14-258.2. (5/2001)	H	H
280.43	Unauthorized Possession or Fabrication of Dangerous Weapon by Prisoner. G.S. 14-258.2(a). (11/2000)	Misd	H
280.44	Misdemeanor Jailbreak or Escape from Confinement Facility Officer. G.S. 14-256. (5/2001)	J, Misd	Misd 1
280.45	Escape of a Working Prisoner. G.S. 14-255. (5/2001)		Misd 1
Election/Voting Offenses.			
285.05	False Statement Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.10	False Statement Not Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.15	Candidate Witnessing Absentee Ballot of Non-Relative. Misdemeanor. (6/2021)		Misd 1
285.20	Attempted Vote by Absentee Ballot—Forgery. Felony. (6/2021)		G
285.25	[Sale of] [Attempted Sale of] [Purchase of] [Agreement to Purchase] Absentee Voting Materials. Felony. (6/2021)		I
285.30	[Destruction of] [Failure to Deliver] Absentee Ballot. Felony. (6/2021)		G
285.35	[Copy] [Retention] of a [Request for] [Completed Application for] [Identifying Information Disclosed in] an Absentee Ballot. Felony. (6/2021)		G
285.40	Compensation Based on Requests for Absentee Ballots. Felony. (6/2021)		I
285.45	Intent to Unlawfully Influence a(n) [Primary] [Election]. Felony. (6/2021)		F
285.50	Disclosure of Register of Absentee Ballot Requests. Felony. (6/2021)		G
285.55	Sending of Unrequested Absentee Ballot. Felony. (6/2021)		I

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

PART III. DEFENSES

- 301.10 Alibi. (3/2003)
- 302.10 Automatism.
Automatism or Unconsciousness. (6/2009)
- 304.10 Insanity.
Insanity Defense. (6/2009)
- 305.10 Intoxication.
Voluntary Intoxication, Liquor or Drugs—In General. (6/2020)
- 305.11 Voluntary Intoxication, Lack of Mental Capacity—Premeditated and Deliberate First-Degree Murder. (6/2009)
- 306.10 Accepted Medical Purpose (Defense to First and Second-Degree Sexual Offenses Involving Penetration). (6/2020)
- 307.10 Accident.
Accident (Defense to Homicide Charge, Except Homicide Committed during Perpetration of a Felony). (5/2003)
- 307.11 Accident (Defense in Cases Other Than Homicide). (5/2020)
- 308.10 Self-Defense.
Self-Defense, Retreat—Including Homicide (to Be Used Following Self-Defense Instructions Where Retreat Is in Issue). G.S. 14-51.2(1), .3(a). (6/2022)
- 308.40 Self-Defense—Assaults Not Involving Deadly Force. G.S. 14.15.2, .3, .4. (6/2022)
- 308.41 Detention of Offenders by Private Persons. G.S. 15A-404. (6/2009)
- 308.45 Self-Defense—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.45A Self-Defense Example with 208.10—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.47 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to Assaults Not Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.50 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to All Assaults Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.60 Killing in Lawful Defense of a [Family Member] [Third Person]—(Defense to Homicide). G.S. 14.51.2, .3, .4. (6/2022)
- 308.70 Self-Defense to Sexual Assault—Homicide. G.S. 14.51.2, .3. (6/2022)
- 308.80 Defense of [Habitation] [Workplace] [Motor Vehicle]—Homicide and Assault. G.S. 14-51.1, .2, .3, .4. (6/2022)
- 308.90 Justification for Defensive Force Not Available—Defendant Attempting to Commit, Committing, or Escape After the Commission of a Felony. (6/2022)
- 309.10 Entrapment.
Entrapment. (6/2021)

	Coercion.		
310.10	Compulsion, Duress, or Coercion. (6/2022)		
310.11	Duress or Necessity Defense to Escape from Department of Correction. (5/2003)		
310.12	Necessity. (6/2022)		
310.14	Justification. (6/2022)		
	Jurisdiction.		
311.10	Lack of Jurisdiction (with Special Verdict Form). (5/2003)		

APPENDICES:

A. TABLE OF SECTIONS OF GENERAL STATUTES INVOLVED IN CRIMINAL INSTRUCTIONS.

B. CRIMINAL VOLUME INDEX.

100.40 ALTERNATE JUROR(S) SUBSTITUTED—INSTRUCTIONS TO JURY TO
BEGIN DELIBERATIONS ANEW.

[An alternate juror has] [Alternate jurors have] been substituted for the excused [juror] [jurors].¹ You should not speculate about the reason for the substitution. The law of this State² grants the defendant the right to a unanimous verdict reached only after full participation of the twelve jurors who ultimately return a verdict. That right may only be assured if the jury begins deliberations anew. Therefore, you must restart your deliberations from the beginning. This means you should disregard entirely any deliberations taking place before the alternate [juror was] [jurors were] substituted, and consider freshly the evidence as if the previous deliberations had never occurred.

Although starting over may seem frustrating, please do not let it discourage you. It is important to our system of justice that each juror has a full and fair opportunity to explore his or her views, and respond to the views of others so that you may come to a unanimous verdict. All the previous instructions given to you, including the unanimity requirement for a verdict, remain in effect. You shall now retire for your deliberations in accordance with the instructions previously given.

NOTE WELL: If the excused juror was the foreperson, the court must instruct the jury to select a new foreperson prior to restarting deliberations.

1, Effective October 1, 2021, for jurors and alternate jurors selected on or after that date, S.L. 2021-94 amended N.C. Gen. Stat. § 15A-1215(a) to permit an alternate juror to replace a regular juror after deliberations have begun.

2. N.C. Const. art. I, § 24.

101.35 CONCLUDING INSTRUCTIONS—JURY CONSIDER ALL EVIDENCE,
JUDGE NOT EXPRESS OPINION, UNANIMOUS VERDICT, SELECTION OF
FOREPERSON.

Members of the jury, you have heard the evidence and the arguments of counsel. If your recollection of the evidence differs from that of the attorneys, you are to rely solely upon your recollection. Your duty is to remember the evidence whether called to your attention or not.

You should consider all the evidence, the arguments, contentions and positions urged by the attorney(s), and any other contention that arises from the evidence.

The law requires the presiding judge to be impartial. You should not infer from anything I have done or said that the evidence is to be believed or disbelieved, that a fact has been proved or what your findings ought to be. It is your duty to find the facts and to render a verdict reflecting the truth. All twelve of you must agree to your verdict. You cannot reach a verdict by majority vote.

When you have agreed upon a unanimous verdict(s) (as to each charge) your foreperson should so indicate on the verdict form(s).

NOTE WELL: At this point, the court may choose to excuse the alternate juror(s). However, the alternate juror(s) may be retained for potential substitution after the jury has begun deliberations, pursuant to N.C. Gen. § 15A-1215(a). Effective October 1, 2021, for jurors and alternate jurors selected on or after that date, S.L. 2021-94 Amended N.C. GEN. STAT. § 15A-1215(a) to permit an alternate juror to replace a regular juror after deliberations have begun. If an alternate juror is substituted after deliberations have begun, then the jury should be instructed to begin deliberations anew pursuant to N.C.P.I.—CRIM. 100.40.

NOTE WELL: If alternate jurors are retained, the trial court should remind the jurors that they are not to discuss the case among

themselves or with anyone else while sequestered, and that all other instructions governing their conduct remain in effect until they are released.

After reaching the jury room your first order of business is to select your foreperson. You may begin your deliberations when the bailiff delivers the verdict form(s) to you. Your foreperson should lead the deliberations. When you have unanimously agreed upon a verdict (as to each charge) and are ready to announce [it] [them] your foreperson should record your verdict(s), sign and date the verdict form(s), and notify the bailiff by knocking on the jury room door (or otherwise summoning the bailiff). You will be returned to the courtroom and your verdict will be announced.

Thank you. You may retire and select your foreperson.

NOTE WELL: After the jury retires and before sending the verdict form(s) to the jury the judge must address the attorneys as follows:

Before the jury begins deliberation the Court will consider requests for corrections and additions to the instructions and to other matters you deem appropriate.¹

Are there any objections or specific requests for corrections or additions to the instructions?

NOTE WELL: Consider all specific requests and if appropriate recall the jury and correct or add to the charge. If request(s) for corrections or additions are rejected, attorneys must be allowed to make specific objections on the record.

After all specific requests have been submitted and rejected and the proper notation(s) recorded, hand the verdict form(s) to the bailiff and instruct the bailiff to deliver [it] [them] to the jury without comment.

If necessary to return the jury to the courtroom for corrections or additions to the charge the judge should address the jury as follows:

Members of the jury, my attention has been properly directed to instructions necessary to [correct] [supplement] my previous instructions.

I charge you that...

You may retire now and begin your deliberation when you receive the written verdict form(s).

NOTE WELL: Repeat to the lawyers the question regarding objections, corrections or additions. If there are further instructions upon specific requests, follow the same procedure as before; if not, instruct the bailiff to deliver the verdict form(s) to the jury.

NOTE WELL: If the jury requests additional instructions after retiring to deliberate, the trial judge should obtain the jury requests in writing, confer with the attorneys, and further instruct the jury if necessary.

S. v. Privette, 317 N.C. 148 (1986) holds that it is within the trial court's discretion to determine whether instructions in addition to those requested should be given at the same time.

NOTE WELL: It is suggested that requests from the jury should be reduced to writing, marked as court exhibits, and made part of the record. In a capital case, the failure to share the jury's questions with the defendant denies the defendant the right to be present at every stage of the proceeding although the State may be able to prove the error was harmless beyond a reasonable doubt. State v. Smith, 654 S.E.2d 730 (N.C. Ct. App. 2008).

1. While N.C. Gen. Stat. § 15A-1231 does not expressly require the judge to address the attorneys after the charge and before the jury begins deliberations, when applying Appellate Rule 10(b)(2) pertaining to defendant's assignment of error as to jury instructions, the North Carolina Court of Appeals has not allowed the defendant to assign error to the jury charge if given an opportunity by the trial judge to object before deliberations. *State v. Godwin*, 59 N.C. App. 662, 297 S.E.2d 623 (1982).

150.10 DEATH PENALTY—INSTRUCTIONS TO JURY AT SEPARATE
SENTENCING PROCEEDING.

NOTE WELL: This instruction and the verdict form which follows include changes required by Enmund v. Florida, 458 U.S. 782, 102 S.Ct. 3368, 73 L.Ed.2d 1140 (1982), Cabana v. Bullock, 474 U.S. 376, 106 S.Ct. 689, 88 L.Ed.2d 704 (1986) and Tison v. Arizona, 481 U.S. 137 (1987), which held that the death penalty may not constitutionally be adjudged against a defendant convicted of first degree felony murder, if that defendant personally did not kill or attempt to kill, or intend to kill the victim or intend that deadly force would be used in the course of the felony, or was a major participant in the underlying felony and exhibited reckless indifference to human life. The designation of the first issue as One-A has been made to simplify the numbers of the remaining issues. Also included are the changes required by McKoy v. North Carolina, 494 U.S. 433, 110 S.Ct. 1227, 108 L.Ed.2d 369 (1990).

Members of the Jury, [having found the defendant guilty of] [the defendant having pled guilty to]¹ murder in the first degree [and the defendant having been determined by you not to have an intellectual disability], it is now your duty to recommend to the Court whether the defendant should be sentenced to death or to life imprisonment [(without parole.) (A sentence of life imprisonment means a sentence of life without parole.)² Your recommendation will be binding upon the Court. If you unanimously recommend that the defendant be sentenced to death, the Court will impose a sentence of death. If you unanimously recommend a sentence of life imprisonment, the Court will impose a sentence of life imprisonment.³

All of the evidence relevant to your recommendation has been presented. (There is no requirement to resubmit, during the sentencing proceeding, any evidence which was submitted during the guilt phase of this case. All of the evidence which you hear in both phases of the case is competent for your consideration in recommending punishment,)⁴ (including evidence of intellectual disability of the defendant; that is, you may consider any evidence of intellectual disability when determining aggravating and

mitigating circumstances and your sentence recommendation).⁵

It is now your duty to decide, from all the evidence presented (in both phases),⁶ what the facts are. You must then apply the law which I am about to give you concerning punishment to those facts. It is absolutely necessary that you understand and apply the law as I give it to you, and not as you think it is, or might like it to be. This is important, because justice requires that everyone who is sentenced for first degree murder have the sentence recommendation determined in the same manner, and have the same law applied to him or her.

You are the sole judges of the credibility of each witness. You must decide for yourselves whether to believe the testimony of any witness. You may believe all, or any part, or none of what a witness has said on the stand.

In determining whether to believe any witness, you should apply the same tests of truthfulness which you apply in your everyday affairs. As applied to this trial, these tests may include: the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified; the manner and appearance of the witness; any interest, bias, or prejudice the witness may have; the apparent understanding and fairness of the witness, whether the witness's testimony is reasonable; and whether the witness's testimony is consistent with other believable evidence in the case.

You are the sole judges of the weight to be given any evidence. By this I mean, if you decide that certain evidence is believable you must then determine the importance of that evidence in light of all other believable evidence in the case.

NOTE WELL: If there is no evidence that any person(s) other than defendant participated in the killing, the Enmund case does not apply, and the first element of proof set out below should not be given. If there is evidence that defendant may not have been involved in the killing (except for the fact that he was guilty of the underlying felony) the first element of proof should be included.

For you to recommend that the defendant be sentenced to death, the State must prove [three] [four] things beyond a reasonable doubt.⁷ A reasonable doubt is a doubt based on reason and common sense, arising out of some or all of the evidence that has been presented, or lack or insufficiency of the evidence, as the case may be. Proof beyond a reasonable doubt is proof that fully satisfies or entirely convinces you of each of the following things:

[First,⁸ that the defendant himself/herself:

[a. Killed or attempted to kill the victim;] (or)

[b. Intended to kill the victim;] (or)

[c. Intended that deadly force would be used in the course of the felony.]
(or)

[d. Was a major participant in the underlying felony and exhibited reckless indifference to human life.]]⁹

[First] [Second], that one or more aggravating circumstances existed; [Second] [Third], that the mitigating circumstances are insufficient to outweigh any aggravating circumstances you have found.¹⁰

And [Third] [Fourth], that any aggravating circumstances you have found are sufficiently substantial to call for the imposition of the death penalty when considered with any mitigating circumstances.

If you unanimously find all [three] [four] of these things beyond a reasonable doubt, it would be your duty to recommend that the defendant be sentenced to death.¹¹ On the other hand, if you unanimously find that one or

more of these [three] [four] things has not been proven beyond a reasonable doubt, it would be your duty to recommend that the defendant be sentenced to life imprisonment.¹²

When you retire to deliberate your recommendation as to punishment, you will take with you a form entitled, "Issues and Recommendation as to Punishment." This form contains a written list of [four] [five] issues, [four of which relate] [relating] to aggravating and mitigating circumstances. I will now take up these [four] [five] issues with you in greater detail, one by one. To enable you to follow me more easily, the bailiff will now give each of you a copy of the form entitled "Issues and Recommendation as to Punishment," which you will take with you when you retire to deliberate. Do not read ahead on this form, but refer to it as I instruct you on the law. Your answers to issues (One-A), One, Three, and Four, either "yes" or "no," must be unanimous.

NOTE WELL: At this point have the bailiff give a copy of your "Issues and Recommendation as to Punishment" form to each juror. In preparing this form for your case use the pattern form in N.C.P.I.—Crim. 150.10 (App.) at the end of this Pattern Instruction.

[Issue One-A is, "Do you unanimously find from the evidence, beyond a reasonable doubt, that the defendant himself/herself:

- [a. Killed or attempted to kill the victim;] (or) [b. Intended to kill the victim;] (or)
- [c. Intended that deadly force would be used in the course of the underlying felony;] (or)
- [d. Was a major participant in the underlying felony and exhibited reckless indifference to human life.]]

If you find from the evidence beyond a reasonable doubt that the defendant [killed or attempted to kill the victim] (or) [intended to kill the

victim] (or) [intended that deadly force would be used in the course of the (name underlying felony),] (or) [was a major participant in the underlying felony and exhibited a reckless indifference to human life], you would answer Issue One-A “Yes.” If you unanimously find beyond a reasonable doubt that none of these facts exist, you would answer Issue One-A “No.” If you answer Issue One-A “No,” you would skip Issues One, Two, Three, and Four and recommend that the defendant be sentenced to life imprisonment. If you answer Issue One-A “Yes,” you would consider Issue One.

Issue One is, “Do you unanimously find from the evidence, beyond a reasonable doubt, the existence of one or more of the following aggravating circumstances?” (*State number*) possible aggravating circumstances are listed on the form, and you should consider each of them before you answer Issue One.

The State must prove from the evidence beyond a reasonable doubt the existence of any aggravating circumstance, and, before you may find any aggravating circumstance, you must agree unanimously that it has been so proven. An aggravating circumstance is a fact or group of facts which tend to make a specific murder particularly deserving of the maximum punishment prescribed by law. Our law identifies the aggravating circumstances which might justify a sentence of death. Only those circumstances identified by statute may be considered by you as aggravating circumstances. Under the evidence in this case (*state number*) possible aggravating circumstances may be considered.

The following are the aggravating circumstances which might be applicable to this case.

NOTE WELL: The following pages contain 15 bracketed options relating to the 11 aggravating circumstances listed in N.C. Gen. Stat. § 15A-2000(e). The options are numbered in the margin according to the subsection of N.C. Gen. Stat. § 15A-2000(e) to

which they relate. Since some subsections support more than one option, the options which derive from the same subsection are lettered, e.g., "8A" and "8B."

The judge should select from the following options, only those aggravating circumstances which pertain to the case at hand and then should then proceed with the mandate.

In choosing the aggravating circumstances to submit to the jury, the judge should keep the following admonition in mind:

"In some cases the same evidence will support inferences from which the jury might find that more than one of the enumerated aggravating circumstances is present. This duality will normally occur where the defendant's motive is being examined rather than where the state relies upon a specific factual element of aggravation. In such cases it will be difficult for the trial court to decide which factors should be presented to the jury for their consideration. We believe that error in cases in which a person's life is at stake, if there be any, should be made in the defendant's favor, and that the jury should not be instructed upon one of the statutory circumstances in a doubtful case." S. v. Goodman, 298 N.C. 1, 30 (1979).

(1) [First, was the defendant lawfully incarcerated? A person is lawfully incarcerated if that person is being held in custody pursuant to a lawful order of a court or judicial officer. If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the defendant was incarcerated and that this was pursuant to a judicial order, you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(2) [(*State ordinal number*), had the defendant been previously convicted of another capital felony?¹³ First degree murder is a capital felony. A person has been previously convicted if the defendant has been convicted and not merely charged, and if the defendant's conviction is based on conduct

which occurred before the events out of which this murder arose.¹⁴ If you find from the evidence beyond a reasonable doubt that the defendant had been convicted of first degree murder, and that the defendant killed the victim after the defendant committed that first degree murder you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

NOTE WELL: N.C. Gen. Stat. § 7B-3000(f) was amended to allow a court to order that the juvenile records of any juvenile, who is found delinquent for an offense that would have been a class A-E felony if committed by an adult, may be used in subsequent criminal proceedings against that juvenile or to prove an aggravating factor at the sentencing of that juvenile. The prosecutor in a subsequent criminal proceeding against the juvenile now has a right to examine the juvenile's record without an order of the judge. The juvenile's record may be used only by court order upon the prosecutor's motion and after an in-camera hearing on the record with the defendant present to determine whether or not the record in question is admissible.

N.C. Gen. Stat. § 15A-2000(e) was amended to expand the definition of prior conviction to include an adjudication of delinquency for an offense that would have been a class A-E felony if committed by an adult.

N.C. Gen. Stat. § 15A-2000(e) was amended to expand the list of aggravating circumstances to include previous adjudications of delinquency for an offense that would have been a capital offense or a class A-E felony involving use or threat of violence if committed by an adult.

These amendments apply to offenses committed on or after May 1, 1994.

(3) [(State ordinal number), had the defendant been previously convicted of a felony involving the [use] [threat] of violence to the person?¹⁵ [(Name felony, e.g., armed robbery) is by definition a felony involving the

[use] [threat] of violence to the person.]¹⁶ [A felony involves the [use] [threat] of violence to the person if the perpetrator kills or inflicts physical injury on the victim, or threatens to do so, in order to accomplish his/her criminal act.]¹⁷ A person has been previously convicted if that person has been convicted and not merely charged, and if that person's conviction is based on conduct which occurred before the events out of which this murder arose.¹⁸ If you find from the evidence beyond a reasonable doubt that the defendant had been convicted of (name felony) (and that the defendant [used] [threatened to use] violence to the person in order to accomplish the defendant's criminal act) and that the defendant killed the victim after the defendant committed (name felony), you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(4A) [(State ordinal number), was this murder committed for the purpose of [avoiding] [preventing] a lawful arrest?

NOTE WELL: "Before the trial judge can instruct the jury on this aggravating circumstance, there must be evidence from which the jury can infer that at least one of the purposes motivating the killing was the defendant's desire to avoid subsequent detection and apprehension for his crime... The mere fact of a death is not enough to invoke this factor." S. v. Williams, 304 N.C. 394, 424-5 (1981); S. v. Goodman, 298 N.C. 1, 27 (1979). See also S. v. Hunt, 323 N.C. 407, 430-31 (1988); and S. v. Reese, 319 N.C. 110, 146 (1987). "Proof of the requisite intent to avoid arrest and detection must be very strong in these cases." Id.

In cases where the murder was committed to hinder or prevent an arrest, submit either aggravating circumstance #7B, or this aggravating circumstance, but DO NOT SUBMIT BOTH. S. v. Goodman, 298 N.C. 1, 29 (1979).

A murder is committed for such purpose if the defendant's purpose at the time the defendant kills is, by that killing, to [avoid] [prevent] the arrest of the defendant or some other person and that arrest [was] [would have been] lawful.¹⁹ If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, it was in fact the defendant's purpose to [avoid] [prevent] [defendant's arrest] (or) [the arrest of another person] and that such arrest [was] [would have been] lawful, you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(4B) [(*State ordinal number*), was this murder committed for the purpose of effecting an escape from custody? A murder is committed for such purpose if the defendant's purpose at the time the defendant kills is, by that killing, to effect the defendant's or another person's escape from custody. If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, it was the defendant's purpose to effect [the defendant's] [another person's] escape from custody, you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(5A)²⁰ [(*State ordinal number*), was this murder committed by the defendant while the defendant was engaged in [the commission of] [an

attempt to commit] [a flight after [committing] [attempting to commit]]
(*name felony*)²¹?

NOTE WELL: Submit this aggravating circumstance only when the defendant has been convicted of first-degree murder under a theory of premeditation and deliberation, or when the defendant has also committed a separate violent felony in addition to the felony underlying the felony murder conviction.²²

(Define the felony, using the Pattern Instruction for that felony, e.g., "Robbery is taking and carrying away any personal property of another from a person or in that person's presence without that person's consent, by violence or by putting that person in fear, with the intent to deprive that person of its use permanently, the taker knowing that he/she is not entitled to take it.") If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the defendant was (set out the findings necessary for the felony, using the Mandate from the Pattern Instruction for that felony), you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(5B)²³ [(*State ordinal number*), did the defendant kill the victim while the defendant was an [aider] [abettor] in the [commission of] [attempt to commit] [flight after committing] (*name felony*) by another person)?²⁴

NOTE WELL: Submit this aggravating circumstance only when the defendant has been convicted of first-degree murder under a theory of premeditation and deliberation,²⁵ or when the defendant has also committed a separate violent felony in addition to the felony underlying the felony murder conviction.

(Define the felony, using the Pattern Instruction for that felony, e.g., "Robbery is taking and carrying away any personal property of another from a person or in that person's presence without that person's consent, by violence or by putting that person in fear, with the intent to deprive that

person of its use permanently, the taker knowing that he/she is not entitled to take it.”) A person [aids] [abets] another to commit a felony if the defendant [is present when the felony is committed and intentionally advises, instigates, encourages or aids another to commit it,] (or) [though not present when the felony is committed, shares another's criminal purpose and to the other's knowledge is aiding the person or is in a position to aid the person when the felony is committed]. If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, another person was perpetrating (*name felony*), (*describe elements of offense*), and that defendant intentionally [aided] [abetted] another person in that person's [commission] [attempt to commit] [flight after committing] (*name felony*), you would find this aggravating circumstance, and would so indicate by having your foreperson write, “Yes,” in the space after this aggravating circumstance on the “Issues and Recommendation” form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, “No,” in that space.]

(6) [(*State ordinal number*), was this murder committed for pecuniary gain? A murder is committed for pecuniary gain if the defendant, when the defendant commits it, has obtained, or intends or expects to obtain, money or some other thing which can be valued in money, either as compensation for committing it, or as a result of the death of the victim.²⁶ If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the defendant (*describe pecuniary gain, e.g., had been hired to do so, took personal property or other items belonging to the victim, etc.*), and that the defendant intended or expected to obtain money or other things of value that can be valued in money as a result of the victim's death²⁷ you would find this aggravating circumstance, and would so indicate by having your foreperson write, “Yes,” in the space after this aggravating circumstance on

the “Issues and Recommendation” form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, “No,” in that space.]

(7A) [(*State ordinal number*), was this murder committed to [disrupt] [hinder] the lawful exercise of a governmental function?

A murder is committed for such purpose if the defendant's purpose at the time the defendant kills is, by that killing, to [disrupt] [hinder] the exercise, by some branch or agency of government, of some lawful function. If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim it was the defendant's purpose to [prevent] [hinder] a lawful governmental function you would find this aggravating circumstance, and would so indicate by having your foreperson write, “Yes,” in the space after this aggravating circumstance on the “Issues and Recommendation” form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, “No,” in that space.]

(7B) [(*State ordinal number*), was this murder committed to [disrupt] [hinder] the enforcement of the laws?

NOTE WELL: In cases where the murder was committed to hinder or prevent an arrest, submit either aggravating circumstance #4A, or this aggravating circumstance, but DO NOT SUBMIT BOTH. S. v. Goodman, 298 N.C. 1, 29 (1979).

A murder is committed for such purpose if the defendant's purpose at the time the defendant kills is, by that killing, to [disrupt] [hinder] the enforcement of the laws in any way. The enforcement of the laws includes any lawful activity²⁸ by any agency of the government, to prevent or deter persons from violating any law, to detect or investigate such violations, or to apprehend or prosecute persons properly chargeable with crime. If you find

from the evidence beyond a reasonable doubt that when the defendant killed the victim, it was the defendant's purpose to [disrupt] [hinder] the enforcement of the law(s) by a law enforcement agency, you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(8A)²⁹ [(*State ordinal number*), was this murder committed against a (*describe victim's position*)³⁰ while engaged in the performance of the victim's official duties? A murder is so committed if, at the time the defendant kills the victim, the victim is (*state victim's position*) and is, at that time, engaged in the performance of an official duty. An official duty is anything which is necessary for a (*state position*) to do in the victim's capacity as a (*state position*). If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the victim was a (*state position*) and at that time was engaged in an official duty (and that this was among the victim's official duties as a (*state position*))³¹ you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(8B)³² [(*State ordinal number*), was this murder committed against a (*state victim's position*)³³ because of the exercise of the victim's official duty? A murder is so committed when the victim is a [former] (*state position*), and at the time of the killing the victim [was planning to exercise] [had exercised]

one of the victim’s official duties, and the fact that the victim [was to do] [had done] so constituted the defendant's motive for killing the victim. An official duty is anything which is necessary for a (*state position*) to do as a (*state position*). If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the victim was a [former] (*state position*) and that on or about the alleged date the victim [was planning to exercise] [had exercised] an official duty necessary to the victim’s position and that this constituted the motive for the defendant's killing the victim, you would find this aggravating circumstance, and would so indicate by having your foreperson write, “Yes,” in the space after this aggravating circumstance on the “Issues and Recommendation” form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, “No,” in that space.]

(9) [(*State ordinal number*), was this murder especially heinous, atrocious or cruel?

NOTE WELL: While every murder is, at least arguably, heinous, atrocious and cruel, this aggravating circumstance is not intended to be submitted in every case. There must be some evidence upon which the jury could reasonably conclude that the brutality involved in the murder in question exceeded that normally present in any killing. S. v. Goodman, 298 N.C. 1, 24-25 (1979). In addition, this aggravating circumstance is limited to acts done during the commission of the murder but not after the death. State v. Rose, 335 N.C. 301, at 343 (1994).

In this context heinous means extremely wicked or shockingly evil; atrocious means outrageously wicked and vile; and cruel means designed to inflict a high degree of pain with utter indifference to, or even enjoyment of, the suffering of others. However it is not enough that this murder be heinous, atrocious or cruel as those terms have just been defined. This murder must have been especially heinous, atrocious or cruel, and not every murder is

especially so.³⁴ For this murder to have been especially heinous, atrocious or cruel, any brutality which was involved in it must have exceeded that which is normally present in any killing, or this murder must have been a conscienceless or pitiless crime which was unnecessarily torturous to the victim.³⁵ If you find from the evidence beyond a reasonable doubt that this murder was especially heinous, atrocious or cruel, you would find this aggravating circumstance, and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(10) [(*State ordinal number*), did the defendant knowingly create a great risk of death to more than one person by means of a [weapon] [device] which would normally be hazardous to the lives of more than one person?³⁶ A defendant does so, if, at the time the defendant kills, the defendant is using a [weapon] [device] and the [weapon] [device] would normally be hazardous to the lives of more than one person, and the defendant uses it in such a way as to create a risk of death to more than one person and the risk is great and the defendant knows that the defendant is thereby creating such a great risk. If you find from the evidence beyond a reasonable doubt that when the defendant killed the victim, the defendant was using a [weapon] [device] and that this [weapon] [device] would normally be hazardous to the lives of more than one person and that the defendant used the [weapon] [device] and thereby created a risk of death to more than one person and that the risk was great and that the defendant knew that the defendant was thereby creating such a great risk, you would find this aggravating circumstance and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you

do not so find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(11) [Finally, was this murder part of a course of conduct in which the defendant engaged and did that course of conduct include the commission by the defendant of other crimes of violence against another person or persons?³⁷ A murder is part of such a course of conduct if you find from the evidence beyond a reasonable doubt that, in addition to killing the victim, the defendant on or about the alleged date was engaged in a course of conduct which involved the commission of another crime of violence against another person³⁸ and that [this] [these] other crime(s) were included in the same course of conduct in which the killing of the victim was also a part,³⁹ you would find this aggravating circumstance and would so indicate by having your foreperson write, "Yes," in the space after this aggravating circumstance on the "Issues and Recommendation" form. If you do not find, or have a reasonable doubt as to one or more of these things, you will not find this aggravating circumstance, and will so indicate by having your foreperson write, "No," in that space.]

(You are instructed that the same evidence cannot be used as a basis for finding more than one aggravating factor.⁴⁰)

NOTE WELL: This ends the aggravating circumstances. The judge should, in all cases, resume the instruction at this point.

If you unanimously find from the evidence beyond a reasonable doubt that one or more of these aggravating circumstances existed, and have so indicated by writing, "Yes," in the space after one or more of them on the "Issues and Recommendation" form, you would answer Issue One, "Yes." On the other hand, if you unanimously find from the evidence that none of the aggravating circumstances existed, and if you have so indicated by writing,

“No,” in the space after every one of them on that form, you would answer Issue One, “No.”⁴¹ If you answer Issue One, “No,” you would skip Issues Two, Three and Four and you must recommend that the defendant be sentenced to life imprisonment. If you answer Issue One, “Yes,” then you would consider Issue Two.

Issue Two is, “Do you find from the evidence the existence of one or more of the following mitigating circumstances?⁴²” (State number) possible mitigating circumstances are listed on the form, and you should consider each of them before answering Issue Two.

A mitigating circumstance is a fact or group of facts, which do not constitute a justification or excuse for a killing, or reduce it to a lesser degree of crime than first degree murder, but which may be considered as extenuating or reducing the moral culpability of the killing or making it less deserving of extreme punishment than other first degree murders. Our law identifies several possible mitigating circumstances. However, in considering Issue Two, it would be your duty to consider, as a mitigating circumstance, any (aspect of the defendant's character) (or) (record) (or) (evidence of intellectual disability)⁴³ (and any) of the circumstances of this murder that the defendant contends is a basis for a sentence less than death, and any other circumstances arising from the evidence which you deem to have mitigating value.

The defendant has the burden of persuading you that a given mitigating circumstance exists. The existence of any mitigating circumstance must be established by a preponderance of the evidence, that is, the evidence, taken as a whole must satisfy you—not beyond a reasonable doubt, but simply satisfy you—that any mitigating circumstance exists. If the evidence satisfies any of you that a mitigating circumstance exists, you would indicate that finding on the “Issues and Recommendation” form. A juror may find that any

mitigating circumstance exists by a preponderance of the evidence whether or not that circumstance was found to exist by all the jurors. In any event you would move on to consider the other mitigating circumstances and continue in like manner until you have considered all of the mitigating circumstances listed on the form and any others which you deem to have mitigating value.

It is your duty to consider the following mitigating circumstances and any others which you find from the evidence.

NOTE WELL: The following pages contain 12 bracketed options relating to the mitigating circumstances listed in N.C. Gen. Stat. § 15A-2000(f). The options are numbered in the margin according to the subsection of N.C. Gen. Stat. § 15A-2000(f) to which they relate. Since some subsections support more than one option, the options which derive from the same subsection are lettered, e.g., "3A" and "3B".

The judge should select from the following options all those which pertain to the case at hand. The Judge should then proceed with this Pattern Instruction to (9). Read the NOTE WELL preceding (9) carefully.

"Where all of the evidence, if believed, tends to show that a particular mitigating circumstance does exist, the defendant is entitled to a peremptory instruction." S. v. Spruill, 320 N.C. 688 (1987) and S. v. Johnson, 298 N.C. 47, 76 (1979).

(1) [First, consider whether the defendant has no significant history of prior criminal activity before the date of the murder.⁴⁴ Significant means important or notable. Whether any history of prior criminal activity is significant is for you to determine from all of the facts and circumstances which you find from the evidence. However you should not determine whether it is significant only on the basis of the number of convictions, if any, in the defendant's record. Rather you should consider the nature and quality of the defendant's history, if any, in determining whether it is significant.

You would find this mitigating circumstance if you find that (*describe all defendant's prior criminal activity*⁴⁵) and that this is not a significant history

of prior criminal activity. If one or more of you finds by a preponderance of the evidence that this circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(2) [(*State ordinal number*), consider whether this murder was committed while the defendant was under the influence of mental or emotional disturbance. A defendant is under such influence if the defendant is in any way affected or influenced by a mental or emotional disturbance at the time the defendant kills.

*NOTE WELL: Note the relationship between this mitigating circumstance and the sixth mitigating circumstance, especially where there is evidence concerning the defendant's mental health. Often such evidence might support either or both of these mitigating circumstances, and if both are supported, both should be submitted.*⁴⁶

*The main difference between the two circumstances is that this mitigating circumstance seems conceptually related to the "heat of passion" defense, while the sixth mitigating circumstance is related to the insanity defense. To emphasize this distinction in an appropriate case, give the following paragraph.*⁴⁷

(Being under the influence of mental or emotional disturbance is similar to but not the same as being in a heat of passion upon adequate provocation. A person may be under the influence of mental or emotional disturbance even if that person had no adequate provocation and even if that person's disturbance was not so strong as to constitute heat of passion or preclude deliberation. For this mitigating circumstance to exist, it is enough that the defendant's mind or emotions were disturbed, from any cause, and that the defendant was under the influence of the disturbance when the defendant killed the victim.)

You would find this mitigating circumstance if you find (*describe source of disturbance, e.g., that the defendant suffered from schizophrenia; or, e.g., that the victim had evicted the defendant from his apartment and this had enraged the defendant*) and that, as a result, the defendant was under the influence of [mental] [emotional] disturbance when the defendant killed the victim. If one or more of you finds by a preponderance of the evidence that this circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(3A) [(*State ordinal number*), consider whether the victim was a voluntary participant in the defendant's homicidal conduct. A victim is a voluntary participant in the defendant's homicidal conduct if the victim willingly takes part, in any way, in the conduct which results in the victim's death.

You would find this mitigating circumstance if you find that the victim willingly took part in the conduct which resulted in the victim's death and that this constituted participation by the victim in the defendant's homicidal conduct. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(3B) [(*State ordinal number*), consider whether the victim consented to the defendant's homicidal act. A victim consents to a defendant's homicidal act if the victim approves, acquiesces in, submits to or otherwise agrees to

the act which results in the victim’s death.

You would find this mitigating circumstance if you find that the victim [approved] [acquiesced in] [submitted to] [agreed with] the act which resulted in the victim’s death and that this constituted consent to the defendant's homicidal act. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, “Yes,” in the space provided after this mitigating circumstance on the “Issues and Recommendation” form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, “No,” in that space.

(4) [(*State ordinal number*), consider whether this murder was actually committed by another person, and the defendant was only an [accomplice in] [accessory to] the murder and the defendant’s participation in the murder was relatively minor. The distinguishing feature of an [accomplice] [accessory] is that the defendant is not the person who actually committed the murder.

You would find this mitigating circumstance if you find that the victim was killed by another person, and that the defendant was only [an accomplice] [an accessory]⁴⁸ to the killing and that the defendant's conduct constituted relatively minor participation in the murder. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, “Yes,” in the space provided after this mitigating circumstance on the “Issues and Recommendation” form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, “No,” in that space.]

(5A) [(*State ordinal number*), consider whether the defendant acted under duress. A defendant acts under duress, (even though it would not justify or excuse the killing)⁴⁹ if the defendant acts under the pressure of any threat or compulsion from any source.

You would find this mitigating circumstance if you find that the defendant acted under [the pressure of a threat] [compulsion], and that this constituted duress. If one or more of you finds by a preponderance of the evidence that this circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(5B) [(*State ordinal number*), consider whether the defendant acted under the domination of another person. A defendant acts under the domination of another person if the defendant acts at the command or under the control of the other person or in response to the assertion of any authority to which the defendant believes the defendant is bound to submit or which defendant did not have sufficient will to resist.

You would find this mitigating circumstance if you find (*describe domination, e.g., that the defendant was in love with (name other person) and would do anything to stay in her favor and (name other person) told the defendant that if the defendant did not kill the victim she'd never see him again*) and that as a result the defendant was under the domination of another person when the defendant killed the victim. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(6) [(*State ordinal number*), consider whether the capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of the law was impaired.

NOTE WELL: In cases where the evidence attributes the defendant's impairment in part to mental disease or defect, give the following two paragraphs. S. v. Johnson, 298 N.C. 47, 69-70 (1979). (See also, S. v. Johnson (II), 298 N.C. 355, 373-375 (1979).) The judge should consider giving them in any case where the defendant claims this mitigating circumstance. However, in those cases where the evidence attributes the defendant's impairment to a cause such as intoxication, which does not involve mental disease or defect, and which may be "better understood by the average layman," the second paragraph may be all that is required. Compare S. v. Johnson, supra, with S. v. Goodman, 298 N.C. 1, 32 (1979).

A person's capacity to appreciate the criminality of that person's conduct or to conform that person's conduct to the law is not the same as that person's ability to know right from wrong generally, or to know that what that person is doing at a given time is killing or that such killing is wrong. A person may indeed know that a killing is wrong and still not appreciate its wrongfulness because that person does not fully comprehend or is not fully sensible to what that person is doing or how wrong it is. Further, for this mitigating circumstance to exist, the defendant's capacity to appreciate does not need to have been totally obliterated. It is enough that it was lessened or diminished. Finally, this mitigating circumstance would exist, even if the defendant did appreciate the criminality of the defendant's conduct, if the defendant's capacity to conform the defendant's conduct to the law was impaired, since a person may appreciate that the defendant's killing is wrong and still lack the capacity to refrain from doing it. Again, the defendant need not wholly lack all capacity to conform. It is enough that such capacity as the defendant might otherwise have had in the absence of the defendant's impairment is lessened or diminished because of such impairment.

You would find this mitigating circumstance if you find that the defendant (*describe source of impairment, e.g., had drunk a quart of whiskey during the three hours before the killing, suffered from schizophrenia, and/or*

list any evidence presented as to the defendant's intellectual disability, if relevant to this circumstance) and that this impaired the defendant's capacity to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of the law. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(7) [(*State ordinal number*), consider whether the age of the defendant at the time of this murder is a mitigating factor. The mitigating effect of the age of the defendant is for you to determine from all of the facts and circumstances which you find from the evidence. ("Age" is a flexible and relative concept. The chronological age of a defendant is not always the determinative factor.)⁵⁰ If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(8A) [(*State ordinal number*) consider whether the defendant aided in the apprehension of another capital felon? A capital felon is a person who has committed a felony punishable by death. (*Name person apprehended*) was a capital felon. A defendant would have aided in the apprehension of another capital felon if the defendant gave any assistance which in any way advanced the time or reduced the difficulty of taking that person into custody.

You would find this mitigating circumstance if you find (*describe aid, e.g., told the place where (name capital felon) was hiding*) and that this aided

in the apprehension of another capital felon. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

(8B) [(*State ordinal number*) consider whether the defendant testified truthfully on behalf of the prosecution in another prosecution of a felony? A defendant does so if the defendant is called as a witness for the State at any stage of the prosecution of any felony and truthfully answers any questions asked by the prosecutor. The felony need not be connected with the murder for which you are recommending punishment. (*Name felony*) is a felony.

You would find this mitigating circumstance if you find that the defendant testified and that this was truthful testimony on behalf of the prosecution. If one or more of you finds by a preponderance of the evidence that the circumstance exists, you would so indicate by having your foreperson write, "Yes," in the space provided after this mitigating circumstance on the "Issues and Recommendation" form. If none of you finds this circumstance to exist, you would so indicate by having your foreperson write, "No," in that space.]

NOTE WELL: If the defendant makes a timely request for a listing in writing of possible mitigating circumstances, in addition to those listed in N.C. Gen. Stat. § 15-2000(f), and if they are supported by the evidence, and if these circumstances are such that a juror could reasonably deem them to have mitigating value, the judge must (1) instruct on each of them at this point in the instruction and (2) include them on the "Issues and Recommendation" form, where indicated. S. v. Cummings, 326 N.C. 298 (1990). In the absence of a written request, the judge is not required to sift through the evidence and search out every possible circumstance which a juror might find to have mitigating value, S. v. Goodman, 298 N.C. 1, 34 (1979), and "the failure to mention any particular

item as a mitigating circumstance will not be held error so long as the trial judge instructs that the jury may consider any circumstance which it finds to have mitigating value.” S. v. Johnson, 298 N.C. 47, 72 (1979). It is the better practice, however, “...to include on the verdict form all mitigating circumstances that are to be submitted to the jury.” S. v. McDougall, 308 N.C. 1, 25 (1983). The court is not required to entertain evidence or submit any circumstance which is “in no way related to the defendant, his character, his record, or the circumstances of the charged offense.” S. v. Cherry, 298 N.C. 86, 97-99 (1979); S. v. Johnson (II), 298 N.C. 367 (1979).

(9) You should also consider the following circumstances arising from the evidence which you find to have mitigating value. If one or more of you find by a preponderance of the evidence that any of the following circumstances exist and also are deemed by you to have mitigating value, you would so indicate by having your foreperson write “Yes” in the space provided. If none of you find the circumstance to exist, or if none of you deem it to have mitigating value, you would so indicate by having your foreperson write “No” in that space. (Here list each nonstatutory circumstance submitted by defendant and raised by the evidence, *e.g.*:

(A) (*State ordinal number*) Consider whether the defendant was abused by the defendant’s parents and whether you deem this to have mitigating value. You would find this mitigating circumstance if you find that the defendant was abused by the defendant’s parents and that this circumstance has mitigating value. If one or more of you finds by a preponderance of the evidence that this circumstance exists and also is deemed mitigating, you would so indicate by having your foreperson write “Yes” in the space provided after this mitigating circumstance on the “Issues and Recommendation” form. If none of you find the circumstances to exist, or if none of you deem it to have mitigating value, you would so indicate by having your foreperson write “No” in that space.

(B) etc.)

NOTE WELL: In all cases the judge should conclude his treatment of mitigating circumstances with the following "catch-all" paragraph, and then proceed.

(10) (*State ordinal number*), finally, you may consider any other circumstance or circumstances arising from the evidence which you deem to have mitigating value. If one or more of you so find by a preponderance of the evidence, you would so indicate by having your foreperson write "Yes" in the space provided after this mitigating circumstance on the "Issues and Recommendations" form. If none of you finds any such circumstance to exist, you would so indicate by having your foreperson write "No" in that space.

If one or more of you finds by a preponderance of the evidence one or more mitigating circumstances, and have so indicated by writing "Yes" in the space provided after this mitigating circumstance on the "Issues and Recommendation" form, you would answer Issue Two, "Yes." If none of you find any of these mitigating circumstances to exist and have so indicated by writing, "No," in the space after every one of them on that form, you would answer Issue Two, "No." If you answer Issue Two, "Yes," you must consider Issue Three. If you answer Issue Two, "No," do not answer Issue Three. Instead, skip Issue Three, and answer Issue Four.

Issue Three is, "Do you unanimously find beyond a reasonable doubt that the mitigating circumstance or circumstances found is, or are, insufficient to outweigh the aggravating circumstance or circumstances found by you?"

If you find from the evidence one or more mitigating circumstances, you must weigh the aggravating circumstance(s) against the mitigating circumstance(s). When deciding this issue, each juror may consider any mitigating circumstance or circumstances that he or she determined to exist by a preponderance of the evidence in Issue Two. In so doing, you are the

sole judges of the weight to be given to any individual circumstance which you find, whether aggravating or mitigating. You should not merely add up the number of aggravating circumstances and mitigating circumstances. Rather, you must decide from all the evidence what value to give to each circumstance, and then weigh the aggravating circumstances, so valued, against the mitigating circumstances, so valued, and finally determine whether the mitigating circumstances are insufficient to outweigh the aggravating circumstances.

If you unanimously find beyond a reasonable doubt that the mitigating circumstances found are insufficient to outweigh the aggravating circumstance(s) found, you would answer Issue Three, "Yes." If you unanimously fail to so find, you would answer Issue Three "No." If you answer Issue Three, "No," it would be your duty to recommend that the defendant be sentenced to life imprisonment. If you answer Issue Three, "Yes," you must consider Issue Four.

Issue Four is, "Do you unanimously find beyond a reasonable doubt that the aggravating circumstance or circumstances you found is, or are, sufficiently substantial to call for the imposition of the death penalty when considered with the mitigating circumstance or circumstances found by one or more of you?"

In deciding this issue, you are not to consider the aggravating circumstances standing alone. You must consider them in connection with any mitigating circumstances found by one or more of you. When making this comparison, each juror may consider any mitigating circumstance or circumstances that juror determined to exist by a preponderance of the evidence. After considering the totality of the aggravating and mitigating circumstances, each of you must be convinced beyond a reasonable doubt that the imposition of the death penalty is justified and appropriate in this

case before you can answer the issue “Yes.” In so doing, you are not applying a mathematical formula. For example, three circumstances of one kind do not automatically and of necessity outweigh one circumstance of another kind. You may very properly give more weight to one circumstance than another. You must consider the relative substantiality and persuasiveness of the existing aggravating and mitigating circumstances in making this determination. You, the jury, must determine how compelling and persuasive the totality of the aggravating circumstances are when compared with the totality of the mitigating circumstances. After so doing, if you find beyond a reasonable doubt that the aggravating circumstances found by you are sufficiently substantial to call for the death penalty when considered with mitigating circumstances found by one or more of you, it would be your duty to answer the issue “Yes.” If you unanimously fail to so find, it would be your duty to answer the issue “No.”

In the event you do not find the existence of any mitigating circumstances, you must still answer this issue. In such case, you must determine whether the aggravating circumstances found by you are of such value, weight, importance, consequence, or significance as to be sufficiently substantial to call for the imposition of the death penalty.

Substantial means having substance or weight, important, significant or momentous. Aggravating circumstances may exist in a particular case and still not be sufficiently substantial to call for the death penalty. Therefore, it is not enough for the State to prove from the evidence beyond a reasonable doubt the existence of one or more aggravating circumstances. It must also prove beyond a reasonable doubt that such aggravating circumstances are sufficiently substantial to call for the death penalty, and before you may answer Issue Four, “Yes,” you must agree unanimously that they are.

If you answer Issue Four, “No,” you must recommend that the

defendant be sentenced to life imprisonment. If you answer Issue Four, “Yes,” it would be your duty to recommend that the defendant be sentenced to death.

Now members of the jury, you have heard the evidence and the arguments of counsel for the State and for the defendant. The Court has not summarized all of the evidence, but it is your duty to remember all the evidence whether it has been called to your attention or not, and if your recollection of the evidence differs from that of the Court, or of the District Attorney, or of the defense attorney (or the defendant), you are to rely solely upon your recollection of the evidence in your deliberations. I have not reviewed the contentions of the State or of the defendant, but it is your duty not only to consider all the evidence, but also to consider all the arguments, the contentions and positions urged by the State's attorney(s) and the defendant's attorney(s) (and the defendant) in their speeches to you, and any other contention that arises from the evidence, and to weigh them in the light of your common sense, and to make your recommendation as to punishment.

The law, as indeed it should, requires the presiding judge to be impartial. You are not to draw any inference from any ruling that I have made, or any inflection in my voice or expression on my face, or any question I may have asked a witness or anything else that I may have said or done during this trial, that I have an opinion or have intimated an opinion, as to whether any part of the evidence should be believed or disbelieved, as to whether any aggravating or mitigating circumstance has been proved or disproved, or as to what your recommendation ought to be. It is your exclusive province to find the true facts of the case and to make a recommendation reflecting the truth as you find it.

When you are ready to make a recommendation, have your foreperson write in your recommendation as directed on the “Issues and Recommendation” form.

NOTE WELL: Excuse the alternate jurors.⁵¹

After reaching the jury room your first order of business is to select your foreperson. You may begin your deliberations when the bailiff delivers the Issues and Recommendation as Punishment Form to you. Your foreperson should lead the deliberations. When you have unanimously agreed upon an answer to this issue and are ready to announce it, your foreperson should record your answer, sign and date the form, and notify the bailiff by knocking on the jury room door (or otherwise summoning the bailiff). You will be returned to the courtroom and your answer will be announced.

You may retire and select your foreperson.

NOTE WELL: After the jury retires the Judge must address the attorneys as follows:

Before sending the original "Issues and Recommendation" form to the jury and allowing them to begin their deliberations I will now consider any requests for corrections to the charge to the jury, or any additional matters that anyone feels are necessary or appropriate to submit a proper and accurate charge to the jury.

Are there any specific requests for corrections or additions to the charge?

NOTE WELL: Consider all specific requests and if appropriate bring the jury back and correct or add to the charge. If request(s) for corrections or additions are rejected, attorneys must be allowed to make specific objections on the record.

After all specific requests have been considered and the proper record notation(s) made, give the "Issues and Recommendation" form to the bailiff and ask him to hand it to the jury without comment. If it is necessary to return the jury to the courtroom for corrections or additions to the charge the Judge should address the jury as follows:

Members of the jury, after you left the courtroom, it was brought to my

attention that some further instructions are necessary to [correct] [add to] the previous instructions I gave you.

I charge you that...

You may now retire and begin your deliberations as soon as you receive the written form.

NOTE WELL: Repeat the question to the lawyers regarding corrections or additions to the charge. If there are further specific requests repeat the same procedure as before; if not, hand the original written form to the bailiff to give to the jury.

NOTE WELL: If the sentencing jury asks the judge what will happen if it fails to reach a unanimous decision as to issues (One-A), One, Three, Four, or as to punishment, the proper response to such an inquiry is to instruct the jurors as follows:

"Your inability to reach a unanimous [answer to issues (One-A), One, Three, or Four] (or) [recommendation as to punishment] should not be your concern but should simply be reported to the court." S. v. Smith, 320 N.C. 404, 420-422, 358 S.E.2d 329, 338-39 (1987). As to questions about parole, see note 2, supra.

1. *S. v. Britt*, 320 N.C. 705 (1987).

2. This parenthetical language regarding "life without parole" would be eliminated if the offense occurred prior to October 1, 1994.

3. "Neither the State nor the defendant should be allowed [in arguing to the jury at the sentencing phase] to speculate upon the outcome of possible appeals, paroles, executive commutations or pardons." *S. v. Jones*, 296 N.C. 495 at 502 (1979); see also *S. v. Boyd*, 311 N.C. 408, 425 (1984). If a juror inquires about the possibility of parole, the court should instruct the jury as follows: "The question of eligibility for parole is not a proper matter for you to consider in recommending punishment, and it should be eliminated entirely from your consideration and dismissed from your minds. In considering whether to recommend death or life imprisonment, you should determine the question as though life imprisonment means exactly what the statute says: 'imprisonment for life in the State's prison.' *S. v. Conner*, 241 N.C. 468, 472 (1955)." Accord, *S. v. Robbins*, 319 N.C. 465, 518 (1987).

For offenses occurring on or after October 1, 1994, the statutory language is: "A sentence of life imprisonment means a sentence of life without parole." See *State v. Smith*, 351 N.C. 251, 524 S.E.2d 28 (2000).

4. Omit parenthetical when defendant pled guilty, or where the sentencing jury is not the jury which determined guilt.

5. N.C. Gen. Stat. § 15A-2005(g).

6. See note 3.

7. The statute makes it clear that the State must bear the burden of proving aggravating circumstances beyond a reasonable doubt. N.C. Gen. Stat. § 15A- 2000(c)(1). *S. v. Johnson*, 298 N.C. 47, 75 (1979).

8. If there is no evidence that anyone other than defendant participated in the killing, omit the first requirement of proof and re-number the other three.

9. See *Cabana v. Bullock*, 474 U.S. 376, 98 L.Ed. 704 (1986) and *Tison v. Arizona*, 481 U.S. 137 (1987), which further construe the meaning of *Enmund v. Florida*, 458

U.S. 782 (1982) regarding the mental state of an aider and abettor. See also *S. v. Stokes*, 319 N.C. 1 (1987).

10. See N.C. Gen. Stat. § 15A-2000(c)(3); *S. v. McDougal*, 308 N.C. 1, 33 (1983).

11. *S. v. Robbins*, 319 N.C. 465 (1987).

12. If a juror inquires as to whether a negative finding as to Issues 1, 3, and 4 must be unanimous, the court should instruct the jury as follows: "The answers to Issues 1, 3, and 4 -whether affirmative or negative- must be unanimous." *S. v. McCarver*, 341 N.C. 364 (1995); *S. v. Walls*, 342 N.C. 1 (1995).

13. If a juvenile adjudication is involved see N.C. Gen. Stat. § 15A-2000(e), and 7B-3000(f). See NOTE WELL on page 11.

14. *S. v. Goodman*, 298 N.C. 1, 22-23 (1979).

15. See note 12, *supra*.

16. Use this bracketed phrase when the defendant's previous felony does, by definition, involve the use or threat of violence to the person.

17. Use this bracketed phrase when the defendant's previous felony does not, by definition, involve the use or threat of violence to the person.

18. *S. v. Goodman*, 298 N.C. 1, 22-23 (1979). See also *S. v. McLaughlin*, 323 N.C. 68, 97 (1988); *S. v. Green*, 321 N.C. 594, 610-11 (1988); *S. v. Holden*, 321 N.C. 125, 154 (1987); and *S. v. Brown*, 320 N.C. 179, 213 (1987).

19. If the defendant contends, in the sentencing proceeding, that the arrest was unlawful, define a lawful arrest. See N.C.P.I.—Crim. 208.82, et seq.

20. Use this option when the defendant was the principal actor in the felony. When the defendant merely aided or abetted another person in committing the felony, use option #5B.

21. Only the following felonies are applicable: another homicide, robbery, rape or a sex(ual) offense as defined in N.C. Gen. Stat. §§ 14-27.4 and 27.5, arson, burglary, kidnapping, aircraft piracy, or the "unlawful throwing, placing or discharging of a destructive device or bomb." N.C. Gen. Stat. § 15A-2000(e)(5).

22. When a defendant is convicted of first-degree murder under the felony murder rule, the trial judge shall not submit to the jury at the sentencing phase of the trial the aggravating circumstances concerning the underlying felony. *S. v. Cherry*, 298 N.C. 86, 113 (1979); cf. *S. v. Goodman*, 298 N.C. 1, 24 (1979) (Submission of this aggravating circumstance is proper when defendant found guilty on both premeditation and felony murder theories).

In *S. v. Murvin*, 304 N.C. 523 (1981), defendant was convicted of felony murder when he shot and killed a night guard. The conviction was based upon the underlying felonies of

breaking and entering and felonious larceny. The Supreme Court of North Carolina held that he could be convicted and sentenced separately for armed robbery of the guard, committed contemporaneously with the other offenses, since the robbery was not the underlying felony of the murder. It would appear that in such a situation the armed robbery could also serve as an aggravating circumstance under this paragraph. *See also S. v. Johnson*, 317 N.C. 343, 395 (1986).

23. Use this option when the defendant committed the murder but was merely aiding or abetting another person in committing the felony. When the defendant was the principal actor in the felony, use option #5A.

24. *See* note 19 and 21.

25. *See* note 23.

26. *See S. v. Williams*, 317 N.C. 474 (1986) and *S. v. Oliver*, 309 N.C. 326 (1983), discussing robbery as a basis for pecuniary gain.

27. *See State v. Maske*, 358 N.C. 40 (Feb. 6, 2004) (noting that, for this aggravating circumstance to apply, there must be some causal connection between the murder and the pecuniary gain at the time the killing occurs); *State v. Jones*, 357 N.C. 409 (2003). The trial court must describe what constitutes pecuniary gain.

28. If the defendant contends, in the sentencing proceeding, that his victim was doing one thing, which would not be a lawful activity, and the State contends that the victim was doing something else, which would be a lawful activity, state what would and would not be a lawful activity. *See, e.g.*, N.C.P.I.—Crim. 230.20 *et seq.*

29. When the evidence shows that the victim was a witness against the defendant, use 8A (engaged in) if the State has shown that the victim was actively engaged at the time of the murder in performance of a duty of a witness, such as swearing out a warrant, discussion of the case with a prosecutor, traveling to court to testify, or actively testifying.

On the other hand, use 8B (because of) if the State has shown that the defendant's motive for killing the victim was that the victim was either scheduled to be or had been a witness against him. For guidance, *see State v. Long*, 354 N.C. 534 (Dec. 18, 2001).

30. Only the following officials are included: law enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, prosecutor, juror, witness against the defendant. N.C. Gen. Stat. § 15A-2000(e)(8).

31. Use this parenthetical only when the defendant contends that what the victim was doing was something which would not be an official duty.

32. *See State v. Long*, *supra* note 28.

33. Only the following officials are included: law enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, witness or former witness against the defendant. N.C. Gen. Stat. § 15A-2000(e)(8).

34. *S. v. Johnson*, 298 N.C. 47, 82 (1979). *See also S. v. McNeil*, 324 N.C. 33(1989); and *S. v. Spruill*, 320 N.C. 688 (1987).

35. *S. v. Oliver*, 309 N.C. 326 (1983). *See also S. v. Gladden*, 315 N.C. 398 (1986). *S. v. Lloyd*, 321 N.C. 301, 319 (1988).

36. *S. v. Moose*, 310 N.C. 482 (1984). It is a violation of due process principles to instruct that a particular type weapon is a weapon which would normally be hazardous to the

lives of more than one person. *S. v. Nobles*, 350 N.C. 483, 515 S.E.2d 885 (1999). See also *S. v. Davis*, 349 N.C. 1 (1998).

37. *S. v. Price*, 326 N.C. 56, 80 (1990).

38. See *S. v. Price*, 326 N.C. 56, 80 (1990); *S. v. Williams*, 305 N.C. 656, 684 (1982).

39. This phrase is critically important because the mere fact that one murder or violent act followed the other does not establish a course of conduct. Rather, the jury must conclude beyond a reasonable doubt that the acts were part of the same course of conduct. *State v. Berry*, 356 N.C. 490, 573 S.E.2d 132 (2002).

40. *State v. Mosley*, 338 N.C. 1 at 55 (1994).

41. See *supra* note 11.

42. The burden of persuading the jury on the issue of the existence of any mitigating circumstances is on the defendant and the standard of proof is by a preponderance of the evidence." *S. v. Johnson*, 298 N.C. 47, 76 (1979). See also *S. v. Benson*, 323 N.C. 318, 325-6 (1988).

43. N.C. Gen. Stat. § 15A-2005(g).

44. This circumstance should be submitted whenever requested by the defendant. In *S. v. Wilson*, 322 N.C. 117 (1988) defendant had a prior history of kidnapping, storing illegal drugs and theft. It was held that the existence of this mitigating circumstance should have been submitted to the jury. Evidence of criminal activity after the date of the murder should not be admitted into evidence. *State v. Coffey*, 336 N.C. at 412 (1994). When a defendant objects to the submission of a particular mitigating circumstance, the trial court should instruct the jury as follows: "The defendant did not request that this mitigating circumstance be submitted, but the submission of this mitigating circumstance is required as a matter of law." *State v. Walker*, 343 N.C. 216 (1996). Where the State and defendant stipulate that defendant has no significant history of prior criminal activity, the jury must be instructed that this mitigating circumstance exists as a matter of law and that the jury must give it some weight. *State v. Jones*, 346 N.C. 704 (1997).

45. Where neither side submits evidence of any prior criminal activity or lack thereof, do not submit this mitigating circumstance. *State v. Fullwood*, 323 N.C. 371, 394 (1988).

46. See *S. v. Johnson*, 298 N.C. 47 (1979) where the judge submitted both, the jury found one but not the other, and the Court reversed the death penalty on the basis of the inadequacy of the instruction on the one which they did not find. See also *S. v. Greene*, 324 N.C. 1 (1989) and *S. v. Stokes*, 308 N.C. 634 (1983).

47. The instruction for this mitigating circumstance parallels that for the sixth mitigating circumstance, which provides for any impairment of the defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

48. Care should be taken not to confuse this mitigating circumstance with the felony murder rule of the *Enmund* case. See NOTE WELL, p. 1. The number of cases in which defendant knowingly participated in the homicide under *Enmund*, yet played a "relatively minor role" in the murder may be fewer than originally contemplated before the *Enmund* decision.

49. Use this parenthetical when the defendant has contended to the jury at the guilt phase that the duress did justify or excuse his killing.

50. See *State v. Holden*, 338 N.C. 394 (1994), where mental age served as a statutory mitigating circumstance, rather than chronological age. See also *State v. Zonign*, 348 N.C. 214 (1988).

51. Effective October 1, 2021, S.L. 2021-94 amended N.C.G.S. § 15A-1215(a) to permit an alternate juror to replace a regular juror after deliberations have begun. However, N.C.G.S. § 15A-1215(b) pertaining to criminal actions in which defendants are to be tried for a capital offense remained unaltered by the General Assembly. Case law predating this statutory amendment has held that replacing a regular juror with an alternate juror after deliberations have begun is a structural error that requires a new trial. See *State v. Hardin*, 161 N.C. App. 530 (2003). Likewise, replacing a regular juror with an alternate juror in the sentencing phase of a capital case is also a structural error necessitating a new trial. See *State v. Bunning*, 345 N.C. 253 (1997) (reasoning that “Article I, Section 24 of the North Carolina Constitution...contemplates no more or less than a jury of twelve persons,” and concluding that the verdict was reached by more than twelve persons since both the excused juror and alternate juror participated.). See also Shea Denning, “Replacing a Juror After Deliberations Begin,” *North Carolina Criminal Law: A UNC School of Government Blog* (Aug. 5, 2021), <https://nccriminallaw.sog.unc.edu/replacing-a-juror-after-deliberations-begin/>.

150.10A (APP) DEATH PENALTY—ISSUES AND RECOMMENDATION AS TO PUNISHMENT.

NOTE WELL: When the jury retires to deliberate the punishment in a capital case, the judge shall furnish them a written list of issues relating to the aggravating or mitigating circumstances which arise from the evidence. N.C. Gen. Stat. § 15A-2000(b). When the jury recommends a sentence of death the foreperson shall sign the "Issues and Recommendation" form on behalf of the jury which shall show the requisite findings to support that sentence. N.C. Gen. Stat. § 15A-2000(c). The following pattern form combines the issues and the recommendation.

The judge, in each case, should use this "Issues and Recommendation", and should furnish this form to the jury. In preparing the actual form to be given to the jury, the judge should omit all the bracketed aggravating and mitigating circumstances which do not relate to the evidence in the case. The judge is required to add all non-statutory mitigating circumstances that arise from the evidence which are explained in the Note Well below and incorporate those into this form. The statutory and non-statutory mitigating circumstances are to be listed on this form in consecutive order. Also, make sure the reporter does not type the brackets themselves, and numbers the aggravating and mitigating circumstances which are incorporated in their own consecutive order.

Issue One-A should be included only if there is evidence that the defendant personally may not have committed the killing. See NOTE WELL, N.C.P.I.—Crim. 150.10. The designation of Issue One-A has been adopted to simplify the numbers of the remaining issues.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF
JUSTICE

SUPERIOR COURT DIVISION

No. _____

STATE OF NORTH CAROLINA)
)
Plaintiff)
)
vs.)
)
(Name defendant))
)
Defendant)
_____)

ISSUES AND
RECOMMENDATION

AS TO PUNISHMENT

ISSUES

Issue One-A:

Do you unanimously find from the evidence, beyond a reasonable doubt,
that the defendant:

[a. Killed or attempted to kill the victim;] (or)

[b. Intended to kill the victim;] (or)

[c. Intended that deadly force would be used in the course of the
underlying felony] (or)

[d. Was a major participant in the underlying felony and exhibited
reckless indifference to human life]?

Answer_____.

IF YOU ANSWER ISSUE ONE-A "NO," SKIP ISSUES ONE, TWO, THREE, AND FOUR AND INDICATE LIFE IMPRISONMENT UNDER "RECOMMENDATION AS TO PUNISHMENT" ON THE LAST PAGE OF THIS FORM. IF YOU ANSWERED ISSUE ONE-A "YES," PROCEED TO ISSUE ONE.

Issue One:

Do you unanimously find from the evidence, beyond a reasonable doubt, the existence of one or more of the following aggravating circumstances?

ANSWER_____.

BEFORE YOU ANSWER ISSUE ONE, CONSIDER EACH OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES. IN THE SPACE AFTER EACH AGGRAVATING CIRCUMSTANCE, WRITE "YES," IF YOU UNANIMOUSLY FIND THAT AGGRAVATING CIRCUMSTANCE FROM THE EVIDENCE BEYOND A REASONABLE DOUBT. WRITE, "NO," IF YOU DO NOT FIND THAT AGGRAVATING CIRCUMSTANCE FROM THE EVIDENCE BEYOND A REASONABLE DOUBT.

IF YOU WRITE, "YES," IN ONE OR MORE OF THE SPACES AFTER THE FOLLOWING AGGRAVATING CIRCUMSTANCES, WRITE, "YES," IN THE SPACE AFTER ISSUE ONE AS WELL. IF YOU WRITE, "NO," IN ALL OF THE SPACES AFTER THE FOLLOWING AGGRAVATING CIRCUMSTANCES, WRITE, "NO," IN THE SPACE AFTER ISSUE ONE.

(1) [Was the defendant lawfully incarcerated?

ANSWER_____]

(2) [Had the defendant been previously convicted of another capital felony?

ANSWER_____]

(3) [Had the defendant been previously convicted of a felony involving the [use] [threat] of violence to the person?

ANSWER_____]

(4A) [Was this murder committed for the purpose of [avoiding] [preventing] a lawful arrest?

ANSWER_____]

(4B) [Was this murder committed for the purpose of effecting an escape from custody?

ANSWER_____]

(5A) [Was this murder committed while the defendant was engaged in [the commission of] [an attempt to commit] [a flight after [committing] [attempting to commit]] (*name felony*)?

ANSWER_____]

(5B) [Was the murder committed while the defendant was an [aider] [abettor] in the [commission of] [attempt to commit] [flight after [committing] [attempting to commit]] (*name felony*)?¹

ANSWER_____]

(6) [Was this murder committed for pecuniary gain?

ANSWER_____]

(7A) [Was this murder committed to [disrupt] [hinder] the lawful exercise of a governmental function?

ANSWER_____]

(7B) [Was this murder committed to [disrupt] [hinder] the enforcement of the laws?

ANSWER_____]

(8A) [Was this murder committed against a (*describe victim's position*) while engaged in the performance of his official duties?

ANSWER_____]

(8B) [Was this murder committed against a (*describe victim's position*)² because of the exercise of his official duty?

ANSWER_____]

(9) [Was this murder especially heinous, atrocious or cruel?

ANSWER_____]

(10) [Did the defendant knowingly create a great risk of death to more than one person by means of a [weapon] [device] which would normally be hazardous to the lives of more than one person?

ANSWER_____]

(11) [Was this murder part of a course of conduct in which the defendant engaged and did that course of conduct include the commission by the defendant of other crimes of violence against other persons?

ANSWER_____]

IF YOU ANSWERED ISSUE ONE "NO," SKIP ISSUES TWO, THREE, AND FOUR, AND INDICATE LIFE IMPRISONMENT UNDER "RECOMMENDATION AS TO PUNISHMENT", ON THE LAST PAGE OF THIS FORM. IF YOU ANSWERED ISSUE ONE "YES," PROCEED TO ISSUE TWO.

Issue Two:

Do you find from the evidence the existence of one or more of the following mitigating circumstances?

ANSWER_____

NOTE WELL: List any of the following mitigating circumstances for which there is any evidence. In addition, if the defendant makes a timely request for a listing in writing of possible mitigating circumstances in addition to those listed here, and if they are supported by the evidence, and if those circumstances are such that the jury could possibly deem them to have mitigating value, add all such circumstances to the list as you prepare the form to be given to the jury. S. v. Johnson, 298 N.C. 47, 72, 74 (1979). If all the evidence indicates that the mitigating circumstances exist, the judge is required to give peremptory instructions. For peremptory instructions see N.C.P.I.—Crim. 150.11 and N.C.P.I.—Crim. 150.12.

BEFORE YOU ANSWER ISSUE TWO, CONSIDER EACH OF THE FOLLOWING MITIGATING CIRCUMSTANCES. IN THE SPACE AFTER EACH MITIGATING CIRCUMSTANCE, WRITE "YES," IF ONE OR MORE OF YOU FINDS THAT CIRCUMSTANCE BY A PREPONDERANCE OF THE EVIDENCE. WRITE, "NO," IF NONE OF YOU FINDS THAT MITIGATING CIRCUMSTANCE.

IF YOU WRITE, "YES," IN ONE OR MORE OF THE FOLLOWING SPACES, WRITE, "YES," IN THE SPACE AFTER ISSUE TWO AS WELL. IF YOU WRITE, "NO," IN ALL OF THE FOLLOWING SPACES, WRITE, "NO," IN THE SPACE AFTER ISSUE TWO.

- (1) [The defendant has no significant history of prior criminal activity.

ANSWER_____ One or more of us finds this mitigating circumstance to exist.]

- (2) [This murder was committed while the defendant was under the influence of mental or emotional disturbance.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(3A) [The victim was a voluntary participant in the defendant's
homicidal act.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(3B) [The victim consented to the defendant's homicidal act.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(4) [This murder was actually committed by another person and the
defendant was only an [accomplice in] [accessory to] the murder
and his participation in the murder was relatively minor.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(5A) [The defendant acted under duress.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(5B) [The defendant acted under the domination of another person.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(6) [The capacity of the defendant to appreciate the criminality of his
conduct or to conform his conduct to the requirements of the law
was impaired.

ANSWER_____ One or more of us finds this
mitigating circumstance to exist.]

(7) [The age of the defendant at the time of this murder is a mitigating circumstance.]

ANSWER_____ One or more of us finds this mitigating circumstance to exist.]

(8A) [The defendant aided in the apprehension of another capital felon.]

ANSWER_____ One or more of us finds this mitigating circumstance to exist.]

(8B) [The defendant testified truthfully on behalf of the prosecution in another prosecution of a felony.]

ANSWER_____ One or more of us finds this mitigating circumstance to exist.]

(9) *NOTE WELL: Here list the non-statutory mitigating circumstances requested by the defendant.*

ANSWER_____ One or more of us finds this circumstance to exist and deem it to have mitigating value.

NOTE WELL: Always include Number 10 following:

(10) Any other circumstance or circumstances arising from the evidence which one or more of you deems to have mitigating value.

ANSWER_____ One or more of us finds the mitigating circumstance to exist.

ANSWER ISSUE THREE IF YOU ANSWERED ISSUE TWO, "YES." IF YOU ANSWERED ISSUE TWO, "NO," SKIP ISSUE THREE AND ANSWER ISSUE FOUR.

Issue Three:

Do you unanimously find beyond a reasonable doubt that the mitigating circumstance or circumstances found is, or are, insufficient to outweigh the aggravating circumstance or circumstances found by you?

ANSWER_____

IF YOU ANSWER ISSUE THREE, "YES," PROCEED TO ISSUE FOUR. IF YOU ANSWER ISSUE THREE, "NO," INDICATE LIFE IMPRISONMENT UNDER "RECOMMENDATION AS TO PUNISHMENT."

Issue Four:

Do you unanimously find beyond a reasonable doubt that the aggravating circumstance or circumstances you found is, or are, sufficiently substantial to call for the imposition of the death penalty when considered with the mitigating circumstance or circumstances found by one or more of you?

ANSWER_____

IF YOU ANSWER ISSUE FOUR "YES," INDICATE DEATH UNDER "RECOMMENDATION AS TO PUNISHMENT." IF YOU ANSWER ISSUE FOUR, "NO," INDICATE LIFE IMPRISONMENT UNDER "RECOMMENDATION AS TO PUNISHMENT."

RECOMMENDATION AS TO PUNISHMENT

INDICATE YOUR RECOMMENDATION AS TO PUNISHMENT BY WRITING "DEATH," OR "LIFE IMPRISONMENT," IN THE BLANK IN THE FOLLOWING SENTENCE:

We, the jury, unanimously recommend that the defendant, (*name defendant*) be sentenced to_____.

This _____ day of _____, _____.

(signature)
Foreperson of the Jury

1. Only the following officials are included: law enforcement officer, employee of the Department of Correction, jailer, firemen, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, witness or former witness against the defendant. N.C. Gen. Stat. § 15A-2000(e)(8).

2. Only the following officials are included: law enforcement officer, employee of the Department of Correction, jailer, firemen, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, witness or former witness against the defendant. N.C. Gen. Stat. § 15A-2000(e)(8).

204.25 AGGRAVATING FACTOR INSTRUCTION. (This document includes a sample verdict sheet. See Instruction References.)

NOTE WELL: Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed presumptive range must be submitted to a jury and proved beyond a reasonable doubt. See State v. Allen, 359 N.C. 425, 615 S.E. 2d 256 (1 July 2005), modifying and affirming, 166 N.C. App. 139, 601 S.E.2d 299 (N.C. Ct. App. 2004). Consistent with Allen and the United States Supreme Court's decision in Blakely v. Washington, 124 S. Ct. 2531 (2004), N.C. Gen. Stat. § 15A-1340.16 was substantially amended in June 2005, effective for offenses committed on or after 30 June 2005. Pursuant to section 15A-1340.16(a1), a defendant may admit to the existence of an aggravating factor and the factor so admitted shall be treated as though it were found by the jury. See N.C. Gen. Stat. § 15A-1022.1 for the procedure to be used in accepting admissions of the existence of aggravating factors in felonies. See also N.C. Gen. Stat. § 15A-1340.16(a2); N.C. Gen. Stat. § 15A-1026 (dealing with making and preserving a record of plea). If a defendant does not admit the existence of an aggravating factor under section 15A-1340.16(d), then only a jury may determine if the aggravating factor is present in an offense. Pursuant to section 15A-1230.16(a1), the trial judge may determine, when in the interests of justice, a separate sentencing proceeding is required. For procedural guidance, see N.C. Gen. Stat. § 15A-928.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. In addition, evidence necessary to establish that an enhanced sentence is required under N.C. Gen. Stat. § 15A-1340.16A may not be used to prove any factor in aggravation.

In the event you find (have found) the defendant guilty of (*name offense*), you must then consider and answer the following question:

Do you find from the evidence beyond a reasonable doubt the existence of the following aggravating factor(s)?

NOTE WELL: Submit to the jury the aggravating factors supported by the evidence. N.C. Gen. Stat. § 15A-1340.16(d). Some of these aggravating factors are self-explanatory and require no further

definition. If a factor requires additional explanation, relevant pattern jury instructions, such as the capital sentencing instruction, may be consulted.

- 1) The defendant [induced others to participate in the commission of the offense] [occupied a position of leadership or dominance of other participants].
- 2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- 3) The offense was committed [for the benefit of] [at the direction of] any criminal gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- 4) The offense was committed for the purpose of [avoiding or preventing a lawful arrest] [effecting an escape from custody].
- 5) The defendant was hired or paid to commit the offense.
- 6) The offense was committed to disrupt or hinder the lawful exercise of [any governmental function] [the enforcement of laws].
- 7) The offense [was committed against] [proximately caused serious injury to] a present or former [law enforcement officer] [employee of the Department of Correction] [jailer] [fireman] [emergency medical technician] [ambulance attendant] [social worker] [justice] [judge] [clerk of court] [assistant clerk of court] [deputy clerk of court] [magistrate] [prosecutor] [juror] [witness against the defendant], while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

NOTE WELL: The language including social worker in this statute is only applicable to offense committed on or after December 1, 2005.

- 8) The offense was especially heinous, atrocious, or cruel.
- 9) The defendant knowingly created a great risk of death to more than one person by means of a [weapon] [device] which would normally be hazardous to the lives of more than one person.
- 10) The defendant was a [firefighter] [rescue squad worker], and the offense is directly related to service as a [firefighter] [rescue squad worker].
- 11) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- 12) The defendant [was armed with] [used] a deadly weapon at the time of the crime.
- 13) The victim was [very young] [very old] [mentally infirm] [physically infirm] [handicapped].
- 14) The defendant committed the offense while on pretrial release on another charge.
- 15) The defendant involved a person under the age of 16 in the commission of the crime.
- 16) That defendant committed the offense and [knew] [reasonably believed] [should have known] that a person under the age of 18 who was not involved in the commission of the offense was in a position to [see] [hear] the offense.

NOTE WELL: Aggravating factor (16) is only applicable to offenses committed on or after December 1, 2015.

- 17) The offense involved [an [attempted] [actual] taking of property of great monetary value] [damage causing great monetary loss] [an unusually large quantity of contraband].
- 18) The defendant took advantage of a position of trust or confidence (which includes a domestic relationship) to commit the offense.

NOTE WELL: The language "including a domestic relationship" in the statute is only applicable to offenses committed on or after December 1, 2004.

- 19) The offense involved the sale or delivery of a controlled substance to a minor.
- 20) The offense was the manufacture of methamphetamine and was committed where a person under the age of 18 [lives] [was present] [was endangered by exposure to the drug, its ingredients, byproducts, or waste].

NOTE WELL: Aggravating factor (20), dealing with methamphetamine, is only applicable to offenses committed on or after December 1, 2004.

- 21) The offense was committed against a victim because of the victim's [race] [color] [religion] [nationality] [country of origin].
- 22) The defendant does not support the defendant's family.
- 23) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- 24) The serious injury inflicted upon the victim is permanent and debilitating.

NOTE WELL: If alleged in the indictment and supported by the evidence, N.C. Gen. Stat. § 15A-1340.16(d)(20) provides for the presentation of any other aggravating factor reasonably related to the purposes of sentencing. See N.C. Gen. Stat. § 15A-924(a)(7), providing that a criminal pleading must contain a plain and concise

factual statement indicating the factor or factors the State intends to use under section N.C. Gen. Stat. § 15A-1340.16(d)(20).

(You are instructed that the same evidence cannot be used as a basis for finding more than one aggravating factor.)

If you find from the evidence beyond a reasonable doubt that (insert aggravating factor(s) supported by the evidence), then you will write yes in the space after the(se) aggravating factor(s) on the verdict sheet. If you have found the existence of (one or more of) the aggravating factor(s) and have written “yes” in the space after the(se) aggravating factor(s), then you will also answer Issue One “yes” and write “yes” in the space after Issue One on the verdict sheet. If you do not so find, then you will leave blank the space(s) after the aggravating factor(s).

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE

COUNTY OF _____ SUPERIOR COURT DIVISION

FILE NO.

STATE OF NORTH CAROLINA

vs. Verdict Sheet

Defendant

Issue One:

Do you find from the evidence beyond a reasonable doubt the existence of the following aggravating factor(s)?

Answer: _____

Before you answer the question above, consider (each of) the following aggravating factor(s). If you find beyond a reasonable doubt that a (the) factor exists, you would write "yes" in the space after that factor. If you write "yes" in (one or more of) the following space(s), then you would write "yes" in the space after the question above.

NOTE WELL: Modify verdict sheet and submit to the jury only the aggravating factor(s) supported by the evidence. N.C. Gen. Stat. § 15A-1340.16(d). Remove the Note Wells as appropriate before submitting to the jury.

- 1) The defendant [induced others to participate in the commission of the offense] [occupied a position of leadership or dominance of other participants].

Answer: _____

- 2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

Answer: _____

- 3) The offense was committed [for the benefit of] [at the direction of] any criminal gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.

Answer: _____

- 4) The offense was committed for the purpose of [avoiding or preventing a lawful arrest] [effecting an escape from custody].

Answer: _____

- 5) The defendant was hired or paid to commit the offense.

Answer: _____

- 6) The offense was committed to disrupt or hinder the lawful exercise of [any governmental function] [the enforcement of laws].

Answer: _____

- 7) The offense [was committed against] [proximately caused serious injury to] a present or former [law enforcement officer] [employee of the Department of Correction] [jailer] [fireman] [emergency medical technician] [ambulance attendant] [social worker] [justice or judge] [clerk of court] [assistant clerk of court] [deputy clerk of court] [magistrate] [prosecutor] [juror] [witness against the defendant], while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

Answer: _____

NOTE WELL: The language including social worker in this statute is only applicable to offenses committed on or after December 1, 2005.

- 8) The offense was especially heinous, atrocious, or cruel.
Answer: _____
- 9) The defendant knowingly created a great risk of death to more than one person by means of a [weapon] [device] which would normally be hazardous to the lives of more than one person.
Answer: _____
- 10) The defendant was a [firefighter] [rescue squad worker], and the offense is directly related to service as a [firefighter] [rescue squad worker].
Answer: _____
- 11) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
Answer: _____
- 12) The defendant [was armed with] [used] a deadly weapon at the time of the crime.
Answer: _____
- 13) The victim was [very young] [very old] [mentally infirm] [physically infirm] [handicapped].
Answer: _____
- 14) The defendant committed the offense while on pretrial release on another charge.
Answer: _____
- 15) The defendant involved a person under the age of 16 in the commission of the crime.
Answer: _____

16) That defendant committed the offense and [knew] [reasonably believed] [should have known] that a person under the age of 18 who was not involved in the commission of the offense was in a position to [see] [hear] the offense.

Answer: _____

NOTE WELL: Aggravating factor (16), is only applicable to offenses committed on or after December 15, 2015.

17) The offense involved [an [attempted] [actual] taking of property of great monetary value] [damage causing great monetary loss] [an unusually large quantity of contraband].

Answer: _____

18) The defendant took advantage of a position of trust or confidence (which includes a domestic relationship) to commit the offense.

Answer: _____

NOTE WELL: The language "including a domestic relationship" in the statute is only applicable to offenses committed on or after December 1, 2004.

19) The offense involved the sale or delivery of a controlled substance to a minor.

Answer: _____

20) The offense was the manufacture of methamphetamine and was committed where a person under the age of 18 [lives] [was present] [was endangered by exposure to the drug, its ingredients, byproducts, or waste].

Answer: _____

NOTE WELL: Aggravating factor (20), dealing with methamphetamine, is only applicable to offenses committed on or after December 1, 2004.

21) The offense was committed against a victim because of the victim's [race] [color] [religion] [nationality] [country of origin].

Answer: _____

22) The defendant does not support the defendant's family.

Answer: _____

23) The serious injury inflicted upon the victim is permanent and debilitating.

Answer: _____

24) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

Answer: _____

25) The defendant engaged in (describe other aggravating factor alleged in the indictment and supported by the evidence reasonably related to the purpose of sentencing).

Answer: _____

This the ____ day of _____, _____.

Foreperson

206.10 FIRST-DEGREE MURDER WHERE A DEADLY WEAPON IS USED, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE. FELONY.

NOTE WELL: If self-defense is at issue and the assault occurred in defendant's home, place of residence, workplace or motor vehicle, see N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

NOTE WELL: N.C. Gen. Stat. §§ 15-176.4; 15A-2000(a): When the defendant is indicted for first degree murder the court shall, upon request by either party, instruct the jury as follows:

"In the event that the defendant is convicted of murder in the first degree, the court will conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment (without parole).¹ If that time comes, you will receive separate sentencing instructions. However, at this time your only concern is to determine whether the defendant is guilty of the crime charged or any lesser included offenses about which you are instructed."²

The defendant has been charged with first degree murder.

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

- 1) guilty of first-degree murder,
- 2) guilty of second-degree murder,³

- 3) guilty of voluntary manslaughter,
- 4) guilty of involuntary manslaughter, or
- 5) not guilty.

First degree murder is the unlawful killing of a human being with malice and with premeditation and deliberation.

Second-degree murder is the unlawful killing of a human being with malice, but without premeditation and deliberation.

Voluntary manslaughter is the unlawful killing of a human being without malice and without premeditation and deliberation.

Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony or by an act done in a criminally negligent way.

The defendant would be excused of first-degree murder and second-degree murder on the ground of self-defense if:

First, the defendant believed it was necessary to use deadly force against the victim⁴ in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. In determining the reasonableness of the defendant's belief, you should consider the circumstances as you find them to have existed from the evidence, including (the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether the victim had a weapon in the victim's possession), (and the reputation, if any, of the victim for danger and violence) (describe other circumstances, as appropriate from the evidence).

The defendant would not be guilty of any murder or manslaughter if the defendant acted in self-defense, and if the defendant (was not the aggressor in provoking the fight and) did not use excessive force under the circumstances.

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated and intended to provoke a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor⁵ with the intent to kill or inflict serious bodily harm upon the deceased.⁶)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct***

the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁷ (The defendant would have a lawful right to be in the defendant's [home]⁸ [own premises] [place of residence] [workplace]⁹ [motor vehicle]¹⁰.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].¹¹

Therefore, in order for you to find the defendant guilty of first-degree murder or second-degree murder, the State must prove beyond a reasonable doubt, among other things, that the defendant did not act in self-defense, or, failing in this, that the defendant was the aggressor with the intent to kill or to inflict serious bodily harm upon the deceased. If the State fails to prove that the defendant did not act in self-defense or was the aggressor with intent to kill or to inflict serious bodily harm, you may not convict the defendant of either first- or second-degree murder. However, you may convict the defendant of voluntary manslaughter if the State proves that the defendant was the aggressor without murderous intent in provoking the fight in which the deceased was killed, or that the defendant used excessive force.

For you to find the defendant guilty of first-degree murder, the state must prove six things beyond a reasonable doubt:

First, that the defendant intentionally¹² and with malice killed the victim with a deadly weapon.

Malice means not only hatred, ill will, or spite, as it is ordinarily understood, but it also means the condition of mind which prompts a person to intentionally take the life of another or to intentionally inflict serious bodily harm that proximately results in another person's death without just cause, excuse or justification. If the State proves beyond a reasonable doubt, (or it is admitted)¹³ that the defendant intentionally killed the victim with a deadly weapon or intentionally inflicted a wound upon the deceased with a deadly weapon that proximately caused the victim's death, you may infer first, that the killing was unlawful, and second, that it was done with malice, but you are not compelled to do so.¹⁴ You may consider this along with all other facts and circumstances in determining whether the killing was unlawful and whether it was done with malice.

[A firearm is a deadly weapon.] [A deadly weapon is a weapon which is likely to cause death or serious injury. In determining whether the instrument involved was a deadly weapon, you should consider its nature, the manner in which it was used, and the size and strength of the defendant as compared to the victim.]

Second, the State must prove that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred,¹⁵ and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if

it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.) (A child has been killed if the child was born alive, but died as a result of injuries inflicted prior to being born alive.)¹⁶

Third, that the defendant intended to kill the victim. Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proven by circumstances from which it may be inferred. An intent to kill may be inferred from the nature of the assault, the manner in which the assault was made, the conduct of the parties and any other relevant circumstances.

Fourth, that the defendant acted with premeditation, that is, that the defendant formed the intent to kill the victim over some period of time, however short, before the defendant acted.

Fifth, that the defendant acted with deliberation, which means that the defendant acted while the defendant was in a cool state of mind. This does not mean that there had to be a total absence of passion or emotion. If the intent to kill was formed with a fixed purpose, not under the influence of some suddenly aroused violent passion, it is immaterial that the defendant was in a state of passion or excited when the intent was carried into effect.

Neither premeditation nor deliberation is usually susceptible of direct proof. They may be proved by circumstances from which they may be inferred, such as the [lack of provocation by the victim] [conduct of the defendant before, during and after the killing] [threats and declarations of the defendant] [use of grossly excessive force] [infliction of lethal wounds after the victim is felled] [brutal or vicious circumstances of the killing] [manner in which or means by which the killing was done]¹⁷ [ill will between the parties].¹⁸

And Sixth, that the defendant did not act in self-defense or that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm upon the deceased.

Second Degree Murder differs from first degree murder in that the State does not have to prove specific intent to kill, premeditation, or deliberation. For you to find the defendant guilty of second-degree murder, the State must prove beyond a reasonable doubt that the defendant unlawfully, intentionally¹⁹ and with malice wounded the victim with a deadly weapon, proximately causing the victim's death. The State must also prove that the defendant did not act in self-defense, or if the defendant did act in self-defense, the State must prove that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm.

Voluntary Manslaughter is the unlawful killing of a human being without malice, premeditation, and deliberation. A killing is not committed with malice if the defendant acts in the heat of passion upon adequate provocation.

The heat of passion does not mean mere anger. It means that at the time the defendant acted, the defendant's state of mind was so violent as to overcome reason, so much so that the defendant could not think to the extent necessary to form a deliberate purpose and control the defendant's actions. Adequate provocation means anything that has a natural tendency to produce such passion in a person of average mind and disposition.²⁰ Also, the defendant's act must have taken place so soon after the provocation that the passion of a person of average mind and disposition would not have cooled.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in the heat of passion upon adequate provocation, but rather that the defendant acted with malice. If the State fails to meet this burden, the defendant can be guilty of no more than voluntary manslaughter.

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the victim by an intentional²¹ and unlawful act.

Second, that the defendant's act was a proximate cause²² of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred.

And Third, that the defendant [did not act in self-defense] or [though acting in self-defense [was the aggressor] (or) [though acting in self-defense used excessive force]].

Voluntary manslaughter is also committed if the defendant kills in self-defense but uses excessive force under the circumstances or was the aggressor without murderous intent in provoking the fight in which the killing took place.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. However, if the State proves beyond a reasonable doubt that the defendant, though otherwise acting in self-defense, [used excessive force] (or) [was the aggressor, though the defendant had no murderous intent when the defendant entered the fight], the defendant would be guilty of voluntary manslaughter.²³

If you do not find the defendant guilty of murder or voluntary manslaughter, you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is the unintentional killing of a human being by an unlawful act that is not a felony, or by an act done in a criminally negligent way.

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted

- a) [unlawfully] [The defendant's act was unlawful if (*define crime alleged to have been violated, e.g., defendant recklessly discharged a gun, killing the victim*).]
- b) [in a criminally negligent way].²⁴ [Criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, the State must prove that this [unlawful] (or) [criminally negligent] act proximately caused the victim's death.

(If the victim died by accident or misadventure, that is, without wrongful purpose or criminal negligence on the part of the defendant, the defendant would not be guilty.²⁵ The burden of proving accident is not on the defendant. The defendant's assertion of accident is merely a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.)

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, acting with malice and not in self-defense, wounded the victim with a deadly weapon thereby proximately causing the victim's death, that the defendant intended to kill the victim, and that the defendant acted after premeditation and with deliberation, it would be your duty to return a verdict of guilty of first-degree murder. If you do not

so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of first-degree murder, but will determine whether the defendant is guilty of second degree murder.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and with malice but not in self-defense wounded the victim with a deadly weapon thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of second-degree murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of second-degree murder, but will determine whether the defendant is guilty of voluntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally wounded the victim with a deadly weapon and thereby proximately caused the victim's death, and that the defendant was the aggressor in provoking the fight or used excessive force, it would be your duty to find the defendant guilty of voluntary manslaughter even if the state has failed to prove that the defendant did not act in self-defense.

Or, if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and not in self-defense wounded the victim with a deadly weapon and thereby proximately caused the victim's death, but the State has failed to satisfy you beyond a reasonable doubt that defendant did not act in the heat of passion upon adequate provocation, it would be your duty to return a verdict of guilty of voluntary manslaughter.

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter,

but will determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [committed the offense of (name crime)] [acted in a criminally negligent way] thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense, that the defendant was the aggressor, or that the defendant used excessive force, then the defendant's action would be justified by self-defense; and it would be your duty to return a verdict of not guilty.

1. The parenthetical phrase, without parole, must be used for offenses occurring on or after October 1, 1994.

2. N.C. Gen. Stat. § 14-5.2 (effective July 1, 1981) abolished all distinctions between accessories before the fact and principals to felonies as to both trial and punishment, except that if a person who would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators or accessories to the crime, he shall be guilty of a Class B felony. The act applies to all offenses committed on or after July 1, 1981. See N.C.P.I.—Crim. 202.30.

As to felonies allegedly committed before that date, accessories before the fact should be tried (and punished) according to previously existing law. See N.C.P.I.—Crim. 202.20, 202.30 and *State v. Small*, 301 N.C. 407, 272 S.E.2d 128 (1980).

See N.C.P.I.—Crim. 206.10A for suggested procedure and instruction where an accessory before the fact is convicted of first-degree murder.

3. If the evidence is sufficient to fully satisfy the State's burden of proving each and every element of the offense of murder in the first degree, including premeditation and deliberation, and there is no evidence to negate these elements other than defendant's denial that he committed the offense, the trial judge should properly exclude from jury consideration the possibility of a conviction of second-degree murder." *S v. Strickland*, 307 N.C. 274, 293 (1983), overruling *S v. Harris*, 290 N.C. 718 (1976).

4. N.C. Gen. Stat. § 14-51.3.

5. N.C. Gen. Stat. § 14-51.4(2).

6. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

7. See N.C.P.I.—Crim. 308.10.

8. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

9. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

10. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

11. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 456, 541, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to any self-defense instruction is entitled to a complete self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

12. If a definition of intent is required, see N.C.P.I.—Crim. 120.10. If a further definition of general intent or specific intent is required, you may consider giving the following additional instruction: [Specific Intent is a mental purpose, aim or design to accomplish a specific harm or result] [General Intent is a mental purpose, aim or design to perform an act, even though the actor does not necessarily desire the consequences that result] *Black’s Law Dictionary*, 825-26 (Bryan A. Garner, 8th ed. 2004).

13. Use the parenthetical only if defendant admits to an intentional shooting in open court. See *State v. McCoy*, 303 N.C. 1, 28-29 (1981).

14. In *Francis v. Franklin*, 471 U.S. 307, 105 S.Ct. 1965 (1985), the Supreme Court held that a mandatory presumption, if it relieves the State of its burden of persuasion on an element of the offense, violates the Due Process Clause. This raises questions concerning the validity of the mandatory presumption of malice required in *S. v. Reynolds*, 307 N.C. 184 (1982).

15. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in

combination with it, proximately caused the death of (*name victim*).” This language was approved in *State v. Messick*, 159 N.C. App. 232 (2003), *per curiam* affirmed, 358 N.C. 145 (2004). (“Defendant’s act does not have to be the sole proximate cause of death. It is sufficient that the act was a proximate cause which in combination with another possible cause resulted in [the victim’s] death.”).

16. This sentence is only to be provided if the offense involved the killing of a child.

17. If there is evidence of lack of mental capacity to premeditate or deliberate, see *S. v. Shank*, 322 N.C. 243, 250-251 (1988), *S. v. Weeks*, 322 N.C. 152 (1988) and *S. v. Rose*, 323 N.C. 455 (1988), and N.C.P.I.—Crim. 305.11.

18. See *State v. Battle*, 322 N.C. 114 (1988).

19. Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm. *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

20. If some evidence tends to show legally sufficient provocation (*e.g.*, assault), but other evidence tends to show that the provocation, if any, was insufficient (*e.g.*, mere words), the jury should be told the kind of provocation that the law regards as insufficient, *e.g.*, “Words and gestures alone, however insulting, do not constitute adequate provocation when no assault is made or threatened against the defendant.”

21. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm.” *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

22. Where there is a serious issue as to proximate cause, further instructions may be helpful, *e.g.*, “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim.”

23. Where the evidence raises the issue of retreat, see N.C.P.I.—Crim. 308.10.

24. Note that you must choose either “unlawfully” or “in a criminally negligent way.” Jurors should not be given both options.

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N.C.P.I.—CRIM. 206.10

FIRST DEGREE MURDER WHERE A DEADLY WEAPON IS USED, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE. FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JUNE 2022

N.C. Gen. Stat. §§ 14-17, 14-18, 14-51.2, 14-51.3, 14-51.4

25. In the event that the evidence shows that there was an accident, give N.C.P.I.—Crim. 307.10.

206.11 FIRST-DEGREE MURDER WHERE NO DEADLY WEAPON IS USED, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE. FELONY.

NOTE WELL: If self-defense is at issue and the assault occurred in defendant's home, place of residence, workplace or motor vehicle, see N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

NOTE WELL: N.C. Gen. Stat. §§ 15-176.4; 15A-2000(a): When the defendant is indicted for first-degree murder the court shall, upon request by either party, instruct the jury as follows:¹

"In the event that the defendant is convicted of murder in the first degree, the court will conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment (without parole).² If that time comes, you will receive separate sentencing instructions. However, at this time your only concern is to determine whether the defendant is guilty of the crime charged or any lesser included offenses about which you are instructed."³

The defendant has been charged with first degree murder.

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

- 1) guilty of first-degree murder, or
- 2) guilty of second-degree murder,⁴ or

- 3) guilty of voluntary manslaughter, or
- 4) guilty of involuntary manslaughter, or
- 5) not guilty.

First degree murder is the unlawful killing of a human being with malice and with premeditation and deliberation.

Second degree murder is the unlawful killing of a human being with malice, but without premeditation and deliberation.

Voluntary manslaughter is the unlawful killing of a human being without malice and without premeditation and deliberation.

Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony or by an act done in a criminally negligent way.

The defendant would be excused of first-degree murder and second degree murder on the ground of self-defense if:

First, the defendant believed it to be necessary to use deadly force against the victim in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. It is for you, the jury, to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time. In determining the reasonableness of the defendant's belief, you should consider the circumstances as you find them to have existed from the evidence, including (the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the

defendant), (whether or not the victim had a weapon in the victim's possession), (and the reputation, if any, of the victim for danger and violence) (*describe other circumstances, as appropriate from the evidence*).

The defendant would not be guilty of any murder or manslaughter if the defendant acted in self-defense, and if the defendant (was not the aggressor in provoking the fight and) did not use excessive force under the circumstances.

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated and intended to provoke a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor⁵ with the intent to kill or inflict serious bodily harm upon the deceased.⁶)

NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If

*no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁷ (The defendant would have a lawful right to be in the defendant's [home]⁸ [own premises] [place of residence] [workplace]⁹ [motor vehicle]¹⁰.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].¹¹

Therefore, in order for you to find the defendant guilty of first-degree murder or second-degree murder, the State must prove beyond a reasonable doubt, among other things, that the defendant did not act in self-defense, or, failing in this, that the defendant was the aggressor with the intent to kill or inflict serious bodily harm upon the deceased. If the State fails to prove either that the defendant did not act in self-defense or was the aggressor, with intent to kill or inflict serious bodily harm, you may not convict the defendant of either first- or second-degree murder. However, you may convict the

defendant of voluntary manslaughter if the State proves that the defendant was the aggressor without murderous intent in provoking the fight in which the deceased was killed, or that the defendant used excessive force.

For you to find the defendant guilty of first-degree murder, the State must prove six things beyond a reasonable doubt:

First, that the defendant intentionally¹² and with malice killed the victim.

Malice means not only hatred, ill will, or spite, as it is ordinarily understood, but it also means the condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious injury upon another that proximately results in another person's death without just cause, excuse or justification, (or to wantonly act in such a manner as to manifest depravity of mind, a heart devoid of a sense of social duty, and a callous disregard for human life.)¹³

Second, the state must prove that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred,¹⁴ and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.) (A child has been killed if the child was born alive, but died as a result of injuries inflicted prior to being born alive.)¹⁵

Third, that the defendant intended to kill the victim. Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. An intent to kill may be inferred

from the nature of the defendant's act, the manner in which the assault was made, the conduct of the parties and any other relevant circumstances.

Fourth, that the defendant acted with premeditation, that is, that the defendant formed the intent to kill the victim over some period of time, however short, before the defendant acted.

And Fifth, that the defendant acted with deliberation, which means that the defendant acted while the defendant was in a cool state of mind. This does not mean that there had to be a total absence of passion or emotion. If the intent to kill was formed with a fixed purpose, not under the influence of some suddenly aroused violent passion, it is immaterial that the defendant was in a state of passion or excited when the intent was carried into effect.

Neither premeditation nor deliberation is usually susceptible of direct proof. They may be proven by proof of circumstances from which they may be inferred, such as the [lack of provocation by the victim] [conduct of the defendant before, during and after the killing] [threats and declarations of the defendant] [use of grossly excessive force] [infliction of lethal wounds after the victim is felled] [brutal or vicious circumstances of the killing] [manner in which or the means by which the killing was done]¹⁶ [ill will between the parties].¹⁷

And Sixth, that the defendant did not act in self-defense or that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm upon the deceased.

Second Degree Murder differs from first degree murder in that neither specific intent to kill, premeditation, nor deliberation is a necessary element. For you to find the defendant guilty of second-degree murder, the State must prove beyond a reasonable doubt that the defendant unlawfully, intentionally¹⁸ and with malice, wounded the victim, thereby proximately

causing the victim's death and that the defendant did not act in self-defense, or if the defendant did act in self-defense, that the defendant was the aggressor with intent to kill or inflict serious bodily harm in bringing on the fight.

Voluntary Manslaughter is the unlawful killing of a human being without malice and without premeditation and without deliberation. A killing is not committed with malice if the defendant acts in the heat of passion upon adequate provocation.

The heat of passion does not mean mere anger. It means that at the time defendant acted, the defendant's state of mind was so violent as to overcome the defendant's reason, so much so that the defendant could not think to the extent necessary to form a deliberate purpose and control the defendant's actions. Adequate provocation may consist of anything which has a natural tendency to produce such passion in a person of average mind and disposition,¹⁹ and the defendant's act took place so soon after the provocation that the passion of a person of average mind and disposition would not have cooled.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in the heat of passion upon adequate provocation, but rather that the defendant acted with malice. If the State fails to meet this burden, the defendant can be guilty of no more than voluntary manslaughter.

Voluntary manslaughter is also committed if the defendant kills in self-defense but uses excessive force under the circumstances or was the aggressor without murderous intent in bringing on the fight in which the killing took place.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. However, if the State proves beyond a

reasonable doubt that the defendant, though otherwise acting in self-defense, [used excessive force] (or) [was the aggressor, though the defendant had no murderous intent when the defendant entered the fight], the defendant would be guilty of voluntary manslaughter.²⁰

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the victim by an intentional²¹ and unlawful act.

Second, that the defendant's act was a proximate cause²² of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred.

And Third, that the defendant [did not act in self-defense] or [though acting in self-defense was the aggressor] (or) [though acting in self-defense used excessive force].

If you do not find the defendant guilty of murder or voluntary manslaughter, you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony, or by an act done in a criminally negligent way.

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted

a. [unlawfully] [The defendant's act was unlawful if (*define crime alleged to have been violated, e.g., simple assault.*)]

(or)

b. in a criminally negligent way]. [Criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, the State must prove that this [unlawful] (or) [criminally negligent] act proximately caused the victim's death.

(If the victim died by accident or misadventure, that is, without wrongful purpose or criminal negligence on the part of the defendant, the defendant would not be guilty.²³ The burden of proving accident is not on the defendant. The defendant's assertion of accident is merely a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.)

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, acting with malice and not in self-defense, killed the victim thereby proximately causing the victim's death, that the defendant intended to kill the victim, and that the defendant acted after premeditation and with deliberation, it would be your duty to return a verdict of guilty of first-degree murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of first-degree murder, but will determine whether the defendant is guilty of second-degree murder.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and with malice but not in self-defense wounded the victim, thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of second-degree

murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of second-degree murder. If you do not find the defendant guilty of second-degree murder, you must consider whether the defendant is guilty of voluntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally wounded the victim, and thereby proximately caused the victim's death, and that the defendant was the aggressor in bringing on the fight or used excessive force, it would be your duty to return a verdict of guilty of voluntary manslaughter even if the State has failed to prove that the defendant did not act in self-defense.

Or, if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and not in self-defense wounded the victim and thereby proximately caused the victim's death, but the State has failed to satisfy you beyond a reasonable doubt that defendant did not act in the heat of passion upon adequate provocation, it would be your duty to return a verdict of guilty of voluntary manslaughter.

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter. You must then determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [committed (*name crime*)] [acted in a criminally negligent way] thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense, that the defendant was the aggressor, or that the defendant used excessive force, then the defendant's action would be justified by self-defense; and it would be your duty to return a verdict of not guilty.

1. This instruction is intended to serve as a model for combining other homicide charges. It should be given as drafted here only in a case where there is a charge of first degree murder (not involving the felony-murder rule), where all lesser included homicide offenses as well as acquittal upon the grounds of self-defense or accident are possible verdicts under the evidence and where the evidence would not support a finding that a deadly weapon was used. The instruction contains changes suggested by Justice Exum, although the words "perfect" and "imperfect" self-defense have not been incorporated.

2. The parenthetical phrase, without parole, must be used for offenses occurring on or after October 1, 1994.

3. N.C. Gen. Stat. § 14-5.2 (effective July 1, 1981) abolished all distinctions between accessories before the fact and principals to felonies as to both trial and punishment, except that if a person who would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators or accessories to the crime, he shall be guilty of a Class B felony. The act applies to all offenses committed on or after July 1, 1981.

See N.C.P.I.—Crim. 206.10A for suggested procedure and instruction where an accessory before the fact is convicted of first degree murder.

4. "If the evidence is sufficient to fully satisfy the State's burden of proving each and every element of the offense of murder in the first degree, including premeditation and deliberation, and there is no evidence to negate these elements other than defendant's denial that he committed the offense, the trial judge should properly exclude from jury consideration the possibility of a conviction of second degree murder." *S. v. Strickland*, 307 N.C. 274, 293 (1983), overruling *S. v. Harris*, 290 N.C. 718 (1976).

5. N.C. Gen. Stat. § 14-51.4(2).

6. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

7. See N.C.P.I.—Crim. 308.10.

8. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a "building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence." Curtilage is the area "immediately surrounding and associated with the home," which may include "the yard around the dwelling house as well as

the area occupied by barns, cribs, and other outbuildings." *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

9. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a "building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes."

10. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines "motor vehicle" as "Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1."

11. "[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another." *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). "[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision." *Id.*

12. If a definition of intent is required, see N.C.P.I.—Crim. 120.10. If a further definition of general intent or specific intent is required, you may consider giving the following additional instruction: [Specific Intent is a mental purpose, aim or design to accomplish a specific harm or result] [General Intent is a mental purpose, aim or design to perform an act, even though the actor does not necessarily desire the consequences that result] *Black's Law Dictionary*, 825-26 (Bryan A. Garner, 8th ed. 2004).

13. Malice may be implied from evidence that the victim's death resulted from an attack by hands alone, without the use of other weapons, when the attack was made by a mature man upon a defenseless infant or upon a person enfeebled by age, sickness or other apparent physical disability, *S. v. Jones*, 35 N.C. App. 48 (1978); *S. v. Sallie*, 13 N.C. App. 499 (1972), *cert. den.* 281 N.C. 316 (1972).

14. Where there is a serious issue as to proximate cause, further instructions may be helpful, *e.g.*, "The defendant's act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim."

15. This sentence is only to be provided if the offense involved the killing of a child.

16. 322 N.C. 243 (1988) and N.C.P.I.—Crim. 305.11, *S. v. Weeks*, 322 N.C. 152 (1988) and *S. v. Rose*, 323 N.C. 455 (1988).

17. See *State v. Battle*, 322 N.C. 114 (1988).

18. Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase 'intentional killing' refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to

result in death or great bodily harm. *S. v. Ray*, 299 N.C. 151, 158 (1980). *See also S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

19. If some evidence tends to show legally sufficient provocation (*e.g.*, assault), but other evidence tends to show that the provocation, if any, was insufficient (*e.g.*, mere words), the jury should be told the kind of provocation that the law regards as insufficient, *e.g.*, “Words and gestures alone, however insulting, do not constitute adequate provocation when no assault is made or threatened against the defendant.”

20. Where the evidence raises the issue of retreat, *see* N.C.P.I.—Crim. 308.10.

21. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm.” *S. v. Ray*, 299 N.C. 151, 158 (1980). *See also S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

22. Where there is a serious issue as to proximate cause, further instructions may be helpful, *e.g.*, “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim.”

23. In the event that the evidence shows that there was an accident, *give* N.C.P.I.—Crim. 307.10.

206.17 SOLICITATION TO COMMIT MURDER. FELONY.

NOTE WELL: N.C. Gen. Stat. § 14-18.1(a) has been repealed and solicitation to commit murder now falls under N.C. Gen. Stat. § 14-2.6. See also N.C.P.I.—Crim. 201.20 for the general solicitation charge.

The defendant has been charged with solicitation to commit murder.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant solicited; that is, urged or tried to persuade another person to murder the victim. Murder is the unlawful killing of another with malice and with a specific intent to kill formed after premeditation and deliberation.¹

And Second, that the defendant intended that the person he solicited murder the victim. (The State is not required to prove that the murder was committed.²)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant solicited another person to murder the victim, intending that the murder be committed, then it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See *State v. Strickland*, 2022-NCCOA-299.

2. *State v. Furr*, 292 N.C. 711 (1977).

206.22 FIRST-DEGREE MURDER INVOLVING DOMESTIC VIOLENCE, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE. FELONY.

NOTE WELL: In the event the State proceeds on both the theory of premeditation and deliberation and the theory of domestic violence, then the instruction should be adapted accordingly.

NOTE WELL: If self-defense is at issue and the assault occurred in defendant's home, place of residence, workplace or motor vehicle, see N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

NOTE WELL: N.C. Gen. Stat. §§ 15-176.4; 15A-2000(a): When the defendant is indicted for first degree murder the court shall, upon request by either party, instruct the jury as follows:

"In the event that the defendant is convicted of murder in the first degree, the court will conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment (without parole).¹ If that time comes, you will receive separate sentencing instructions. However, at this time your only concern is to determine whether the defendant is guilty of the crime charged or any lesser included offenses about which you are instructed."²

NOTE WELL: In the event the defendant raises accident as an affirmative defense, then give N.C.P.I.—Criminal 307.10 and edit the language of the instruction as necessary.

NOTE WELL: If the defendant has admitted to a prior conviction, the instruction should be adapted to reflect the admission of the conviction. A transcript of plea should be completed before the State rests their case.

The defendant has been charged with first-degree murder involving domestic violence.

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

1. guilty of first-degree murder involving domestic violence, or
2. guilty of second-degree murder,³ or
3. guilty of voluntary manslaughter, or
4. guilty of involuntary manslaughter, or
5. not guilty.

First degree murder involving domestic violence is the unlawful killing of a human being who was [the defendant's spouse] [the defendant's former spouse] [a person with whom the defendant (had) lived as if married] [a person with whom the defendant (was) (had been) in a dating relationship] [a person with whom the defendant shares a child in common].

Second-degree murder is the unlawful killing of a human being with malice, but without premeditation and deliberation.

Voluntary manslaughter is the unlawful killing of a human being without malice and without premeditation and deliberation.

Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony or by an act done in a criminally negligent way.

The defendant would be excused of first-degree murder and second-degree murder on the ground of self-defense if:

First, the defendant believed it was necessary to use deadly force against the victim⁴ in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. In determining the reasonableness of the defendant's belief, you should consider the circumstances as you find them to have existed from the evidence, including (the size, age and strength of the defendant as compared to the alleged victim), (the fierceness of the assault, if any, upon the defendant), (whether the alleged victim had a weapon in the alleged victim's possession), (and the reputation, if any, of the alleged victim for danger and violence) (describe other circumstances, as appropriate, from the evidence),

The defendant would not be guilty of any murder or manslaughter if the defendant acted in self-defense, and if the defendant (was not the aggressor in provoking the fight and) did not use excessive force under the circumstances.

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated and intended to provoke a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates

clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, (the person using defensive force had no reasonable means to retreat)⁵, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. (The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor⁶ with the intent to kill or inflict serious bodily harm upon the deceased.⁷))

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁸ (The defendant would have a lawful right

to be in the defendant's [home⁹ [own premises] [place of residence] [workplace]¹⁰ [motor vehicle]¹¹.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].¹²

Therefore, in order for you to find the defendant guilty of first-degree murder or second-degree murder, the State must prove beyond a reasonable doubt, among other things, that the defendant did not act in self-defense, (or, failing in this, that the defendant was the aggressor with the intent to kill or to inflict serious bodily harm upon the deceased.) If the State fails to prove that the defendant did not act in self-defense (or was the aggressor with intent to kill or to inflict serious bodily harm), you may not convict the defendant of either first or second-degree murder. However, you may convict the defendant of voluntary manslaughter if the State proves that the defendant (was the aggressor without murderous intent in provoking the fight in which the deceased was killed) (used excessive force).¹³

For you to find the defendant guilty of first-degree murder involving domestic violence, the state must prove six things beyond a reasonable doubt:

First, that the defendant with malice killed the alleged victim.

For this purpose, malice arises when an act which is an inherently dangerous act or omission is done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.

Second, that the alleged victim was [defendant's spouse] [defendant's former spouse] [a person with whom the defendant (had) lived as if married] [a person with whom the defendant (was) (had been) in a dating relationship. A dating relationship is one in which the parties are romantically involved over

time and on a continuous basis during the course of the relationship] [a person with whom the defendant shares a child in common].

Third, that the defendant's act was a proximate cause of the alleged victim's death. A proximate cause is a real cause, a cause without which the alleged victim's death would not have occurred,¹⁴ and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the alleged victim.)

Fourth, that the defendant acted intentionally.¹⁵ Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proven by circumstances from which it may be inferred.

Fifth, that the defendant acted with premeditation, that is, that the defendant formed the intent to kill the alleged victim over some period of time, however short, before the defendant acted.

And Sixth, that the defendant acted with deliberation, which means that the defendant acted while the defendant was in a cool state of mind. This does not mean that there had to be a total absence of passion or emotion. If the intent to kill was formed with a fixed purpose, not under the influence of some suddenly aroused violent passion, it is immaterial that the defendant was in a state of passion or excited when the intent was carried into effect.

Neither premeditation nor deliberation is usually susceptible of direct proof. They may be proved by circumstances from which they may be inferred, such as the [lack of provocation by the alleged victim] [conduct of the defendant before, during and after the killing] [threats and declarations of the defendant] [use of grossly excessive force] [infliction of lethal wounds after

the alleged victim is felled] [brutal or vicious circumstances of the killing] [manner in which or means by which the killing was done]¹⁶ [ill will between the parties].¹⁷ You may find, but you are not compelled to do so, that a killing is a willful, deliberate, and premeditated killing if the defendant has previously been convicted of [an act of domestic violence involving the same alleged victim¹⁸] [a violation of a domestic violence protective order when the same alleged victim is the subject of the domestic violence protective order¹⁹] [communicating threats involving the same alleged victim²⁰] [stalking involving the same alleged victim²¹] [cyberstalking involving the same alleged victim²²] [domestic criminal trespass involving the same alleged victim²³].²⁴

NOTE WELL: If the defendant has admitted to a prior conviction, the following language should be adapted to reflect the admission of the conviction. A transcript of plea should be completed before the State rests their case.

You may find that a person has been previously convicted of [this] [these] offense(s), if you find from the evidence beyond a reasonable doubt that:

1. On *(name date)* in *(name court)* the defendant was convicted of an act of domestic violence²⁵ involving the same alleged victim as this case.] (Notice: Read Endnote 31)
2. On *(name date)* in *(name court)* the defendant was convicted of a violation of a domestic violence protective order²⁶ when the same alleged victim as this case is the subject of the domestic violence protective order.] (Notice: Read Endnote 31)
3. On *(name date)* in *(name court)* the defendant was convicted of communicating threats²⁷ involving the same alleged victim as this case.] (Notice: Read Endnote 31)

4. On (*name date*) in (*name court*) the defendant was convicted of stalking²⁸ involving the same alleged victim as this case.] (Notice: Read Endnote 31)
5. On (*name date*) in (*name court*) the defendant was convicted of cyberstalking²⁹ involving the same alleged victim as this case.] (Notice: Read Endnote 31)
6. On (*name date*) in (*name court*) the defendant was convicted of domestic criminal trespass³⁰ involving the same alleged victim as this case.].³¹ (Notice: Read Endnote 31)

You may consider this along with all other facts and circumstances in determining whether the killing was unlawful and whether it was committed with premeditation and deliberation.

And Seventh, that the defendant did not act in self-defense or that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm upon the deceased.

Second Degree Murder differs from first degree murder involving domestic violence in that the State does not have to prove specific intent to kill, premeditation, or deliberation. For you to find the defendant guilty of second degree murder, the State must prove beyond a reasonable doubt that the defendant unlawfully, intentionally³² and with malice wounded the alleged victim with a deadly weapon, proximately causing the alleged victim's death. For this purpose, malice means not only hatred, ill will, or spite, as it is ordinarily understood, but [it also means that condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily harm which proximately results in another's death, without just cause, excuse or justification.] [malice also arises when an act which is inherently dangerous to human life is intentionally done so recklessly and

wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.^{33]} (The State must also prove that the defendant did not act in self-defense, or if the defendant did act in self-defense, the State must prove that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm.)

Voluntary Manslaughter is the unlawful killing of a human being without malice, premeditation, and deliberation. A killing is not committed with malice if the defendant acts in the heat of passion upon adequate provocation.

The heat of passion does not mean mere anger. It means that at the time the defendant acted, the defendant's state of mind was so violent as to overcome reason, so much so that the defendant could not think to the extent necessary to form a deliberate purpose and control the defendant's actions. Adequate provocation means anything that has a natural tendency to produce such passion in a person of average mind and disposition.³⁴ Also, the defendant's act must have taken place so soon after the provocation that the passion of a person of average mind and disposition would not have cooled.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in the heat of passion upon adequate provocation, but rather that the defendant acted with malice. If the State fails to meet this burden, the defendant can be guilty of no more than voluntary manslaughter.

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the alleged victim by an intentional³⁵ and unlawful act.

Second, that the defendant's act was a proximate cause³⁶ of the alleged victim's death. A proximate cause is a real cause, a cause without which the alleged victim's death would not have occurred.

And Third, that the defendant [did not act in self-defense] (or) [though acting in self-defense [was the aggressor] [though acting in self-defense used excessive force]].

Voluntary manslaughter is also committed if the defendant kills in self-defense but [uses excessive force under the circumstances] [was the aggressor without murderous intent in provoking the fight in which the killing took place].

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. However, if the State proves beyond a reasonable doubt that the defendant, though otherwise acting in self-defense, [used excessive force] [was the aggressor, though the defendant had no murderous intent when the defendant entered the fight], the defendant would be guilty of voluntary manslaughter.³⁷

If you do not find the defendant guilty of murder or voluntary manslaughter, you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is [the unintentional killing of a human being by an unlawful act that is not a felony] [an act done in a criminally negligent way.]

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted

- a. [unlawfully. The defendant's act was unlawful if (*define crime alleged to have been violated, e.g., defendant recklessly discharged a gun, killing the alleged victim*).]
- b. [in a criminally negligent way.³⁸ Criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, the State must prove that this [unlawful] [criminally negligent] act proximately caused the alleged victim's death.

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, acting with malice and not in self-defense, wounded the alleged victim with a deadly weapon thereby proximately causing the alleged victim's death, that the defendant acted intentionally to kill the alleged victim, that the alleged victim was [defendant's spouse] [defendant's former spouse] [a person with whom the defendant (had) lived as if married] [a person with whom the defendant (was) (had) been] in a dating relationship] [a person with whom the defendant shares a child in common] and that the defendant acted after premeditation and with deliberation, it would be your duty to return a verdict of guilty of first degree murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of first degree murder involving domestic violence, but will determine whether the defendant is guilty of second degree murder.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and with malice but not in self-defense wounded the alleged victim with a deadly weapon thereby proximately causing the alleged victim's death, it would be your duty to return a verdict of guilty of second-degree murder. (In the event you find the defendant guilty of second-degree murder, your foreperson must indicate on the verdict sheet upon which theory of malice this is based, and your decision on this theory must be unanimous.) If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of second degree-murder, but will determine whether the defendant is guilty of voluntary manslaughter.

NOTE WELL: If this is a Second-Degree Murder case involving multiple theories of malice, then refer to the special verdict form attached herein.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally wounded the alleged victim with a deadly weapon and thereby proximately caused the alleged victim's death, and that the defendant was the aggressor in provoking the fight or used excessive force, it would be your duty to find the defendant guilty of voluntary manslaughter even if the state has failed to prove that the defendant did not act in self-defense.

Or, if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally and not in self-defense wounded the alleged victim with a deadly weapon and thereby proximately caused the alleged victim's death, but the State has failed to satisfy you beyond a reasonable doubt that defendant did not act in the heat of passion upon adequate provocation, it would be your duty to return a verdict of guilty of voluntary manslaughter.

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter, but will determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [committed the offense of (name crime)] [acted in a criminally negligent way] thereby proximately causing the alleged victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense, that the defendant was the aggressor, or that the defendant used excessive force, then the defendant's action would be justified by self-defense; and it would be your duty to return a verdict of not guilty.

APPENDIX A

NOTE WELL: This verdict form is an example and must be adapted based on the facts of your case. For example, some cases may not involve the felony murder rule or second lesser included offenses.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT
OF JUSTICE
SUPERIOR COURT DIVISION

No. _____

STATE OF NORTH CAROLINA

Plaintiff)
)
vs.)
)
(Name Defendant))
)
Defendant)
)

V E R D I C T

We, the jury, return the unanimous verdict as follows:

1. Guilty of First-Degree Murder Involving Domestic Violence

ANSWER: _____

If you find the Defendant Guilty of First-Degree Murder stop here.

2. Guilty of Second-Degree Murder

ANSWER: _____

If you find defendant guilty of second-degree murder you must unanimously find one or more of A, B, or C below.

A. Is it malice meaning hatred, ill will, or spite?

ANSWER: _____

B. Is it malice defined as condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily harm which proximately results in another's death, without just cause, excuse or justification?

ANSWER: _____

C. Is it malice that arises when an act which is inherently dangerous to human life is intentionally done so recklessly and wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief?

ANSWER: _____

If you find the Defendant Guilty of Second-Degree Murder stop here.

3. Guilty of (state second lesser included offense)

ANSWER: _____

If you find the Defendant Guilty of (state second lesser included offense) stop here.

4. Not Guilty.

ANSWER: _____

This, the _____ day of _____, 20____.

Foreperson of the Jury (must be signed)

1. The parenthetical phrase, without parole, must be used for offenses occurring on or after October 1, 1994.

2. N.C. Gen. Stat. § 14-5.2 (effective July 1, 1981) abolished all distinctions between accessories before the fact and principals to felonies as to both trial and punishment, except that if a person who would have been guilty and punishable as an accessory before the fact is convicted of a capital felony, and the jury finds that his conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators or accessories to the crime, he shall be guilty of a Class B felony. The act applies to all offenses committed on or after July 1, 1981. See N.C.P.I.—Crim. 202.30.

As to felonies allegedly committed before that date, accessories before the fact should be tried (and punished) according to previously existing law. See N.C.P.I.—Crim. 202.20, 202.30 and *State v. Small*, 301 N.C. 407, 272 S.E.2d 128 (1980).

See N.C.P.I.—Crim. 206.10A for suggested procedure and instruction where an accessory before the fact is convicted of first-degree murder.

3. "If the evidence is sufficient to fully satisfy the State's burden of proving each and every element of the offense of murder in the first degree, including premeditation and deliberation, and there is no evidence to negate these elements other than defendant's denial that he committed the offense, the trial judge should properly exclude from jury consideration the possibility of a conviction of second-degree murder." *State v. Strickland*, 307 N.C. 274, 293 (1983), overruling *State v. Harris*, 290 N.C. 718 (1976).

4. N.C. Gen. Stat. § 14-51.3.

5. If there is a question of whether the defendant was in a place that the defendant had a lawful right to be, then the instruction should be amended to add this parenthetical.

6. N.C. Gen. Stat. § 14-51.4(2).

7. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of] a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

8. See N.C.P.I.—Crim. 308.10.

9. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a "building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence." Curtilage is the area "immediately surrounding and associated with the home," which may include "the yard around the dwelling house as well as

the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

10. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

11. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

12. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to any self-defense instruction is entitled to a complete self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

13. This instruction should be adapted to include one or both of these options if supported by the evidence.

14. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of (name victim).” This language was approved in *State v. Messick*, 159 N.C. App. 232 (2003), per curiam affirmed, 358 N.C. 145 (2004). (“Defendant’s act does not have to be the sole proximate cause of death. It is sufficient that the act was a proximate cause which in combination with another possible cause resulted in [the alleged victim’s] death.”).

15. If a definition of intent is required, see N.C.P.I.—Crim. 120.10. If a further definition of general intent or specific intent is required, you may consider giving the following additional instruction: [Specific Intent is a mental purpose, aim or design to accomplish a specific harm or result] [General Intent is a mental purpose, aim or design to perform an act, even though the actor does not necessarily desire the consequences that result] *Black’s Law Dictionary*, 825-26 (Bryan A. Garner, 8th ed. 2004).

16. If there is evidence of lack of mental capacity to premeditate or deliberate, see *S. v. Shank*, 322 N.C. 243, 250-251 (1988), *State v. Weeks*, 322 N.C. 152 (1988) and *State v. Rose*, 323 N.C. 455 (1988), and N.C.P.I.—Crim. 305.11.

17. See *State v. Battle*, 322 N.C. 114 (1988).

18. N.C. Gen. Stat. § 50B-1(a).

19. N.C. Gen. Stat. § 50B-4.1 (a) (f) (g) (g1)

20. N.C. Gen. Stat. § 14-277.1

21. N.C. Gen. Stat. § 14-277.3A

22. N.C. Gen. Stat. § 14-196.3

23. N.C. Gen. Stat. § 14.134.3

24. N.C. Gen. Stat § 16-17(a1) provides “there shall be a rebuttable presumption” of premeditation and deliberation where there is a prior domestic violence conviction. The constitutionality of this burden shifting aspect of N.C. Gen. Stat. § 14-17(a1) and the “rebuttable presumption” of a “willful, deliberate, and premeditated killing” is at question. See Jeff Welty’s blog post “Many Questions and a Few Answers about Britny’s Law” sog.unc.edu/blogs/nc-criminal-law/many-questions-and-few-answers-about-britny-s-law.

25. An act of domestic violence is the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense: attempting to cause bodily injury, or intentionally causing bodily injury; or placing the aggrieved party or a member of the aggrieved party’s family or household in fear of imminent serious bodily injury or continued harassment that rises to such a level as to inflict substantial emotional distress; or under N.C.G.S. § 14-27.21 through N.C.G.S. § 14-27.33).

26. N.C.G.S. § 50-B4.1(a), (f), (g), or (g1) or G.S. § 14-269.8.

27. Communicating threats is willfully threatening to physically injure the person or that person’s child, sibling, spouse, or dependent or willfully threatening to damage the property of another; the threat is communicated to the other person orally, in writing, or by any other means; the threat is made in a manner or under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and the person threatened believes that the threat will be carried out.

28. Stalking is defined as when the defendant willfully on more than one occasion harasses another person without legal purpose or willfully engages in a course of conduct directed at a specific person without legal purpose and the defendant knows or should know that the harassment or the course of conduct would cause a reasonable person to do any of the following: (1) fear for the person’s safety or the safety of the person’s immediate family or close personal associates (2) suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment.

29. N.C.G.S. § 14-196.3.

30. N.C.G.S. § 14-134.3.

31. In the event the defendant elects to admit the prior conviction, then a transcript of plea should be completed. Care should be used to edit the instruction to reflect the admission of the prior conviction.

32. Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm. *State v. Ray*, 299 N.C. 151, 158 (1980). See also *State v. Jordan*, 140 N.C. App. 594 (2000); *State v. Coble*, 351 N.C. 448 (2000).

33. See *State v. Mosley*, 256 N.C. App. 148, 806 S.E.2d 365 (2017). The jury should only be instructed on the theories of malice applicable to the facts of the case. This is important because the theory or theories of malice will determine the class of the offense.

34. If some evidence tends to show legally sufficient provocation (e.g., assault), but other evidence tends to show that the provocation, if any, was insufficient (e.g., mere words), the jury should be told the kind of provocation that the law regards as insufficient, e.g., “Words and gestures alone, however insulting, do not constitute adequate provocation when no assault is made or threatened against the defendant.”

35. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm.” *State v. Ray*, 299 N.C. 151, 158 (1980). See also *State v. Jordan*, 140 N.C. App. 594 (2000); *State v. Coble*, 351 N.C. 448 (2000).

36. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the alleged victim.”

37. Where the evidence raises the issue of retreat, see N.C.P.I.—Crim. 308.10.

38. Note that the trial court must choose either “unlawfully” or “in a criminally negligent way.” Jurors should not be given both options.

206.30 SECOND-DEGREE MURDER WHERE A DEADLY WEAPON IS USED, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE. FELONY.

NOTE WELL: If self-defense is at issue and the assault occurred in defendant's home, place of residence, workplace or motor vehicle, see N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

The defendant has been charged with second degree murder.¹

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

- 1) guilty of second-degree murder, or
- 2) guilty of voluntary manslaughter, or
- 3) guilty of involuntary manslaughter, or
- 4) not guilty.

Second degree murder is the unlawful killing of a human being with malice.

Voluntary manslaughter is the unlawful killing of a human being without malice.

Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony or an act done in a criminally negligent way.

The defendant would be excused of second-degree murder on the ground of self-defense if:

First, it appeared to the defendant and the defendant believed it to be necessary to use deadly force against the victim in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. It is for you the jury to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time.

In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether or not the victim had a weapon in the victim's possession), (and the reputation, if any, of the victim for danger and violence) (*describe other circumstances, as appropriate from the evidence*).

The defendant would not be guilty of any murder or manslaughter if the defendant acted in self-defense, and if the defendant (was not the aggressor in provoking the fight and) did not use excessive force under the circumstances.

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated

and intended to provoke a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor² with the intent to kill or inflict serious bodily harm upon the deceased.³)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for

you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁴ (The defendant would have a lawful right to be in the defendant's [home]⁵ [own premises] [place of residence] [workplace]⁶ [motor vehicle]⁷.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].⁸

Therefore, in order for you to find the defendant guilty of murder in the second degree the state must prove beyond a reasonable doubt, among other things, that the defendant did not act in self-defense, or failing in this, that the defendant was the aggressor with the intent to kill or inflict serious bodily harm upon the deceased. If the state fails to prove either that the defendant did not act in self-defense or was the aggressor, with intent to kill or inflict serious bodily harm, you may not convict the defendant of second degree murder, but you may convict the defendant of voluntary manslaughter if the state proves that the defendant was simply the aggressor without murderous intent in bringing on the fight in which the deceased was killed, or that the defendant used excessive force.

For you to find the defendant guilty of second-degree murder, the state must prove four things beyond a reasonable doubt:

First, that the defendant wounded the victim with a deadly weapon. [A firearm is a deadly weapon.] [A deadly weapon is a weapon which is likely to cause death or serious injury. In determining whether the instrument was a deadly weapon, you should consider the nature of the instrument, the manner

in which it was used, and the size and strength of the defendant as compared to the victim.]

Second, that the defendant acted intentionally⁹ and with malice.

Intent is a mental attitude which is seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.

Malice means not only hatred, ill will, or spite, as it is ordinarily understood—to be sure, that is malice—but [it also means that condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily harm which proximately results in another's death, without just cause, excuse or justification] [malice also arises when an act which is inherently dangerous to human life is intentionally done so recklessly and wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief].¹⁰

Third, the State must prove that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred,¹¹ and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause or the nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.) (A child has been killed if the child was born alive, but died as a result of injuries inflicted prior to being born alive.)¹²

And Fourth, that the defendant did not act in self-defense or that the defendant was the aggressor in bringing on the fight with the intent to kill or inflict serious bodily harm upon the deceased.

If the State proves beyond a reasonable doubt,¹³ that the defendant intentionally killed the victim with a deadly weapon or intentionally wounded the victim with a deadly weapon that proximately caused the victim's death, you may infer first, that the killing was unlawful, and second, that it was done with malice, but you are not compelled to do so.

You may consider this along with all other facts and circumstances in determining whether the killing was unlawful and whether it was done with malice. If the killing was unlawful and was done with malice, and not in self-defense, the defendant would be guilty of second-degree murder.

Voluntary manslaughter¹⁴ is the unlawful killing of a human being without malice. A killing is not committed with malice if the defendant acts in the heat of passion upon adequate provocation.

The heat of passion does not mean mere anger. It means that at the time the defendant acted, the defendant's state of mind was so violent as to overcome reason, so much so that the defendant could not think to the extent necessary to form a deliberate purpose and control the defendant's actions. Adequate provocation may consist of anything which has a natural tendency to produce such passion in a person of average mind and disposition,¹⁵ and the defendant's act took place so soon after the provocation that the passion of a person of average mind and disposition would not have cooled.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in the heat of passion upon adequate provocation, but rather that the defendant acted with malice. If the State fails to meet this burden, the defendant can be guilty of no more than voluntary manslaughter.

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the victim by an intentional¹⁶ and unlawful act.

Second, that the defendant's act was a proximate cause¹⁷ of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred.

And Third, that the defendant [did not act in self-defense] or [though acting in self-defense was the aggressor] (or) [though acting in self-defense used excessive force].

Voluntary manslaughter is also committed if the defendant kills in self-defense but uses excessive force under the circumstances or was the aggressor without murderous intent in bringing on the fight in which the killing took place.

Again, the burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. However, if the State proves beyond a reasonable doubt that the defendant, though otherwise acting in self-defense, [used excessive force] (or) [was the aggressor, though the defendant had no murderous intent when the defendant entered the fight], the defendant would be guilty of voluntary manslaughter.¹⁸

If you do not find the defendant guilty of second-degree murder or voluntary manslaughter, you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony, or by an act done in a criminally negligent way.

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted a) [unlawfully] (or) b) [in a criminally negligent way]. a) [The defendant's act was unlawful if (*define crime e.g. defendant recklessly discharged a gun, killing the victim*).] b) [Criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, that this [unlawful] (or) [criminally negligent] act proximately caused the victim's death.

(If the victim died by accident or misadventure, that is, without wrongful purpose or criminal negligence on the part of the defendant, the defendant would not be guilty.¹⁹ The burden of proving accident is not on the defendant. The defendant's assertion of accident is merely a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.)

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant acting intentionally and with malice but not in self-defense, wounded the victim with a deadly weapon thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of second-degree murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of second-degree murder. If you do not find the defendant guilty of second-degree murder, you must consider whether the defendant is guilty of voluntary manslaughter.

[If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant intentionally wounded the victim with a deadly weapon and that the defendant [was the aggressor in bringing on the fight] (or) [used excessive force], it would be your duty to find the defendant guilty of voluntary manslaughter even if the state has failed to prove that the defendant did not act in self-defense.]

(Or,) [If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant intentionally and not in self-defense wounded the victim with a deadly weapon but the state has failed to satisfy you beyond a reasonable doubt that defendant did not act in the heat of passion upon adequate provocation, it would be your duty to return a verdict of guilty of voluntary manslaughter.]

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter. You must then determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant (*committed name crime, e.g. recklessly discharged a gun, killing the victim*) (or) [acted in a criminally negligent way] thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense, that the defendant was the aggressor, or that the defendant used excessive force, then the

defendant's action would be justified by self-defense; therefore, you would return a verdict of not guilty.

1. This instruction is intended to serve as model for combining other homicide charges. It should be given as drafted only in a case where there is a charge of second degree murder where all lesser included homicide offenses as well as acquittal upon the grounds of self-defense or accident are possible verdicts under the evidence and where the evidence would support a finding that a deadly weapon was used.

2. N.C. Gen. Stat. § 14-51.4(2).

3. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

4. See N.C.P.I.—Crim. 308.10.

5. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

6. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

7. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

8. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

9. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary

manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm." *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *State v. Jordan*, 140 N.C. App. 594, (2000); *State v. Coble*, 351 N.C. 448 (2000).

10. *State v. Snyder*, 311 N.C. 391, 393-94 (1984), quoting *State v. Reynolds*, 307 N.C. 184 (1982).

11. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., "The defendant's act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim."

12. This sentence is only to be provided if the offense involved the killing of a child.

13. See *State v. McCoy*, 303 N.C. 1, 28-29 (1981).

14. See *State v. McArthur*, 662 S.E.2d 579 (N.C. App. 2008) (holding error not to instruct on the element of proximate cause but error was harmless because element had been instructed on in elements of second degree murder).

15. If some evidence tends to show legally sufficient provocation (e.g., assault), but other evidence tends to show that the provocation, if any, was insufficient (e.g., mere words), the jury should be told the kind of provocation that the law regards as insufficient, e.g., "Words and gestures alone, however insulting, do not constitute adequate provocation when no assault is made or threatened against the defendant."

16. "Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase 'intentional killing' refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm." *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

17. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., "The defendant's act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim."

18. Where the evidence raises the issue of retreat, see N.C.P.I.—Crim. 308.10.

19. In the event that the evidence shows that there was an accident, give N.C.P.I.—Crim. 307.10.

206.31 SECOND DEGREE MURDER WHERE NO DEADLY WEAPON IS USED, COVERING ALL LESSER INCLUDED HOMICIDE OFFENSES AND SELF-DEFENSE.¹ FELONY.

NOTE WELL: Effective December 1, 1997, Voluntary Manslaughter is a Class D felony. For offenses occurring before December 1, 1997, Voluntary Manslaughter is a Class E felony.

Refer to Punishment Chart for Homicides N.C.P.I.—Crim. 206 Series.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

The defendant has been charged with second degree murder.

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

- 1) guilty of second degree murder, or
- 2) guilty of voluntary manslaughter, or
- 3) guilty of involuntary manslaughter, or
- 4) not guilty.

Second degree murder is the unlawful killing of a human being with malice.

Voluntary manslaughter is the unlawful killing of a human being without malice.

Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony or an act done in a criminally negligent way.

The defendant would be excused of second degree murder on the ground of self-defense if:

First, it appeared to the defendant and the defendant believed it to be necessary to use deadly force against the victim in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. It is for you the jury to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether or not the victim had a weapon in the victim's possession), (and the reputation, if any, of the victim for danger and violence), (*describe other circumstances, as appropriate from the evidence*).

The defendant would not be guilty of any murder or manslaughter if the defendant acted in self-defense, as I have just defined it to be, and if the defendant was not the aggressor in bringing on the fight and did not use excessive force under the circumstances. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor (unless the defendant, thereafter, attempted to abandon the fight and gave notice to the deceased that the defendant was doing so).

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated and intended to bring on a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor² with the intent to kill or inflict serious bodily harm upon the deceased.³)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁴ (The defendant would have a lawful right to be in the defendant's [home]⁵ [own premises] [place of residence] [workplace]⁶ [motor vehicle].⁷)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].⁸

Therefore, in order for you to find the defendant guilty of murder in the second degree the State must prove beyond a reasonable doubt, among other things, that the defendant did not act in self-defense, or failing in this, that the defendant was the aggressor with the intent to kill or inflict serious bodily harm upon the deceased. If the State fails to prove either that the defendant did not act in self-defense or was the aggressor, with intent to kill or inflict serious bodily harm, you may not convict the defendant of second degree murder, but you may convict the defendant of voluntary manslaughter if the State proves that the defendant was simply the aggressor without murderous intent in bringing on the fight in which the deceased was killed, or that the defendant used excessive force.

For you to find the defendant guilty of second degree murder, the State must prove four things beyond a reasonable doubt:

First, that the defendant wounded the victim.

Second, that the defendant acted intentionally⁹ and with malice.

Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.

Malice means not only hatred, ill will, or spite, as it is ordinarily understood- to be sure, that is malice- but [it also means that condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily harm which proximately results in another's death, without just cause, excuse or justification] [malice also arises when an act which is inherently dangerous to human life is intentionally done so recklessly and wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.]¹⁰

Third, the State must prove that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred,¹¹ and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.) (A child has been killed if the child was born alive, but died as a result of injuries inflicted prior to being born alive.)¹²

And Fourth, that the defendant did not act in self-defense or that the defendant was the aggressor in bringing on the fight with the intent to kill or inflict serious bodily harm upon the deceased.

Voluntary manslaughter is the unlawful killing of a human being without malice. A killing is not committed with malice if the defendant acts in the heat of passion upon adequate provocation.

The heat of passion does not mean mere anger. It means that at the time defendant acted, the defendant's state of mind was so violent as to overcome reason, so much so that the defendant could not think to the extent necessary to form a deliberate purpose and control the defendant's actions. Adequate provocation may consist of anything which has a natural tendency to produce such passion in a person of average mind and disposition,¹³ and the defendant's act took place so soon after the provocation that the passion of a person of average mind and disposition would not have cooled.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in the heat of passion upon adequate provocation, but rather that the defendant acted with malice. If the State fails to meet this burden, the defendant can be guilty of no more than voluntary manslaughter.

Voluntary manslaughter is also committed if the defendant kills in self-defense but uses excessive force under the circumstances or was the aggressor without murderous intent in bringing on the fight in which the killing took place.

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense. However, if the State proves beyond a reasonable doubt that the defendant, though otherwise acting in self-defense, [used excessive force] (or) [was the aggressor, though the defendant had no murderous intent when the defendant entered the fight], the defendant would be guilty of voluntary manslaughter.¹⁴

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the victim by an intentional¹⁵ and unlawful act.

Second, that the defendant's act was a proximate cause¹⁶ of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred.

And Third, that the defendant [did not act in self-defense] or [though acting in self-defense was the aggressor] (or) [though acting in self-defense used excessive force].

If you do not find the defendant guilty of second degree murder or voluntary manslaughter, you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony, or by an act done in a criminally negligent way.

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted a) [unlawfully] (or) b) [in a criminally negligent way]. a) [The defendant's act was unlawful if (*define crime, e.g., defendant recklessly discharged a gun, killing the victim*).] b) [Criminal negligence is more than mere carelessness. The defendant's act was criminally negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, the State must prove that this [unlawful] (or) [criminally negligent] act proximately caused the victim's death.

(If the victim died by accident or misadventure, that is, without wrongful purpose or criminal negligence on the part of the defendant, the defendant

would not be guilty. The burden of proving accident is not on the defendant. The defendant's assertion of accident is merely a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.)

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally, and with malice but not in self-defense, wounded the victim thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of second degree murder. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of second degree murder. If you do not find the defendant guilty of second degree murder, you must consider whether the defendant is guilty of voluntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally wounded the victim, and thereby proximately caused the victim's death, and that the defendant was the aggressor in bringing on the fight or used excessive force, it would be your duty to find the defendant guilty of voluntary manslaughter even if the state has failed to prove that the defendant did not act in self-defense.

Or, if you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant intentionally and not in self-defense wounded the victim and thereby proximately caused the victim's death, but the State has failed to satisfy you beyond a reasonable doubt that defendant did not act in the heat of passion upon adequate provocation, it would be your duty to return a verdict of guilty of voluntary manslaughter.

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter.

You must then determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [*(name crime, e.g., recklessly discharged a gun, killing the victim)*] (or) [acted in a criminally negligent way] thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense then the defendant's action would be justified by self-defense; therefore, you would return a verdict of not guilty.

1. This instruction is intended to serve as a model for combining other homicide charges. It should be given as drafted only in a case where there is a charge of second degree murder where all lesser included homicide offenses as well as acquittal upon the grounds of self-defense or accident are possible verdicts under the evidence and where the evidence would not support a finding that a deadly weapon was used.

2. N.C. Gen. Stat. § 14-51.4(2).

3. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

4. See N.C.P.I.—Crim. 308.10.

5. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a "building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence." Curtilage is the area "immediately surrounding and associated with the home," which may include "the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings." *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

6. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a "building or conveyance of any kind, whether the building or conveyance is temporary or permanent,

mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

7. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

8. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be— the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to any self-defense instruction is entitled to a complete self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

9. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm.” *S v. Ray*, 299 N.C. 151, 158 (1980). *See also State v. Jordan*, 140 N.C. App. 594 (2000); *State v. Coble*, 351 N.C. 448 (2000).

10. *S v. Snyder*, 311 N.C. 391, 393-94 (1984), quoting *S v. Reynolds*, 307 N.C. 184 (1981).

11. Where there is a serious issue as to proximate cause, further instructions may be helpful, *e.g.*, “The defendant’s act need not have been the last cause or the nearest cause.

It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim.”

12. This sentence is only to be provided if the offense involved the killing of a child.

13. If some evidence tends to show legally sufficient provocation (*e.g.*, assault), but other evidence tends to show that the provocation, if any, was insufficient (*e.g.*, mere words), the jury should be told the kind of provocation that the law regards as insufficient, *e.g.*, “Words and gestures alone, however insulting, do not constitute adequate provocation when no assault is made or threatened against the defendant.”

14. Where the evidence raises the issue of retreat, see alternative paragraph set forth in N.C.P.I.—Crim. 308.10.

15. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary

manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm." *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

16. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., "The defendant's act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim."

206.40 VOLUNTARY MANSLAUGHTER INCLUDING SELF-DEFENSE (IN THE HEAT OF PASSION OR IMPERFECT SELF-DEFENSE), ALSO INCLUDING INVOLUNTARY MANSLAUGHTER. FELONY.

NOTE WELL: This instruction is designed for use in those cases in which the most serious homicide charged is voluntary manslaughter. It should be used only in cases where there is evidence that the defendant killed intentionally, but did so in the heat of passion or in "imperfect" self-defense. It should not be used in cases, such as child abuse, where the killing is unintentional, but may have been with malice in that it was done in wanton disregard of human life, S. v. Wilkerson, 295 N.C. 559, 583 (1978), nor should it be used in any other case where there is no evidence of heat of passion, provocation or self-defense. Cf. S. v. Wetmore, 298 N.C. 743, 750 (1979); S. v. Montague, 298 N.C. 759 (1979). In all such cases, consult N.C.P.I.—Crim. 206.31, 206.35 or 206.50¹. Where self-defense is not an issue, use N.C.P.I.—Crim. 206.41.

NOTE WELL: If self-defense is at issue and the assault occurred in defendant's home, place of residence, workplace or motor vehicle, see N.C.P.I.—Crim. 308.80, Defense of Habitation.

The defendant has been charged with voluntary manslaughter.

Under the law and the evidence in this case, it is your duty to return one of the following verdicts:

- 1) guilty of voluntary manslaughter
- 2) guilty of involuntary manslaughter
- 3) not guilty

Voluntary manslaughter is the unlawful killing of a human being by an intentional act.

A killing would be excused entirely on the ground of self-defense if:

First, it appeared to the defendant and the defendant believed it to be necessary to use deadly force against the victim in order to save the defendant from death or great bodily harm.

And Second, the circumstances as they appeared to the defendant at the time were sufficient to create such belief in the mind of a person of ordinary firmness. It is for you the jury to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time. In making this determination, you should consider the circumstances as you find them to have existed from the evidence including (the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether or not the victim had a weapon in *his* possession), (and) (the reputation, if any, of the victim for danger and violence) (*describe other circumstances, as appropriate from the evidence*).

The defendant would not be guilty of manslaughter if the defendant acted in self-defense, as I have just defined it to be, and if the defendant (was not the aggressor in bringing on the fight and) did not use excessive force under the circumstances.

(One enters a fight voluntarily if one uses toward one's opponent abusive language, which, considering all of the circumstances, is calculated and intended to provoke a fight. If the defendant voluntarily and without provocation entered the fight, the defendant would be considered the aggressor unless the defendant thereafter attempted to abandon the fight and gave notice to the deceased that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but

the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. The defendant is not entitled to the benefit of self-defense if the defendant was the aggressor² in bringing on the fight.³)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

A defendant does not have the right to use excessive force. A defendant uses excessive force if the defendant uses more force than reasonably appeared to the defendant to be necessary at the time of the killing. It is for you the jury to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁴ (The defendant would have a lawful right to be in the defendant's [home]⁵ [own premises] [place of residence] [workplace]⁶ [motor vehicle⁷].)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].⁸

The burden is on the State to prove beyond a reasonable doubt that the defendant did not act in self-defense.

For you to find the defendant guilty of voluntary manslaughter, the State must prove three things beyond a reasonable doubt:

First, that the defendant killed the victim by an intentional⁹ and unlawful act.

Second, that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred.¹⁰

And Third, that the defendant [did not act in self-defense] or [though acting in self-defense was the aggressor] (or) [though acting in self-defense used excessive force].

If you do not find the defendant guilty of voluntary manslaughter you must consider whether the defendant is guilty of involuntary manslaughter. Involuntary manslaughter is the unintentional killing of a human being by an unlawful act not amounting to a felony, or by an act done in a criminally negligent way.

For you to find the defendant guilty of involuntary manslaughter, the State must prove two things beyond a reasonable doubt:

First, that the defendant acted a) [unlawfully] (or) b) [in a criminally negligent way]. a) [The defendant's act was unlawful if (*describe crime, e.g., "defendant assaulted the victim"*) (*define assault*)] b) [Criminal negligence is more than mere carelessness. The defendant's act was criminally

negligent, if, judging by reasonable foresight, it was done with such gross recklessness or carelessness as to amount to a heedless indifference to the safety and rights of others.]

And Second, the State must prove that this [unlawful] (or) [criminally negligent] act proximately caused the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act need not have been the only cause, nor the nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.)

(If the victim died by accident or misadventure, that is, without wrongful purpose or criminal negligence on the part of the defendant, the defendant would not be guilty.¹¹ The burden of proving accident is not on the defendant. The defendant's assertion of accident is merely a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.)

FINAL MANDATE ON ALL CHARGES AND DEFENSES

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant, by [his] [her] intentional and unlawful act proximately caused the victim's death, and the defendant was [the aggressor in bringing on the fight] (or) [used excessive force], it would be your duty to find the defendant guilty of voluntary manslaughter whether or not the defendant was otherwise acting in self-defense.

Or, if you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant by [his] [her] intentional and unlawful

act, and not in self-defense, proximately caused the victim's death, it would be your duty to return a verdict of guilty of voluntary manslaughter.

If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of voluntary manslaughter. You must then determine whether the defendant is guilty of involuntary manslaughter.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [(describe crime)] (or) [acted in a criminally negligent way] thereby proximately causing the victim's death, it would be your duty to return a verdict of guilty of involuntary manslaughter. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

And finally, if the State has failed to satisfy you beyond a reasonable doubt that the defendant did not act in self-defense, that the defendant was the aggressor, or that the defendant used excessive force, then the defendant's action would be justified by self-defense; therefore, you would return a verdict of not guilty.

1. The state by charging at the voluntary manslaughter level concedes that it has no evidence of malice. This may seem to place the traditional definitions of voluntary manslaughter into an awkward context, since at first blush it would appear that the state would have to prove heat of passion, which it usually has to negate when trying to obtain a murder conviction. On closer analysis, however, the real issue in a case involving evidence of heat of passion will be whether the defendant killed the victim intentionally, as the state must prove to establish voluntary manslaughter, or unintentionally, in which case the crime would at most be involuntary manslaughter. Alternatively, if there is evidence of self-defense, the issues will be whether the defendant was acting in response to provocation and not in self-defense, or whether the defendant, if acting in self-defense, used excessive force or was the aggressor. If the state establishes any of these three things, the crime would be voluntary manslaughter; otherwise the defendant would be not guilty.

2. N.C. Gen. Stat. § 14-51.4(2).

3. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping

after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly to add this provision.

4. See N.C.P.I.—Crim. 308.10.

5. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

6. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

7. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

8. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

9. “Neither second-degree murder nor voluntary manslaughter has as an essential element an intent to kill. In connection with these two offenses, the phrase ‘intentional killing’ refers not to the presence of a specific intent to kill, but rather to the fact that the act which resulted in death is intentionally committed and is an act of assault which in itself amounts to a felony or is likely to cause death or serious bodily injury. Such an act committed in the heat of passion suddenly aroused by adequate provocation or in the imperfect exercise of the right of self-defense is voluntary manslaughter. But such an act can never be involuntary manslaughter. This is so because the crime of involuntary manslaughter involves the commission of an act, whether intentional or not, which in itself is not a felony or likely to result in death or great bodily harm.” *S. v. Ray*, 299 N.C. 151, 158 (1980). See also *S. v. Jordan*, 140 N.C. App. 594 (2000); *S. v. Coble*, 351 N.C. 448 (2000).

10. Where there is a serious issue as to proximate cause, further instructions may be helpful, e.g., “The defendant’s act need not have been the last cause or the nearest cause. It is sufficient if it concurred with some other cause acting at the same time, which in combination with it, proximately caused the death of the victim.”

11. In the event that the evidence shows that there was an accident, give N.C.P.I.—Crim. 307.10.

206.55A INVOLUNTARY MANSLAUGHTER—(IMPAIRED DRIVING). FELONY.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2006. For offenses occurring before December 1, 2006, use N.C.P.I.—Crim. 206.56.

CAUTION: If the jury convicts the defendant of this involuntary manslaughter offense involving impaired driving¹ and driving while impaired, the court should arrest judgment on the driving while impaired offense.

The defendant has been charged with involuntary manslaughter.²

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant was driving³ a [vehicle]⁴ [commercial vehicle].

Second, that the defendant was driving that vehicle upon a [highway] [street] [public vehicular area] within the state.⁵

Third, that at the time the defendant was driving that [vehicle] [commercial vehicle] the defendant:

a) [was under the influence of an impairing substance.⁶ ((*Name substance involved*) is an impairing substance.) The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁷ of either or both of these faculties.⁸]

b) [had consumed sufficient alcohol that a chemical analysis⁹ made at any relevant time after driving showed the defendant to have an alcohol concentration¹⁰ of [0.08] [0.04]¹¹ or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant

time is any time after driving in which the driver still has in the driver's body alcohol consumed before or during driving].¹²

- c) [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹³ of a Schedule I controlled substance.].¹⁴

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹⁵ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹⁶

And Fourth, that the impaired driving by the defendant proximately caused the victim's death. Proximate cause is a real cause, a cause without which the victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act(s) need not have been the last, or nearest cause. It is sufficient if [it] [they] concurred with some other cause acting at the same time which, in combination with, proximately caused the victim's death.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] [public vehicular area] and that when the defendant did so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that a chemical analysis made at any relevant

time after driving showed the defendant to have an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]][had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant’s blood or urine], and that defendant’s impaired driving proximately caused the victim’s death, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹⁷

1. See *S v. Williams*, 90 N.C. App. 614, *disc. rev. den’d*, 323 N.C. 369 (1988), holding that felony death by vehicle is not a lesser included offense of involuntary manslaughter, but misdemeanor death by vehicle may be.

See also *State v. Mumford*, 364 N.C. 394, 699 S.E.2d 911 (2010), holding that verdicts of guilty of the greater offense of felony serious injury by vehicle but not guilty on the lesser offense of driving while impaired were inconsistent but not mutually exclusive. N.C. Gen. Stat. § 20-141.1(a3), felony serious injury by vehicle, does not require a conviction of driving while impaired, but only a finding that defendant was engaged in the conduct described.

2. As a matter of law the violation of the driving while impaired statute, N.C. Gen. Stat. § 20-138.1 (1983), constitutes culpable negligence. *S. v. McGill*, 314 N.C. at 637 (1985).

3. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.

4. If there is any doubt, define “vehicle” under N.C. Gen. Stat. § 20-4.01(49), or “motor vehicle” under § 20-4.01(23).

5. If there is any doubt, define “highway” or “street” in accordance with N.C. Gen. Stat. § 20-4.01(13). “Public vehicular area” is defined in N.C. Gen. Stat. § 20-4.01(32).

6. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person’s physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

7. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

8. N.C. Gen. Stat. § 20-4.01(48b).

9. N.C. Gen. Stat. § 20-4.01(3a) defines chemical analysis as “a chemical analysis of the breath or blood of a person to determine his alcohol concentration, performed in accordance with N.C. Gen. Stat. § 20-139.1. The term ‘chemical analysis’ includes duplicate or sequential analyses when necessary or desirable to ensure the integrity of test results.”

10. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.

11. Use 0.04 where a commercial vehicle is involved.

12. N.C. Gen. Stat. § 20-4.01(33a).

13. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

14. Driving with any Schedule I controlled substance, or its metabolites in one’s blood or urine is a *per se* violation of impaired driving offense.

15. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

16. N.C. Gen. Stat. § 20-139.1(f).

17. Note that Misdemeanor Death by Vehicle can be a lesser offense included within this offense. See note 1.

206.57A FELONY DEATH BY VEHICLE. FELONY.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2006. For offenses occurring before December 1, 2006, use N.C.P.I.—Crim. 206.57.

NOTE WELL: If a separate charge of driving while impaired is submitted, then the jury may only convict the defendant of this offense if it also convicts the defendant of driving while impaired. See State v. Mumford, 2010 No. COA09-300, N.C. App. LEXIS 35, (Jan. 5, 2010).

CAUTION: If the jury convicts the defendant of this offense and driving while impaired, the court should arrest judgment on the driving while impaired offense. If the jury finds the defendant not guilty of driving while impaired, the court must arrest judgment on this offense.

The defendant has been charged with felony death by vehicle.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant was driving¹ a [vehicle]² [commercial vehicle].³

Second, that the defendant was driving that [vehicle] [commercial vehicle] upon a [highway] [street] [public vehicular area] within the state.⁴

Third, that at the time the defendant was driving that [vehicle] [commercial vehicle] the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A), (B) and (C), instructions on each alternative should be given.

(A) [was under the influence of an impairing substance. (Name substance involved) is an impairing substance.⁵ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the

defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁶ of either or both of these faculties.^{7]}

(B) [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration⁸ of [0.08[[0.04]⁹ or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after driving that the driver still has in the driver's body alcohol consumed before or during driving].¹⁰ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹¹

(C) [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's blood or urine]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹² of Schedule I controlled substance.].¹³

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹⁴ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹⁵

And Fourth, that the impaired driving by the defendant proximately but unintentionally caused the victim's death. Proximate cause is a real cause, a cause without which the victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably

produce such [injury] [damage] or some similar injurious result. (The defendant's act(s) need not have been the last, or nearest cause. It is sufficient if [it] [they] concurred with some other cause acting at the same time which, in combination with it, proximately caused the victim's death.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] (or) [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's blood or urine], and that defendant's impaired driving proximately but unintentionally caused the victim's death, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹⁶

1. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.

2. If there is any doubt, define "vehicle" under N.C. Gen. Stat. § 20-4.01(49), or "motor vehicle" under § 20-4.01(23).

3. N.C. Gen. Stat. § 20-4.01(3d) a and b defines commercial vehicle. *See also State v. Jones* 140 N.C. App. 691, 538 S.E.2d 228 (2000).

4. If there is any doubt, define "highway" or "street" in accordance with N.C. Gen. Stat. § 20-4.01(13). "Public vehicular area" is defined in N.C. Gen. Stat. § 20-4.01(32).

5. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

6. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

7. N.C. Gen. Stat. § 20-4.01(48b).

8. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

9. Use 0.04 where a commercial vehicle is involved.

10. N.C. Gen. Stat. § 20-4.01(33a).

11. The term “deemed sufficient” is not defined in N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

12. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

13. Driving with any Schedule I controlled substance, or its metabolites in one’s blood or urine is a *per se* violation of impaired driving offense.

14. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

15. N.C. Gen. Stat. § 20-139.1(f).

16. Note that Misdemeanor Death by Vehicle is not a lesser offense included within this offense. See N.C.P.I.—Crim. 206.58.

206.57B AGGRAVATED FELONY DEATH BY VEHICLE. FELONY.

NOTE WELL: This instruction applies to offenses occurring on or after December 1, 2006. See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

NOTE WELL: If a separate charge of driving while impaired is submitted, then the jury may only convict the defendant of this offense if it also convicts the defendant of driving while impaired. See State v. Mumford, 2010 No. COA09-300, N.C. App. LEXIS 35, (Jan. 5, 2010).

CAUTION: If the jury convicts the defendant of this offense and driving while impaired, the court should arrest judgment on the driving while impaired offense. If the jury finds the defendant not guilty of driving while impaired, the court must arrest judgment on this offense.

The defendant has been charged with aggravated felony death by vehicle.

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant was driving¹ a [vehicle]² [commercial vehicle].³

Second, that the defendant was driving that [vehicle] [commercial vehicle] upon a [highway] [street] [public vehicular area] within the state.⁴

Third, that at the time the defendant was driving that [vehicle] [commercial vehicle] the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A), (B) and (C), instructions on each alternative should be given.

(A) [was under the influence of an impairing substance. (Name substance involved) is an impairing substance.⁵ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing

substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁶ of either or both of these faculties.^{7]}

- (B) [Had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration⁸ of [0.08] [0.04]⁹ or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after driving that the driver still has in the driver's body alcohol consumed before or during driving].¹⁰ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹¹
- (C) [Had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹² of a Schedule I controlled substance.].¹³

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹⁴ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹⁵

Fourth, that the impaired driving by the defendant proximately but unintentionally caused the victim's death. Proximate cause is a real cause, a cause without which the victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably

produce such [injury] [damage] or some similar injurious result. (The defendant's act(s) need not have been the last, or nearest cause. It is sufficient if [it] [they] concurred with some other cause acting at the same time which, in combination with [it] [them], proximately caused the victim's death.)

And Fifth, that on (*name date*) in (*name court*) defendant was convicted of driving while impaired and this conviction was within seven years of the defendant's driving.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] (or) [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's blood or urine], that defendant's impaired driving proximately but unintentionally caused the victim's death, and that at the time the defendant was driving, the defendant had been convicted within the past seven years driving while impaired, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty of aggravated felony death by vehicle but would consider whether the defendant is guilty of felony death by vehicle. Felony death by vehicle differs from aggravated felony death by vehicle in that the State need not prove that the defendant had been convicted within the past seven years of an offense involving impaired driving.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath] and that defendant's impaired driving proximately but unintentionally caused the victim's death, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹⁶

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1. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.
 2. If there is any doubt, define "vehicle" under N.C. Gen. Stat. § 20-4.01(49), or "motor vehicle" under § 20-4.01(23).
 3. N.C. Gen. Stat. § 20-4.01(3d) a. and b. defines commercial vehicle. *See also State v. Jones* 140 N.C. App. 691, 538 S.E.2d 228 (2000).
 4. If there is any doubt, define "highway" or "street" in accordance with N.C. Gen. Stat. § 20-4.01(13). "Public vehicular area" is defined in N.C. Gen. Stat. § 20-4.01(32).
 5. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).
 6. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.
 7. N.C. Gen. Stat. § 20-4.01(48b).
 8. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."
 9. Use 0.04 where a commercial vehicle is involved.
 10. N.C. Gen. Stat. § 20-4.01(33a).

11. The term “deemed sufficient” is not defined in N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

12. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

13. Driving with any Schedule I controlled substance, or its metabolites in one’s blood or urine is a *per se* violation of impaired driving offense.

14. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

15. N.C. Gen. Stat. § 20-139.1(f).

16. Note that Misdemeanor Death by Vehicle is not a lesser offense included within this offense. See N.C.P.I.—Crim. 206.58.

206.57C FELONY SERIOUS INJURY BY VEHICLE. FELONY.

NOTE WELL: This instruction applies to offenses occurring on or after December 1, 2006. See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

CAUTION: If the jury convicts the defendant of this offense and driving while impaired, the court should arrest judgment on the driving while impaired offense.¹

The defendant has been charged with felony serious injury by vehicle.

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant was driving² a [vehicle]³ [commercial vehicle].⁴

Second, that the defendant was driving that [vehicle] [commercial vehicle] upon a [highway] [street] [public vehicular area] within the state.⁵

Third, that at the time the defendant was driving that [vehicle] [commercial vehicle] the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A), (B) and (C), instructions on each alternative should be given.

(A) [was under the influence of an impairing substance. (*Name substance involved*) is an impairing substance.⁶ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁷ of either or both of these faculties.⁸]

(B) [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration⁹ of [0.08] [0.04]¹⁰ or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after driving that the driver still has in the driver's body alcohol consumed before or during driving].¹¹ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹²

(C) [had any amount of a [Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹³ of a Schedule I controlled substance.].¹⁴

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹⁵ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant drove a motor vehicle.)¹⁶

Fourth, that the victim was seriously injured.¹⁷

And Fifth, that the impaired driving by the defendant proximately, but unintentionally, caused the victim's serious injury. Proximate cause is a real cause, a cause without which the victim's serious injury would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act(s) need not have been the last, or nearest cause.

It is sufficient if [it] [they] concurred with some other cause acting at the same time which, in combination with [it] [them], proximately caused the victim's serious injury.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]] and that defendant's impaired driving proximately but unintentionally caused the victim's serious injury, then it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See *State v. Mumford*, 364 N.C. 394, 699 S.E.2d 911 (2010), holding that verdicts of guilty of the greater offense of felony serious injury by vehicle but not guilty on the lesser offense of driving while impaired were inconsistent but not mutually exclusive. N.C. Gen. Stat. § 20-141.1(a3), felony serious injury by vehicle, does not require a conviction of driving while impaired, but only a finding that defendant was engaged in the conduct described.

2. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.

3. If there is any doubt, define "vehicle" under N.C. Gen. Stat. § 20-4.01(49), or "motor vehicle" under § 20-4.01(23).

4. N.C. Gen. Stat. § 20-4.01(3d) a and b defines commercial vehicle. See also *State v. Jones*, 140 N.C. App. 691, 538 S.E.2d 228 (2000).

5. If there is any doubt, define "highway" or "street" in accordance with N.C. Gen. Stat. § 20-4.01(13). "Public vehicular area" is defined in N.C. Gen. Stat. § 20-4.01(32).

6. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

7. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

8. N.C. Gen. Stat. § 20-4.01(48b).

9. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

10. Use 0.04 where a commercial vehicle is involved.

11. N.C. Gen. Stat. § 20-4.01(33a).

12. The term “deemed sufficient” is not defined in N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

13. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

14. Driving with any Schedule I controlled substance, or its metabolites in one's blood or urine is a *per se* violation of impaired driving offense.

15. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

16. N.C. Gen. Stat. § 20-139.1(f).

17. Serious injury may be defined as “such physical injury as causes great pain and suffering.” See *S. v. Jones*, 258 N.C. 89 (1962), and *S. v. Ferguson*, 261 N.C. 558 (1964).

206.57D AGGRAVATED FELONY SERIOUS INJURY BY VEHICLE. FELONY.

NOTE WELL: This instruction applies to offenses occurring on or after December 1, 2006. See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment.

NOTE WELL: If a separate charge of driving while impaired is submitted, then the jury may only convict the defendant of this offense if it also convicts the defendant of driving while impaired. See State v. Mumford, 2010 No. COA09-300, N.C. App. LEXIS 35, (Jan. 5, 2010).

CAUTION: If the jury convicts the defendant of this offense and driving while impaired, the court should arrest judgment on the driving while impaired offense. If the jury finds the defendant not guilty of driving while impaired, the court must arrest judgment on this offense.

The defendant has been charged with aggravated felony serious injury by vehicle.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the defendant was driving¹ a [vehicle]² [commercial vehicle].³

Second, that the defendant was driving that [vehicle] [commercial vehicle] upon a [highway] [street] [public vehicular area] within the state.⁴

Third, that at the time the defendant was driving that [vehicle] [commercial vehicle] the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A), (B) and (C), instructions on each alternative should be given.

(A) [was under the influence of an impairing substance. (Name substance involved) is an impairing substance.⁵ The defendant is under the influence of an impairing substance when the defendant

has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁶ of either or both of these faculties.^{7]}

- (B) [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration⁸ of [0.08]][0.04]⁹ or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after driving that the driver still has in the driver's body alcohol consumed before or during driving].¹⁰ The results of a chemical analysis¹¹ are deemed sufficient evidence to prove a person's alcohol concentration.¹²
- (C) [Had any amount of a [Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹³ of a Schedule I controlled substance.].¹⁴

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹⁵ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time *he* (allegedly) drove a motor vehicle.)¹⁶

Fourth, that the victim was seriously injured.¹⁷

Fifth, that defendant's driving proximately but unintentionally caused the victim's serious injury. Proximate cause is a real cause, a cause without which the victim's serious injury would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant's act(s) need not have been the last, or nearest cause. It is sufficient if [it] [they] concurred with some other cause acting at the same time which, in combination with [it] [them], proximately caused the victim's serious injury.)

And Sixth, that on (*name date*) in (*name court*) defendant was convicted of (*name offense*) which involved impaired driving and this conviction was within seven years of the defendant's driving.¹⁸

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a [vehicle] [commercial vehicle] on a [highway] [street] [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]], that defendant's driving proximately but unintentionally caused the victim's serious injury, and that defendant had been convicted within the past seven years of an offense involving impaired driving, then it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, you would not return a verdict of guilty, but would consider whether the defendant is guilty of Felony Serious Injury by Vehicle. Felony Serious Injury by Vehicle differs from Aggravated Felony Serious Injury by Vehicle in that the State need not prove that at the time the defendant was

driving while impaired, the defendant had been convicted within the past seven years of an offense involving impaired driving.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a vehicle on a [highway] [street] [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of [0.08] [0.04] or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] [had any amount of [a Schedule I controlled substance] [metabolites a Schedule I controlled substance] in the defendant's [blood] [urine] [breath], and that defendant's impaired driving proximately but unintentionally caused the victim's serious injury, then it would be your duty to return a verdict of guilty of felony serious injury by vehicle. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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1. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.
 2. If there is any doubt, define "vehicle" under N.C. Gen. Stat. § 20-4.01(49), or "motor vehicle" under § 20-4.01(23).
 3. N.C. Gen. Stat. § 20-4.01(3d) a and b defines commercial vehicle. *See also State v. Jones*, 140 N.C. App. 691, 538 S.E.2d 228 (2000).
 4. If there is any doubt, define "highway" or "street" in accordance with N.C. Gen. Stat. § 20-4.01(13). "Public vehicular area" is defined in N.C. Gen. Stat. § 20- 4.01(32).
 5. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).
 6. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.
 7. N.C. Gen. Stat. § 20-4.01(48b).

8. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.

9. Use 0.04 where a commercial vehicle is involved.

10. N.C. Gen. Stat. § 20-4.01(33a).

11. N.C. Gen. Stat. § 20-4.01(3a) defines chemical analysis as “a chemical analysis of the breath or blood of a person to determine his alcohol concentration, performed in accordance with N.C. Gen. Stat. § 20-139.1. The term ‘chemical analysis’ includes duplicate or sequential analyses when necessary or desirable to insure the integrity of test results.”

12. The term “deemed sufficient” is not defined in N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

13. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

14. Driving with any Schedule I controlled substance or its metabolites in one’s blood or urine is a *per se* violation of impaired driving offense.

15. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

16. N.C. Gen. Stat. § 20-139.1(f).

17. Serious injury may be defined as “such physical injury as causes great pain and suffering.” See *S. v. Jones*, 258 N.C. 89 (1962), and *S. v. Ferguson*, 261 N.C. 558 (1964).

18. See N.C. Gen. Stat. § 20-4.01(24a). If the prior conviction would not obviously involve impaired driving, *e.g.* death by vehicle, first or second degree murder, or involuntary manslaughter, then additional facts will have to be found by the jury and the elements of these offenses should be included in the instruction at this point.

207.75 WILLFULLY FAILING TO COMPLY WITH SEX OFFENDER REGISTRATION LAW. FELONY.

NOTE WELL: Registration shall be maintained for a period of at least 30 years following the date of initial county registration unless the person, after 10 years of registration, successfully petitions the superior court to shorten his or her registration timeperiod under N.C. Gen. Stat. § 14-208.12A.

The defendant has been charged with willfully failing to comply with the sex offender registration law.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that the defendant

- a) [was a resident of] [had established a residence in this state.]
- b) [had been present in this state for 15 days].¹
- c) [was a [nonresident student] [nonresident worker] in this state].²

Second, that the defendant had previously been convicted of a reportable offense³ for which the defendant must register. If you find beyond a reasonable doubt that on (*name date*) in (*name court*), the defendant was convicted of (*name offense*; e.g., *second degree rape*), then this would constitute a reportable offense for which the defendant must register.

And Third, the defendant

- a) willfully⁴ [failed to register in person with the Sheriff's office in the county of the defendant's residence [[within three business days of the defendant's [release from a penal institution] [arrival in the county]]⁵ [immediately upon the defendant's conviction]⁶
- b) willfully failed to provide written notice of the defendant's new address, following a change in address, in person at the Sheriff's office, no later

than three business days after the change of address to the Sheriff's office in the county with whom the defendant had last registered.]⁷

- c) willfully [failed to verify and return an address verification form in person within three business days of receiving it to the Sheriff's office listed on the address verification form.]⁸
- d) willfully [[forged] [submitted under false pretenses] the information or verification notices required. (Information or a verification is forged if it is false, but appears to be genuine, and it is submitted with the intent to deceive.) (Information or a verification is submitted under false pretenses if it is a false representation and calculated and intended to deceive.)]
- e) willfully [failed to inform the registering Sheriff's office of[enrollment] [termination of enrollment] as a student]
- f) willfully [failed to inform the registering Sheriff's office of [employment at an institution of higher education] [termination of employment at an institution of higher education]
- g) willfully [failed within three business days to report in person to the Sheriff of the county of defendant's residence, of [his] [her] intent to remain in this state, after previously having given notice to that Sheriff of [his] [her] county of residence, of [his] [her] intent to reside in another state].
- h) willfully [failed to report to the Sheriff of a county within 10 days after moving to that county]
- i) willfully [failed to notify the registering Sheriff's office of out-of-county employment where temporary residence had been established⁹]
- j) willfully [failed to inform the registering Sheriff of any [new] (or)

[changes to existing] online identifiers that the person uses or intends to use¹⁰].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [was a resident of or had established a residence in this state] [had been present in this state for more than 15 days][was a nonresident student or nonresident worker in this state], that the defendant had previously been convicted of a reportable offense for which the defendant must register, and that the defendant

- a) willfully [failed to register in person with the Sheriff's office in the county of the defendant's residence [[within three business days of the defendant's [release from a penal institution] [arrival in the county]]¹¹ [immediately upon the defendant's conviction]
- b) willfully failed to provide written notice of the defendant's new address, following a change in address, in person at the Sheriff's office, no later than three business days after the change of address to the Sheriff's office in the county with whom the defendant had last registered.]
- c) willfully [failed to verify and return the form in person within three business days of receiving it to the Sheriff's office listed on the address verification form.]
- d) willfully [[forged] [submitted under false pretenses] the information or verification notices required. (Information or a verification is forged if it is false, but appears to be genuine, and it is submitted with the intent to deceive.) (Information or a verification is submitted under false pretenses if it is a false representation, and calculated and intended to deceive.)]
- e) willfully [failed to inform the registering Sheriff's office of [enrollment] [termination of enrollment] as a student]

- f) willfully [failed to inform the registering Sheriff's office of [employment at an institution of higher education] [termination of employment at an institution of higher education]]
- g) willfully [failed within three business days to report in person to the Sheriff of the county of defendant's residence, of [his] [her] intent to remain in this state, after previously having given notice to that Sheriff of [his] [her] county of residence, of [his] [her] intent to reside in another state]
- h) willfully [failed to report to the Sheriff of a county within 10 days after moving to that county]
- i) willfully [failed to notify the registering Sheriff's office of out-of-county employment where temporary residence had been established¹²]
- j) willfully [failed to inform the registering Sheriff of any [new] (or) [changes to existing] online identifiers that the person uses or intends to use¹³]

it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. § 14-208.7.

2. See N.C. Gen. Stat. § 14-208.6.

3. See N.C. Gen. Stat. § 14-208.6 (4) for definition of "reportable offense."

4. Each of the potential violations in this element must be willful to support a conviction for this offense, so the term "willfully" should be included when instructing on any of the potential violations. See *State v. Lindsay*, 853 S.E. 2d 870, 2021 NC COA 31 (2021) (unpublished decision) (concluding that, viewing the instructions in their entirety, there was no plain error, but the misplacement of the term "willfully" in one segment of the trial court's instruction created ambiguity).

5. See N.C. Gen. Stat. § 14-208.7(a)(1).

6. See N.C. Gen. Stat. § 14-208.7(a)(2).

7. See N.C. Gen. Stat. § 14-208.9. See also *State v. Holmes*, 149 N.C. App. 572, 562

S.E.2d 26 (2002) (construing N.C. Gen. Stat. §§ 14-208.9 and 14-208.11 together and concluding that the failure to timely notify the sheriff in writing about a change of address constitutes a felony).

8. See N.C. Gen. Stat. § 14-208.9A(4).

9. For temporary residence conditions see N.C. Gen. Stat. § 14-208.8A.

10. N.C. Gen. Stat. § 14-208.11(a)(10) defines “online identifiers” as “electronic mail address, instant message screen name, user ID chat or other Internet communication name, but it does not mean social security number, date of birth or pin number”.

11. See N.C. Gen. Stat. § 14-208.7(a)(1).

12. For temporary residence conditions see N.C. Gen. Stat. § 14-208.8A.

13. N.C. Gen. Stat. § 14-208.11(a)(10) defines “online identifiers” as “electronic mail address, instant message screen name, user ID chat or other Internet communication name, but it does not mean social security number, date of birth or pin number.”

207.76 FAILURE TO COMPLY WITH SEX OFFENDER RESIDENTIAL RESTRICTIONS. FELONY.

NOTE WELL: This language does not apply to any registrant who established his or her residence prior to August 16, 2006.

The defendant has been charged with failing to comply with sex offender residential restrictions.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that the defendant [was a resident] [had established a residence] in this State¹ by [[purchasing a residence] [entering into a specifically enforceable² contract to purchase a residence]] [entering into a written lease contract for a residence and for as long as the person is lawfully entitled to remain on the premises]] [residing with the defendant's [child] [sibling] [parent] who has [purchased a residence or entered into a specifically enforceable contract to purchase a residence] [entered into a written lease contract for a residence and for as long as the person is lawfully entitled to remain on the premises]].

Second, that on (*name date*), the defendant in (*name court*) was convicted of (*name crime*), a reportable offense for which the defendant must register.

And Third, that defendant knew said residency was [at a location which was within 1,000 feet of any property line of a property on which any public or nonpublic school³ or child care center⁴ was located] [within any structure, any portion of which was within 1,000 feet of any property line of a property on which any public or nonpublic school or child care center was located].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [was a resident] [had established residency] within the state, that the defendant had previously been convicted

of a reportable offense for which the defendant must register, and that the defendant knowingly resided [at a location which was within 1,000 feet of any property line of a property on which any public or nonpublic school or child care center was located] [within any structure, any portion of which was within 1,000 feet of any property line of a property on which any public or nonpublic school or child care center was located], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Changes in ownership of or use of property within 1,000 feet of a registrant's registered address that occur after the registrant establishes residency at the registered address shall not form the basis for finding that an offender is in violation of N.C. Gen. Stat. § 14-208.16.

2. To be enforceable, a contract for the purchase or lease of a residency must be in writing.

3. School does not include home schools which means a nonpublic school in which one or more children of not more than two families or households receive academic instruction from parents or legal guardians, or a member of either household, or institutions of higher education, and the term "child care center," which is an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.

4. For purposes of this section, the term "child care center" does include the permanent locations of organized clubs of Boys and Girls Clubs of America.

208.04 THREATENING TO KILL OR INFLICT SERIOUS BODILY INJURY UPON A(N)
[LEGISLATIVE] [EXECUTIVE] [COURT] OFFICER. FELONY.

The defendant has been charged with threatening to [kill] (or) [inflict serious bodily injury upon] a(n) [legislative] [executive] [court] officer.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:¹

First, that the defendant knowingly and willfully² made a true threat³ to [inflict serious bodily injury upon] [kill] the victim.

A true threat is defined as an objectively threatening statement communicated by a party who possesses the subjective intent to threaten a listener or identifiable group.⁴ An objectively threatening statement is one that would be understood, by a reasonably prudent person perceiving it within its proper context, as a serious expression of an intent to [inflict serious bodily injury] [kill] by the speaker. Subjective intent requires that the speaker intended the statement to be understood as a threat.⁵ (Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.)⁶

Second, that the alleged victim was a(n) [legislative]⁷ [executive]⁸ [court]⁹ officer.¹⁰ [(*Name victim's title*) is a(n) [legislative] [executive] [court] officer.]

And Third, that the defendant knew or had reasonable grounds to know that the alleged victim was a(n) [legislative] [executive] [court] officer.

If you find from the evidence beyond a reasonable doubt that on or about the

alleged date the defendant knowingly and willfully made a true threat to [inflict serious bodily injury upon] [kill], the victim, that the victim was a(n) [legislative] [executive] [court] officer, and that the defendant knew or had reasonable grounds to know that the victim was a(n) [legislative] [executive] [court] officer, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹¹

1. It is not necessary to prove that the legislative, executive, or court officer actually received or believed the threat. N.C. Gen. Stat. § 14-16.8.

2. A person acts “knowingly” when the person is aware or conscious of what he or she is doing. A person acts “willfully” when the act was done intentionally and without an honest belief that there is an excuse or justification for it. *North Carolina Crimes: A Guidebook on the Elements of Crime*, Smith, 7th edition, 2012, School of Government, The University of North Carolina at Chapel Hill.

3. The Supreme Court of North Carolina has noted that, under the Free Speech Clause of the First Amendment of the United States Constitution, as incorporated to apply to the states through the Due Process Clause of the Fourteenth Amendment, “the State may not punish an individual for speaking based upon the contents of the message communicated.” *State v. Taylor*, 2021-NCSC-164, ¶ 34. In recognizing limited exceptions to this principle, the State may “criminalize certain categories of expression which, by their very nature, lack constitutional value.” *Id.* Therefore, in order to overcome the constitutional protections provided by the First Amendment, the State must prove that the defendant communicated a “true threat” against the alleged victim(s), necessitating sufficient proof of both an objective and subjective element in order to convict a defendant under N.C. Gen. Stat. § 14-16.7(a). *Id.* at ¶ 42.

4. *State v. Taylor*, 2021-NCSC-164, ¶ 34.

5. In adopting the North Carolina Court of Appeals’ interpretation that the State is required to establish both an objective and subjective component to qualify as a “true threat,” the Supreme Court of North Carolina does not explicitly define either “objective” or “subjective” intent. However, in remanding the case for a jury’s proper consideration of a true threat, the Court expressly quotes the lower court’s diction of objective and subjective intent. *State v. Taylor*, 2021-NCSC-164, ¶ 14 (quoting *State v. Taylor*, 270 N.C. App. 514, 557, 841 S.E.2d 776, 814 (2020)).

6. Where there is a serious issue as to subjective intent, the parenthetical phrase may be useful. See N.C.P.I.—Crim 120.10 (Definition of Intent). Footnote 1 of N.C.P.I.—Crim 120.10 provides supplemental language on general and specific intent. However, due to the specificity of the requirements of a “true threat” pursuant to *State v. Taylor*, 2021-NCSC-164, the preceding definitions before the parenthetical should be relied on solely as to not confuse the jury with conflicting definitions.

THREATENING TO KILL OR INFLICT SERIOUS BODILY INJURY UPON A(N) [LEGISLATIVE]
[EXECUTIVE] [COURT] OFFICER. FELONY.
GENERAL CRIMINAL VOLUMEREPLACEMENT
JUNE 2022

N.C. Gen. Stat. §§ 14-16.7(a); 14-16.8

7. N.C. Gen. Stat. § 147-2 The legislative officers are: the fifty Senators; One hundred and twenty members of the House of Representatives; a Speaker of the House of Representatives; a clerk and assistants in each house; a Sergeant-at-arms and assistants in each house; and as many subordinates in each house as may be deemed necessary.

8. N.C. Gen. Stat. § 147-3(c) The general civil executive officers of this State are as follows: a Governor; a Lieutenant Governor; Private secretary for the Governor; a Secretary of State; an Auditor; a Treasurer; an Attorney General; a Superintendent of Public Instruction; the members of the Governor's Council; a Commissioner of Agriculture; a Commissioner of Labor; a Commissioner of Insurance.

9. N.C. Gen. Stat. § 14-16.10(1) defines a court officer as magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant public defender; court reporter; juvenile court counselor as defined in N.C. Gen. Stat. § 7B-1501(5). Effective December 1, 2003, the term "court officer" includes any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to N.C. Gen. Stat. § 7B-601 or N.C. Gen. Stat. § 7B-1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

10. N.C. Gen. Stat. § 14-16.9 provides that any person who has been elected to any of the above-mentioned offices, but has not yet taken the oath of office, shall be considered to hold the office for the purpose of this offense.

11. In a proper case, a further instruction as to any lesser included offense may be necessary.

208.04A MAILING A THREAT TO KILL OR INFLICT SERIOUS BODILY INJURY
UPON A(N) [LEGISLATIVE] [EXECUTIVE] [COURT] OFFICER. FELONY.

The defendant has been charged with mailing a threat to kill or inflict serious bodily injury upon a(n) [legislative] [executive] [court] officer.

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant knowingly and willfully¹ deposited for conveyance in the mail a [letter] [writing] [document].²

Second, that such [letter] [writing] [document] contained a true threat³ to [inflict serious bodily injury upon] [kill] the alleged victim. A true threat is defined as an objectively threatening statement communicated by a party who possesses the subjective intent to threaten a listener or identifiable group.⁴ An objectively threatening statement is one that would be understood by a reasonably prudent person perceiving it within its proper context as a serious expression of an intent to [inflict serious bodily injury] [kill] by the speaker. Subjective intent requires that the speaker intended the statement to be understood as a threat.⁵ (Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.)⁶

Third, that the defendant knew or had reasonable grounds to know that such [letter] [writing] [document] contained a true threat to [inflict serious bodily injury upon] [kill] a(n) [legislative] [executive] [court] officer.

Fourth, that the alleged victim was a(n) [legislative]⁷ [executive]⁸ [court]⁹ officer. [(Name *victim's title*) is a(n) [legislative] [executive] [court]

officer.]]¹⁰

And Fifth, that the defendant knew or had reasonable grounds to know that the alleged victim was a(n) [legislative] [executive] [court] officer.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly and willfully deposited for conveyance in the mail a [letter] [writing] [document], that contained a true threat to [inflict serious bodily injury upon] [kill] the alleged victim, who was a(n) [legislative] [executive] [court] officer, that the defendant knew or had reasonable grounds to know that the [letter] [writing] [document] contained a true threat to [inflict serious bodily injury upon] [kill] a(n) [legislative] [executive] [court] officer, and that the defendant knew or had reasonable grounds to know that the alleged victim was a(n) [legislative] [executive] [court] officer, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹¹

1. A person acts "knowingly" when the person is aware or conscious of what he or she is doing. A person acts "willfully" when the act was done intentionally and without an honest belief that there is an excuse or justification for it. *North Carolina Crimes: A Guidebook on the Elements of Crime*, Smith, 7th edition, 2012, *School of Government, The University of North Carolina at Chapel Hill*.

2. It is not necessary to prove that the legislative, executive, or court officer actually received or believed the threat.

3. The Supreme Court of North Carolina has noted that, under the Free Speech Clause of the First Amendment of the United States Constitution, as incorporated to apply to the states through the Due Process Clause of the Fourteenth Amendment, "the State may not punish an individual for speaking based upon the contents of the message communicated." *State v. Taylor*, 2021-NCSC-164, ¶ 34. In recognizing limited exceptions to this principle, the State may "criminalize certain categories of expression which, by their very nature, lack constitutional value." *Id.* Therefore, in order to overcome the constitutional protections provided by the First Amendment, the State must prove that the defendant communicated a "true threat" against the alleged victim(s), necessitating sufficient proof of both an objective and subjective element in order to convict a defendant under N.C. Gen. Stat. § 14-16.7(a). *Id.* at ¶ 42.

4. *State v. Taylor*, 2021-NCSC-164, ¶ 34.

5. In adopting the North Carolina Court of Appeals' interpretation that the State is required to establish both an objective and subjective component to qualify as a "true threat," the Supreme Court of North Carolina does not explicitly define either "objective" or "subjective" intent. However, in remanding the case for a jury's proper consideration of a true threat, the Court expressly quotes the lower court's diction of objective and subjective intent. *State v. Taylor*, 2021-NCSC-164, ¶ 14 (quoting *State v. Taylor*, 270 N.C. App. 514, 557, 841 S.E.2d 776, 814 (2020)).

6. Where there is a serious issue as to subjective intent, the parenthetical phrase may be useful. See N.C.P.I.—Crim 120.10 (Definition of Intent). Footnote 1 of N.C.P.I. —Crim 120.10 provides supplemental language on general and specific intent. However, due to the specificity of the requirements of a "true threat" pursuant to *State v. Taylor*, 2021-NCSC-164, the preceding definitions before the parenthetical should be relied on solely as to not confuse the jury with conflicting definitions.

7. N.C.G.S. § 147-2 The legislative officers are: the fifty Senators; One hundred and twenty members of the House of Representatives; a Speaker of the House of Representatives; a clerk and assistants in each house; a Sergeant-at-arms and assistants in each house; and as many subordinates in each house as may be deemed necessary.

8. N.C.G.S. § 147-3(c) The general civil executive officers of this State are as follows: a Governor; a Lieutenant Governor; Private secretary for the Governor; a Secretary of State; an Auditor; a Treasurer; an Attorney General; a Superintendent of Public Instruction; the members of the Governor's Council; a Commissioner of Agriculture; a Commissioner of Labor; a Commissioner of Insurance.

9. N.C.G.S. § 14-16.10(1) defines a court officer as magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant public defender; court reporter; juvenile court counselor as defined in G.S. 7B-1501(5). Effective December 1, 2003, the term "court officer" includes any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

10. N.C.G.S. § 14-16.9 provides that any person who has been elected to any of the above-mentioned offices, but has not yet taken the oath of office, shall be considered to hold the office for the purpose of this offense.

11. In a proper case, a further instruction as to any lesser included offense may be necessary.

208.04B THREATENING TO KILL OR INFLICT SERIOUS BODILY INJURY UPON A PERSON AS RETALIATION AGAINST A [LEGISLATIVE] [EXECUTIVE] [COURT] OFFICER. FELONY.

NOTE WELL: For mailing a threat to kill or inflict serious bodily injury upon a person as retaliation against an officer, use N.C.P.I. Crim.—208.04C, for direct threats against the officers themselves, use N.C.P.I. Crim.—208.04, for mailing a direct threat to an officer, use N.C.P.I. Crim.—208.04A.

The defendant has been charged with threatening to [kill] (or) [inflict serious bodily injury upon] a person in retaliation against a [legislative] [executive] [court] officer because of the exercise of that officer’s duties.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:¹

First, that the defendant knowingly and willfully² made a true threat³ to [inflict serious bodily injury upon] [kill] the alleged victim. A true threat is defined as an objectively threatening statement communicated by a party who possesses the subjective intent to threaten a listener or identifiable group.⁴ An objectively threatening statement is one that would be understood by a reasonably prudent person perceiving it within its proper context as a serious expression of an intent to [inflict serious bodily injury] [kill] by the speaker. Subjective intent requires that the speaker intended the statement to be understood as a threat.⁵ (Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.)⁶

And Second, that the defendant made this true threat as a retaliation against a(n) [legislative]⁷ [executive]⁸ [court]⁹ officer because of the exercise of the officer’s duties. [(Name officer’s title) is a(n) [legislative] [executive]

[court] officer.]¹⁰

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly and willfully made a true threat to [inflict serious bodily injury upon] [kill] the alleged victim, and that the defendant made this true threat as a retaliation against a(n) [legislative] [executive] [court] officer because of the exercise of the officer's duties, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹¹

1. It is not necessary to prove that the legislative, executive, or court officer actually received or believed the threat.

2. A person acts "knowingly" when the person is aware or conscious of what he or she is doing. A person acts "willfully" when the act was done intentionally and without an honest belief that there is an excuse or justification for it. *North Carolina Crimes: A Guidebook on the Elements of Crime*, Smith, 7th edition, 2012, *School of Government, The University of North Carolina at Chapel Hill*.

3. The Supreme Court of North Carolina has noted that, under the Free Speech Clause of the First Amendment of the United States Constitution, as incorporated to apply to the states through the Due Process Clause of the Fourteenth Amendment, "the State may not punish an individual for speaking based upon the contents of the message communicated." *State v. Taylor*, 2021-NCSC-164, ¶ 34. In recognizing limited exceptions to this principle, the State may "criminalize certain categories of expression which, by their very nature, lack constitutional value." *Id.* Therefore, in order to overcome the constitutional protections provided by the First Amendment, the State must prove that the defendant communicated a "true threat" against the alleged victim(s), necessitating sufficient proof of both an objective and subjective element in order to convict a defendant under N.C. Gen. Stat. § 14-16.7(a). *Id.* at ¶ 42.

4. *State v. Taylor*, 2021-NCSC-164, ¶ 34.

5. In adopting the North Carolina Court of Appeals' interpretation that the State is required to establish both an objective and subjective component to qualify as a "true threat," the Supreme Court of North Carolina does not explicitly define either "objective" or "subjective" intent. However, in remanding the case for a jury's proper consideration of a true threat, the Court expressly quotes the lower court's diction of objective and subjective intent. *State v. Taylor*, 2021-NCSC-164, ¶ 14 (quoting *State v. Taylor*, 270 N.C. App. 514, 557, 841 S.E.2d 776, 814 (2020)).

6. Where there is a serious issue as to subjective intent, the parenthetical phrase may be useful. See N.C.P.I.—Crim 120.10 (Definition of Intent). Footnote 1 of N.C.P.I.—Crim 120.10 provides supplemental language on general and specific intent. However, due to the specificity of the requirements of a "true threat" pursuant to *State v. Taylor*, 2021-NCSC-164,

the preceding definitions before the parenthetical should be relied on solely as to not confuse the jury with conflicting definitions.

7. N.C. Gen. Stat. § 147-2 The legislative officers are: the fifty Senators; One hundred and twenty members of the House of Representatives; a Speaker of the House of Representatives; a clerk and assistants in each house; a Sergeant-at-arms and assistants in each house; and as many subordinates in each house as may be deemed necessary.

8. N.C. Gen. Stat. § 147-3(c) The general civil executive officers of this State are as follows: a Governor; a Lieutenant Governor; Private secretary for the Governor; a Secretary of State; an Auditor; a Treasurer; an Attorney General; a Superintendent of Public Instruction; the members of the Governor's Council; a Commissioner of Agriculture; a Commissioner of Labor; a Commissioner of Insurance.

9. N.C. Gen. Stat. § 14-16.10(1) defines a court officer as magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant public defender; court reporter; juvenile court counselor as defined in N.C. Gen. Stat.

§ 7B-1501(5). Effective December 1, 2003, the term "court officer" includes any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to N.C. Gen. Stat. § 7B-601 or N.C. Gen. Stat. § 7B- 1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

10. N.C. Gen. Stat. § 14-16.9 provides that any person who has been elected to any of the above-mentioned offices, but has not yet taken the oath of office, shall be considered to hold the office for the purpose of this offense.

11. In a proper case, a further instruction as to any lesser included offense may be necessary.

208.04C MAILING A THREAT TO KILL OR INFLICT SERIOUS BODILY INJURY UPON A PERSON AS RETALIATION AGAINST A [LEGISLATIVE] [EXECUTIVE] [COURT] OFFICER. FELONY.

NOTE WELL: For threats to kill or inflict serious bodily injury upon a person as retaliation against an officer that were not mailed, use N.C.P.I. Crim.—208.04B, for direct threats against the officers themselves, use N.C.P.I. Crim.—208.04, for mailing a direct threat to an officer, use N.C.P.I. Crim.—208.04A.

The defendant has been charged with mailing a threat to [kill] (or) [inflict serious bodily injury upon] a person in retaliation against a [legislative] [executive] [court] officer because of the exercise of that officer's duties.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant knowingly and willfully¹ deposited for conveyance in the mail a [letter] [writing] [document].²

Second, that such [letter] [writing] [document] contained a true threat³ to [inflict serious bodily injury upon] [kill] the alleged victim. A true threat is defined as an objectively threatening statement communicated by a party who possesses the subjective intent to threaten a listener or identifiable group.⁴ An objectively threatening statement is one that would be understood by a reasonably prudent person perceiving it within its proper context as a serious expression of an intent to [inflict serious bodily injury] [kill] by the speaker. Subjective intent requires that the speaker intended the statement to be understood as a threat.⁵ (Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proved by circumstances from which it may be inferred. You arrive at the intent of a person by such just and reasonable deductions from the circumstances proven as a reasonably prudent person would ordinarily draw therefrom.)⁶

And Third, that the defendant made this true threat as a retaliation

against a(n) [legislative]⁷ [executive]⁸ [court]⁹ officer because of the exercise of the officer's duties. [(Name *officer's title*) is a [legislative] [executive] [court] officer.]¹⁰

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly and willfully deposited for conveyance in the mail a [letter] [writing] [document], that such [letter] [writing] [document] contained a true threat to [inflict serious bodily injury upon][kill] the alleged victim, and that the defendant made this true threat as a retaliation against a(n) [legislative] [executive] [court] officer because of the exercise of the officer's duties, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹¹

1. A person acts "knowingly" when the person is aware or conscious of what he or she is doing. A person acts "willfully" when the act was done intentionally and without an honest belief that there is an excuse or justification for it. *North Carolina Crimes: A Guidebook on the Elements of Crime*, Smith, 7th edition, 2012, School of Government, The University of North Carolina at Chapel Hill.

2. It is not necessary to prove that the legislative, executive, or court officer actually received or believed the threat.

3. The Supreme Court of North Carolina has noted that, under the Free Speech Clause of the First Amendment of the United States Constitution, as incorporated to apply to the states through the Due Process Clause of the Fourteenth Amendment, "the State may not punish an individual for speaking based upon the contents of the message communicated." *State v. Taylor*, 2021-NCSC-164, ¶ 34. In recognizing limited exceptions to this principle, the State may "criminalize certain categories of expression which, by their very nature, lack constitutional value." *Id.* Therefore, in order to overcome the constitutional protections provided by the First Amendment, the State must prove that the defendant communicated a "true threat" against the alleged victim(s), necessitating sufficient proof of both an objective and subjective element in order to convict a defendant under N.C. Gen. Stat. § 14-16.7(a). *Id.* at ¶ 42.

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6. Where there is a serious issue as to subjective intent, the parenthetical phrase may be useful. See N.C.P.I.—Crim 120.10 (Definition of Intent). Footnote 1 of N.C.P.I. —Crim 120.10 provides supplemental language on general and specific intent. However, due to the specificity of the requirements of a “true threat” pursuant to *State v. Taylor*, 2021-NCSC-164, the preceding definitions before the parenthetical should be relied on solely as to not confuse the jury with conflicting definitions.

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9. N.C. Gen. Stat. § 14-16.10(1) defines a court officer as magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the district attorney; public defender or assistant public defender; court reporter; juvenile court counselor as defined in N.C. Gen. Stat.

§ 7B-1501(5). Effective December 1, 2003, the term "court officer" includes any attorney or other individual employed by or acting on behalf of the department of social services in proceedings pursuant to Subchapter I of Chapter 7B of the General Statutes; any attorney or other individual appointed pursuant to N.C. Gen. Stat. § 7B-601 or N.C. Gen. Stat. § 7B- 1108 or employed by the Guardian ad Litem Services Division of the Administrative Office of the Courts.

10. N.C. Gen. Stat. § 14-16.9 provides that any person who has been elected to any of the above-mentioned offices, but has not yet taken the oath of office, shall be considered to hold the office for the purpose of this offense.

11. In a proper case, a further instruction as to any lesser included offense may be necessary.

North Carolina
Conference of Superior Court Judges
Committee on Pattern Jury Instructions

North Carolina
PATTERN JURY
INSTRUCTIONS
for Criminal Cases

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* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

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206.20	First Degree Murder by Torture. G.S. 14-17. (6/2014)	A	A
206.22	First Degree Murder Involving Domestic Violence, Covering All Lesser Included Homicide Offenses and Self Defense. (6/2022)		A, B1, D, F

206.24	First Degree Murder Involving Domestic Violence, Covering Lesser Included Homicide Offenses Not Involving Self Defense. (6/2018)		
206.30	Second Degree Murder Where a Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	C, F, H	B1, D, F*
206.30A	Second Degree Murder Where a Deadly Weapon Is Used, Not Including Self-Defense, Covering All Lesser Included Homicide Offenses. G.S. 14-17, 14-18. (6/2014)	C, F, H	B2, E, F*
206.31	Second Degree Murder Where No Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	C, F, H	B1, D, F*
206.31A	Second Degree Murder Where No Deadly Weapon Is Used, Not Involving Self-Defense, Covering All Lesser Included Homicide Offenses. G.S. 14-17, 14-18. (6/2014)	C, F, H	B2, E, F*
206.31B	Second Degree Murder, Caused by Controlled Substance. G.S. 14-17. (6/2018)	C	B2
206.32	Second Degree Murder by Vehicle, Including Involuntary Manslaughter and Misdemeanor Death by Vehicle. (Impaired Driving). G.S. 14-17, 14-18, 20-139.1, 20-141.4. (6/2014)	C, H, Misd	B2, F, Misd 1
206.32A	Second Degree Murder by Vehicle, Including Involuntary Manslaughter and Misdemeanor Death by Vehicle. (Not Involving Impaired Driving). G.S. 14-17, 14-18, 20-139.1, 20-141.4. (6/2019)	C, H, Misd	B2, F, Misd 1
206.35	Second Degree Murder (Child Beating) Covering Involuntary Manslaughter as a Lesser Included Offense. G.S. 14-17, 14-18, 14-318.2, -318.4. (6/2014)	C, H	B2, F
206.40	Voluntary Manslaughter Including Self-Defense (In the Heat of Passion or Imperfect Self-Defense), Also Including Involuntary Manslaughter. G.S. 14-18. (6/2022)	F, H	D, F*
206.41	Voluntary Manslaughter Not Involving Self-Defense, also including Involuntary Manslaughter. G.S. 14-18. (6/2014)	F, H	E, F*
206.50	Involuntary Manslaughter—Other Than by Automobile. G.S. 14-18. (6/2014)	H	F
206.55	Involuntary Manslaughter—(Including Misdemeanor Death by Vehicle). G.S. 14-18, 20-141.4. (6/2014)	H, Misd	F, Misd 1
206.55A	Involuntary Manslaughter—(Impaired Driving). (Offenses after Dec. 1, 2006). G.S. 20-141.4. (6/2022)	H	F
206.56	Involuntary Manslaughter—(Impaired Driving). (Offenses prior to Dec. 1, 2006). G.S. 20-141.4. (6/2014)	H	F
206.57	Felony Death by Vehicle (offenses prior to Dec. 1, 2006). G.S. 20-141.4(a1). (6/2014)	I	G
206.57A	Felony Death by Vehicle (offenses after Dec. 1, 2006). G.S. 20-141.4(a1). (6/2022)	I	D
206.57B	Aggravated Felony Death by Vehicle. G.S. 20-141.4(a5). (6/2022)		D
206.57C	Felony Serious Injury by Vehicle. G.S. 20-141.4(a3). (6/2022)		F

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206.57D	Aggravated Felony Serious Injury by Vehicle. G.S. 20-141.4(a4). (6/2014)		E
206.58	Misdemeanor Death by Vehicle. G.S. 20-141.4(a2). (6/2014)	Misd	Misd 1
206.60	Murder of Unborn Child—Willful and Malicious Act (6/2012)		A
206.61	Murder of Unborn Child—Inherently Dangerous Act (6/2014)		B2
206.62	Murder of Unborn Child—[Murder] [Voluntary Manslaughter] [Involuntary Manslaughter] of Mother (6/2012)		B2, D, F
206.63	Murder of Unborn Child—Willful and Malicious Act. G.S. 14-23.2(a)(1). (6/2014)		A
206.70	Death By Distribution of Certain Controlled Substances. (6/2020)		C
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207.10	First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.2, 14-27.3, 14-27.6, 14-33(b)(2). (6/2020)	B, D, F, H, Misd	B1, C, F, H, Misd 1
207.10A	First Degree Forcible Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.21, 14-27.22, 14-27.34. (Offenses on or After Dec. 1, 2015). (6/2020)		B1, B2, C, D, Misd
207.10B	First Degree Forcible Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.21, 14-27.22, 14-27.34. (Offenses on or After Dec. 1, 2017). (6/2020)		B1, B2, C, D, Misd
207.11	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.2(2), 14-27.3(1), 14-27.6. (6/2020)	F, H	F, H
207.11A	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.21, 14-27.22, 14-27.34. (6/2020)		
207.11B	Attempted First Degree Forcible Rape (Weapon, Serious Injury or Multiple Assailants) Covering Attempted Second-Degree Rape as a Lesser Included Offense. (Offenses on or after Dec. 1, 2017). (6/2020)		B1, C
207.15	Rape of a Child. G.S. 14-27.2A. (6/2016)		B1
207.15A	Statutory Rape of a Child by an Adult G.S. 14-27.23. (6/2016)		
207.15A.1	Attempted First Degree Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.2(a)(1), 14-27.8 (6/2016).	F	F
207.15A.1A	Attempted First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.24(a)(1), 14-27.34. (6/2016)		
207.15.1	First Degree Rape—Female under the Age of Thirteen Years. G.S. 14-27.2(1). (6/2016)	B	B1
207.15.1A	First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. (6/2016)		
207.15.2	Statutory Rape Against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		B1, C

207.15.2A	Statutory Rape Against an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.25. (6/2016)		
207.15.3	Statutory Sexual Offense against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		
207.15.3A	Statutory Sexual Offense of an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.30. (6/2016)		B1, C
207.20	Second Degree Rape—Force. G.S. 14-27.3. (6/2020)	D	C
207.20A	Second Degree Rape—Force (Victim Asleep or Similarly Incapacitated). G.S. 14-27.3. (6/2020)		
207.20A.1	Second Degree Rape—Forcible (Alleged Victim Asleep or Similarly Incapacitated). G.S. 14-27.3 (6/2020)		
207.20B	Second Degree Forcible Rape. G.S. 14-27.22 (6/2020)		
207.25	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)	D	C
207.25A	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)		
207.40	First Degree Sexual Offense—Weapon, Serious Injury, or Multiple Assailants, Covering Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4, 14-27.5. (5/2020)	B, D	B1, C
207.40A	Attempted First Degree Sexual Offense (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4(2), 14-27.5(2), 14-27.6. (5/2020)	F, H	F, H
207.40A.1	Attempted First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Forcible Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27, 14-27.34. (6/2020)		
207.40B	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2015). (6/2020)		
207.40C	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2017). (6/2020)		
207.45	Sexual Offense with a Child. G.S. 14-27.4A. (6/2016)		B1
207.45.1	First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4. (6/2016)	B	B1
207.45.1A	First Degree Statutory Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.29. (6/2016)		
207.45A	Statutory Sexual Offense with a Child by an Adult. G.S. 14-27.28 (6/2016)		
207.45A.1	Attempted First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4, 14-27.8. (6/2016)	F	F
207.45A.1A	Attempted First Degree Statutory Sexual Offense—Child Under the Age of Thirteen Years. G.S. 14-27.29, 14-27.34. (6/2016)		
207.60	Second Degree Sexual Offense—Force. G.S. 14-27.5. (6/2020)	D	C
207.60A	Second Degree Forcible Sexual Offense. G.S. 14-27.27. (6/2020)		

		Before 10/1/94	On or After 10/1/94
207.65	Second Degree Sexual Offense—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.5. (Offenses Prior to Dec. 1, 2015). (6/2020)	D	C
207.65A	Second Degree Forcible Sexual Offense—Alleged Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.27. (Offenses On or After to Dec. 1, 2015). (6/2020)	D	C
207.70	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)	G	E
207.70A	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)		
207.71	DELETE SHEET. Unlawfully Accessing a Commercial Social Networking Website by a Sex Offender. G.S. 14-202.5A. (6/2018)		I
207.71A	Unlawful Online Conduct By A High-Risk Sex Offender That Endangers Children. (6/2020)		I
207.72	Sex Offender Unlawfully on Certain Premises. G.S. 14-208.18. (6/2017)		H
207.73	Failure to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(a). (6/2008)		F
207.74	Failing to [Provide Necessary Information to] [Cooperate with Guidelines and Regulations of] the Department of Corrections While Required to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(c). (6/2008)		Misd 1
207.75	Willfully Failing to Comply with Sex Offender Registration Law. G.S. 14-208.11. (6/2022)	-	F
207.76	Failure to Comply with Sex Offender Residential Restrictions. G.S. 14-208.16. (6/2022)	-	F
207.77	Failure to Comply with Sex Offender Limitations on Residential Use—Minor in Residence. G.S. 14-208.17(b). (6/2007)	-	F
207.78	Intentionally [Tampering with] [Removing] [Vandalizing] [Interfering with Proper Functioning of] a Satellite-Based Monitoring Device. G.S. 14-208.44(a). (6/2008)	-	F
207.79	Failure to Comply with Sex Offender Prohibition on Working or Volunteering for Child-Involved Activities. G.S. 14-208.17(a). (6/2007)	-	F
207.80A	Felonious Sexual Activity Involving Students (by teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G
207.80A.1	Felonious Sexual Activity With a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G
207.80B	Felonious Sexual Activity Involving Students (by member of school personnel other Than teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G, Misd A1
207.80B.1	Felonious Sexual Activity With a Student (by member of school personnel other than teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G, I
207.90	Sexual Battery. G.S. 14-27.5A. (Offenses Prior to Dec. 1, 2015) (6/2020)		Misd A1

207.90A	Sexual Battery. G.S. 14-27.33 (Offenses Occuring on or After Dec. 1, 2015) (6/2020)		Misd A1
207.95	Knowingly and Without Authority [Removing] [Destroying] [Circumventing Operation of] an Electronic Monitoring Device. G.S. 14-226.3 (June 2010)		
207.97	Sexual [Contact] [Penetration] Under Pretext of Medical Treatment—Representations. (6/2020)		C
207.98	Engaging In Sexual [Contact] [Penetration] Under Pretext of Medical Treatment – Incapacitated Patient. (6/2020)		C
	Assaults.		
208.01	Assault on [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (6/2011)	H	I
208.01A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (4/2004)	H	I
208.02	Assault on a(n) [Legislative] [Executive] [Court] Officer with a Deadly Weapon. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.02A	Making a Violent Attack with a Deadly Weapon upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.03	Assault on a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury. G.S. 14-16.6(c). (4/2004)	F	F
208.03A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury to a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(c). (4/2004)	F	F
208.04	Threatening to Kill or Inflict Serious Bodily Injury upon a [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(a), 14-16.8. (6/2022)	J	I
208.04A	Mailing a Threat to Kill or Inflict Serious Bodily Injury upon a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(b), 14-16.8. (4/2022)	J	I
208.04B	Threatening to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(a) (6/2022)		I
208.04C	Mailing a Threat to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(b) (6/2022)		I
208.05	Malicious Castration. G.S. 14-28, -29. (3/2002)	D, H	C, E
208.06	Castration or Other Maiming without Malice Aforethought. G.S. 14-29. (3/2002)	H	E
208.07	Malicious Maiming. G.S. 14-30. (3/2002)	H	C
208.08	Malicious Throwing of Corrosive Acid or Alkali. G.S. 14-30.1. (3/2002)	H	E
208.09	Malicious Assault and Battery in a Secret Manner with a Deadly Weapon with Intent to Kill. G.S. 14-31. (3/2002)	F	E
208.10	Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury. G.S. 14-32(a). (3/2002)	F	C
208.13	Hazing. G.S. 14-35. (4/2004)		Misd 2
208.14	Assault upon a Sports Official. G.S. 14-33(b)(9). (6/2011)	Misd	Misd 1

208.15	Assault with a Deadly Weapon Inflicting Serious Injury. G.S. 14-32(b). (6/2008)	H	E
208.16	Felonious Assault Inflicting Serious Bodily Injury. G.S. 14-32.4. (3/2002)		F
208.25	Assault with a Deadly Weapon with Intent to Kill. G.S. 14-32(c). (3/2002)	H	E
208.30	Assault Offense Classification Chart. (12/1995)		
208.40	Simple Assault—(Not Involving Physical Contact) G.S. 14-33(a). (6/2011)	Misd	Misd 2
208.40A	Simple Assault on an Individual with a Disability. G.S. 14-32.1(f). (6/2019)	Misd	Misd 1
208.41	Simple Assault—(Involving Physical Contact) G.S. 14-33(a). (6/2010)	Misd	Misd 2
208.43	Simple Affray. G.S. 14-33. (6/2017)		Misd 2
208.45	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2011)		H
208.45A	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.45A.1	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.50	Assault with a Deadly Weapon. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.50A	Aggravated Assault on an Individual with a Disability. G.S. 14-32.1(e). (6/2019)	I	F
208.55	Assault Attempting to Inflict Serious Injury. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.60	Assault Inflicting Serious Injury. G.S. 14-33(c)(1). (6/2020)	Misd	Misd A1
208.61	Assault Inflicting Physical Injury by Strangulation. G.S. 14-32.4. (2/2005)		H
208.65	Assault by a Prisoner with a Deadly Weapon Inflicting Bodily Injury. G.S. 14-258.2. (3/2002)	H	F
208.67	Malicious Conduct by a Prisoner—Throwing of [Bodily Fluids] [Excrement] [Unknown Substance] by a Prisoner at a [State] [Local Government] Employee in the Performance of Employee’s Duties. G.S. 14-258.4. (6/2019)		F
208.68	Malicious Conduct by a Prisoner—Exposing Genitalia by a Prisoner to an Employee of [State] [Local Government] in the Performance of Employee’s Duties. G.S. 14-258.4 (6/2019)		I
208.70	Assault on a Female by a Male Person. G.S. 14-33(c)(2). (6/2015)	Misd	Misd A1
208.72	Assault by [Inflicting Serious Injury] [Using a Deadly Weapon] in the Presence of a Minor G.S. 14-33(d). (6/2017)		Misd A1
208.75	Assault on a Child under the Age of Twelve Years. G.S. 14-33(c)(3). (6/2011)	Misd	Misd A1
208.76	Assault on an Unborn Child (6/2012)		Misd A1
208.77	Assault Inflicting Serious Bodily Injury—Unborn Child 6/2012)		F
208.80 Series	Notes to 208.80, 208.80A, 208.80B, 208.80C		
208.80	Index to Instructions in 208.81 Series. Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81	Model Instruction—Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81A	Assault on an Officer—Arrest Situations (Only Officer’s and Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1

		Before 10/1/94	On or After 10/1/94
208.81B	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest and Defendant’s Force). G.S. 14-33(c)(4); 15A-401, 15A-402. (6/2015)	Misd	Misd A1
208.81C	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest without a Warrant, and as to Force Used by Officer and Defendant). G.S.14-33(c)(4). (6/2015)	Misd	Misd A1
208.81D	Simple Assault—Arrest Situations (Issue as to Force Used by Defendant to Resist Unlawful Arrest). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81E	Assault on an Officer—Arrest Situations (Issues as to Officer Status of Victim, Fact of Arrest, and Lawfulness of Arrest—Neither Officer’s Nor Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81F	Assault on an Officer and Simple Assault—Arrest Situations (All Issues in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81G	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2013)		F
208.82	Assault upon an Officer or Employee of the State or of Any Political Subdivision of the State or Public Transit Operator. G.S. 14-33(c)(4). (6/2011)	Misd	Misd A1
208.83	Assault upon a School Employee or Volunteer. G.S. 14-33(c)(6). (6/2011)	-	Misd A1
208.84	Ethnic Intimidation. G.S. 14-401.14. (4/2002)	Misd	Misd 1
208.85	Assault by Pointing a Gun. G.S. 14-34. (4/2002)	Misd	Misd A1
208.90	Discharging a Firearm into Occupied Property. G.S. 14-34.1. (6/2020)	H	E
208.90A	Discharging Barreled Weapon into Occupied Property. G.S. 14-34.1. (6/2011)	H	E
208.90B	[Discharging] [Attempting to Discharge] a Firearm Within an Occupied Building or Other Enclosure With Intent to Incite Fear. G.S. 14-34.10. (6/2018)		F
208.90C	Discharging a Barreled Weapon into Occupied Dwelling. G.S. 14-34.1. (6/2016)		D
208.90D	Discharging a Firearm into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2021)		D
208.90E	Discharging a Barreled Weapon into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2011)		D
208.90F	Discharging a Firearm into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90G	Discharging a Barreled Weapon into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). 6/2011)		C
208.90H	Discharging a Firearm into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90I	Discharging a Barreled Weapon into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90J	Discharging a Firearm into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.(c). (6/2011)		C
208.90K	Discharging a Barreled Weapon into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C

		Before 10/1/94	On or After 10/1/94
208.94	Assault Inflicting [Serious Bodily] [Serious] Injury on a [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2017)		F
208.95	Assault with a Firearm on a Law Enforcement, Probation, or Parole Officer or on a Person Employed at a State or Local Detention Facility. G.S. 14-34.5. (11/1998)	I	E, G
208.95A	Assault with a Firearm or Other Deadly Weapon upon Emergency Medical Services Personnel. G.S. 14-34.6. (2/1999)	I	I, F
208.95B	Assault with a Firearm or Other Deadly Weapon upon an Officer or Employee of the State or of any Political Subdivision of the State, Company Police Officer, or Campus Police Officer. G.S. 14-34.2. (3/1999)	I	F
208.95C	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]—Physical Injury. G.S. 14-34.7(c) (6/2017)		I
208.95D	Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] [Licensed Health Provider]. (6/2018)		I
208.95E	[Serious Bodily Injury Inflicted] [Deadly Weapon Used Other Than a Firearm] in Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] (6/2012)		H
208.95F	Assault on Emergency Personnel—Dangerous [Weapon] [Substance] (6/2012)		I, F
208.95G	Assault on Emergency Personnel—Physical Injury (6/2012)		
208.96A	Adulteration or Misbranding of Food, Drugs or Cosmetics with Intent to Inflict Serious Injury or Death. G.S. 14-34.4(a). (4/2002)	C	C
208.96B	Extortion by Adulteration or Misbranding of Food, Drugs, or Cosmetics. G.S. 14-34.4(b). (4/2002)	C	C
	Kidnapping.		
210.15	False Imprisonment. (4/2002)	Misd	Misd 1
210.20	First Degree Kidnapping (Hostage, Ransom, Shield, or Terror) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2011)	D, E	C, E
210.25	First Degree Kidnapping to Commit [Felony] [Serious Injury] Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2016)	D, E	C, E
210.26	First Degree Kidnapping (Involuntary Servitude) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39; 14-43.2. (3/2005)	D, E	C, E
210.30	Second Degree Kidnapping (Hostage, Ransom, Shield, or Terror). G.S. 14-39. (6/2017)	E	E
210.35	Second Degree Kidnapping (to Commit Felony or Serious Injury). G.S. 14-39. (6/2017)	E	E
210.36	Second Degree Kidnapping (Involuntary Servitude). G.S. 14-39; 14-43.2. (4/2002)	E	E
210.40	Felonious Restraint. G.S. 14-43.3. (6/2011)	J	F

		Before 10/1/94	On or After 10/1/94
210.50	Involuntary Servitude (offenses prior to Dec. 1, 2006). G.S. 14-43.2. (6/2011)	I	F
210.50A	Involuntary Servitude. G.S. 14-43.12. (6/2019)	I	F
210.52	Involuntary Servitude of a Minor. G.S. 14-43.12. (6/2019)		C
210.60	Child Abduction. G.S. 14-41. (6/2011)	G	F
210.70	Sexual Servitude. G.S. 14-43.13. (6/2020)		F
210.72	Sexual Servitude of a Minor. G.S. 14-43.13. (6/2020)		C
210.80	Human Trafficking Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		F
210.82	Human Trafficking Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		F
210.84	Human Trafficking of a Minor Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		C
210.86	Human Trafficking of a Minor Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		C
210.88	Unlawful [Sale] [Surrender] [Purchase] of a Minor. G.S. 14-43.14. (6/2019)		F
210.89	Promoting Travel For Unlawful Sexual Conduct. (6/2020)		G
210.90	Unlawful Transfer of Custody of a Minor Child by a Parent. G.S. 14-321.2(a)(1). (6/2017)		Misd 2
210.91	Unlawful Transfer of Custody of a Minor Child by a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(1). (6/2017)		G
210.92	Unlawful Acceptance of Custody of a Minor Child from a Parent. G.S. 14-321.2(a)(2). (6/2017)		Misd 2
210.93	Unlawful Acceptance of Custody of a Minor Child from a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(2). (6/2017)		G
210.94	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] or [Assisting] in the Unlawful Transfer of Custody of a Minor Child. G.S. 14-321.2(a)(3). (6/2017)		Misd 2
210.95	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] [Assisting] in the Unlawful Transfer of Custody of a Minor Child Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(3). (6/2017)		G
210.96	Knowingly Mutilating The Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.97	[Consenting to] [Permitting] the Mutilation of the Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.98	Knowingly [Removing] [Permitting the Removal of] a Child Less Than 18 Years of Age From The State For The Purpose of Mutilating The Child's Female Genitals. (6/2020)		C
	Abortion and Similar Offenses.		
211.50	Concealing Birth of a Child. G.S. 14-46. (5/2002)	H	H
211.60	Unlawful Sale of the Remains of an Unborn Child from [Abortion] [Miscarriage]. G.S. 14-46.1 (6/2016)		
	Libel and Slander.		
212.10	Communicating Libelous Matter to Newspapers. G.S. 14-47. (5/2002)	Misd	Misd 2

		Before	On or After
		10/1/94	10/1/94
	Use of Explosives or Incendiary Devices.		
213.10	Malicious Use of Explosive or Incendiary Device—Personal Injury. G.S. 14-49(a). (5/2002)	E	D
213.15	Malicious Use of Explosive or Incendiary Device—Property Damage. G.S. 14-49(b). (5/2002)	E	G
213.20	Malicious Damage of Occupied Property by Use of Explosive or Incendiary [Device] [Material]. G.S. 14-49.1. (11/2003)	C	D
213.25	Maliciously Damaging Church or Other Building of Worship by Use of an Explosive or Incendiary Device. G.S. 14-49(b1). (1/2004)		E
213.30	Maliciously Damaging State or Local Government Buildings by Use of an Explosive or Incendiary Device. G.S. 14/49(b2). (1/2004)		E
	Burglary and Breaking and Entering.		
214.10	First Degree Burglary Covering Second Degree Burglary, Felonious Breaking or Entering and Nonfelonious Breaking or Entering as Lesser Included Offenses. G.S. 14-51, -52, -54. (6/2011)	C, D, H, Misd	D, G, H, Misd 1
214.11	Second Degree Burglary. G.S. 14-51, -52. (6/2011)	D	G
214.20	Habitual Breaking or Entering (6/2018)		E
214.30	Felonious Breaking or Entering. G.S. 14-54. (5/2002)	H, Misd	H, Misd 1
214.31	First-Degree Trespass. G.S. 14-159.12. (5/2019)	Misd	Misd 2
214.31A	Second-Degree Trespass. G.S. 14-159.13. (5/2002)	Misd	Misd 3
214.31B	First-Degree Trespass. G.S. 14-159.12(f). (6/2017)		I
214.32	Felonious Breaking or Entering. G.S. 14-54. Felonious Larceny—Pursuant to a Breaking or Entering Where the Property Is Worth More Than \$1,000. G.S. 14-70, 14-72(a), (b)(2). (6/2012)	H, Misd	H, Misd 1
214.34	Misdemeanor Breaking or Entering. G.S. 14-54. (5/2002)	Misd	Misd 1
214.35	Possession without Lawful Excuse of an Implement of Housebreaking. G.S. 14-55. (6/2011)	E	I
214.40	Breaking or Entering into Motor Vehicle. G.S. 14-56. (6/2022)	I	I
214.41	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		Misd 1
214.42	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		I, Misd 1
214.43	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		Misd 1
214.44	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		I, Misd 1
214.45	Felonious Breaking or Entering—Place of Religious Worship. G.S. 14-54.1. (6/2006)		G

214.46	Breaking or Entering into Certain Law Enforcement Vehicles. (6/2022)		H
214.47	Felonious Breaking or Entering—Intent to [Injure] [Terrorize] Occupant. G.S. 14-54. (6/2014)		H
214.50	(Misdemeanor) Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	Misd	Misd 1
214.51	Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	H, Misd	H, Misd 1
214.55	(Misdemeanor) Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	Misd	Misd 1
214.56	Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	H, Misd	H, Misd 1
214.60	Destroying or Damaging Coin- or Currency-Operated Machines. G.S. 14-56.2. (5/2002)	Misd	Misd 1
214.65	Burglary with Explosives or Acetylene Torch. G.S. 14-57. (5/2002)	E, H, Misd	D, H, Misd 1
214.70	Breaking or Entering of a Pharmacy With The Intent To Commit Larceny of a Controlled Substance. (6/2020)		E
	Arson and Other Burnings.		
215.11	First Degree Arson (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (5/2002)	C, D, E	D, G, F
215.11A	First Degree Arson, Burning a Structure within the Curtilage of the Dwelling House (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (3/2005)	C, D, E	D, G, F
215.12	Second Degree Arson. G.S. 14-58. (5/2002)	D	G
215.25	Wanton and Willful Burning—Property. G.S. 14-58 through 14-67.1. (5/2002)	E	D-H
215.30	Wanton and Willful Burning of a [Boat] [Barge] [Ferry] [Float]. G.S. 14-63. (5/2002)	H	H
215.35	Wanton and Willful Burning of a [Ginhouse] [Tobacco House] [Miscellaneous Structure]. G.S. 14-64, -67.1. (5/2002)	H	H
215.40	Wanton and Willful or Fraudulent Burning of a Dwelling House by the Owner or Occupant. G.S. 14-65. (5/2002)	H	H
215.45	Burning Personal Property with Intent to Injure or Prejudice. G.S. 14-66. (5/2002)	H	H
215.50	Arson or Other Unlawful Burning Resulting in Serious Bodily Injury to a Firefighter, Law Enforcement Officer, or Emergency Medical Technician. G.S. 14-69.3. (6/2019)		E
215.60	Burning Caused During Commission of Another Felony. G.S. 14-67.2 (6/2019)		D
215.85	Making a False Report concerning a Destructive Device. (Other Than Public Building). G.S. 14-69.1(a). (6/2006)	-	H
215.85B	Making a False Report concerning a Destructive Device— (Public Building). G.S. 14-69.1(c). (6/2006)	-	H, G
215.86	Perpetrating Hoax by Use of a False Bomb or Other Device— (Other Than Public Building). G.S. 14-69.2(a). (2/2000)	-	H
215.86B	Perpetrating Hoax by Use of a False Bomb or Other Device— (Public Building). G.S. 14-69.2(c). (2/2000)	-	H, G
215.87	Making a False Report Concerning a Threat of Mass Violence on Educational Property. G.S. 14-277.5(b). (6/2008)	H	

215.90	Communicating a Threat of Mass Violence on Educational Property. G.S. 14-277.6 (6/2019)		H
215.91	Communicating a Threat of Mass Violence at a Place of Religious Worship. G.S. 14-277.7 (6/2019)		H
	Larceny.		
216.05	Misdemeanor Larceny. G.S. 14-72(a). (6/2013)	Misd	Misd 1
216.07	Larceny of Motor Fuel Valued at Less Than \$1,000. G.S. 14-72.5(a). (6/2010)		Misd 1
216.08	Felonious Larceny—Habitual Misdemeanor Larceny. G.S. 14-72(b)(6). (6/2013).		H
216.10	Felonious Larceny—Goods Worth More Than \$1,000. G.S. 14-70, -72(a). (6/2021)	H, Misd	H, Misd 1
216.11	Felonious Larceny—[Explosive Device] [Incendiary Device]. G.S. 14-70, -72(b)(3). (2/2000)	H, Misd	H, Misd 1
216.11A	Felonious Larceny—Firearm. G.S. 14-70, -72(b)(4). (12/1999)	H, Misd	H, Misd 1
216.13	Larceny of Chose in Action. G.S. 14-75. (6/2017)		H
216.15	Felonious Larceny—by Trick. G.S. 14-70, -72. (5/2002)	H, Misd	H, Misd 1
216.20	Felonious Larceny—From the Person. G.S. 14-70, -72(b)(1). (6/2011)	H, Misd	H, Misd 1
216.30	Felonious Larceny—Pursuant to Breaking/Entering Offense. G.S. 14-70, -72(b)(2). (5/2002)	H	H
216.35	Felonious Larceny—Pursuant to Breaking/Entering Offense Where the Property Is Worth More Than \$1,000. G.S. 14-70, -72(a), (b)(2). (5/2002)	H, Misd	H, Misd 1
216.36	Larceny from a Permitted Construction Site—Goods Worth More Than \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.37	Felonious Larceny—Motor Vehicle Parts Worth More Than \$1,000. G.S. 14-72.8 (6/2022)		I
216.38	Larceny of Law Enforcement Equipment Worth More Than \$1,000 from Certain Law Enforcement Vehicles. (6/2022)		G
216.39	Larceny of Law Enforcement Equipment from Certain Law Enforcement Vehicles Worth Less Than \$1,000. (6/2022)		H
216.40	Feloniously Receiving Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.41	Feloniously Receiving Stolen Goods from a Permitted Construction Site—Goods Valued in Excess of \$300 and Less Than \$1,000. G.S. 14-72.6. (6/2006)		I
216.42	Felonious [Receiving] [Possessing] Property in the Custody of a Law Enforcement Agency. G.S. 14-71(b). (6/2009)		H
216.43	Receiving Stolen Controlled Substances – Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.45	Felonious Receiving Stolen Goods—Pursuant to a Breaking or Entering. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.46	Misdemeanor Possession of Stolen Goods. G.S. 14-70, -72(a). (5/2002)	Misd	Misd 1
216.47	Felonious Possession of Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.48	Possession of Property Stolen Pursuant to a Breaking or Entering. G.S. 14-71.1, -72(b)(1) and (2). (5/2002)	H	H

		Before 10/1/94	On or After 10/1/94
216.48A	Felonious Possession of Stolen Goods—Stolen Pursuant to a Breaking or Entering or Worth More Than \$1,000 (Including Non-Felonious Possession). G.S. 14-71.1, -72(b)(1) and (2). (6/2008)	H, Misd	H, Misd 1
216.48B	Possession of Controlled Substances—Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.49	Possession of Stolen Explosives, Public Records. G.S. 14-71.1, -72(b)(3), (4), and (5). (5/2002)	H	H
216.49A	Possession of Feloniously Taken Property Other Than by Larceny (e.g., Embezzlement). G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.49B	Possession of Stolen Firearm. G.S. 14-71.1 and -72(b)(4). (5/2002)	H	H
216.49C	Felonious Possession of Stolen Goods from Permitted Construction Site—Goods Valued in Excess of \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.50	Willfully Concealing the Merchandise of a Store—Shoplifting. G.S. 14-72.1(a). (3/2003)	Misd	Misd 3
216.52	Larceny by Price Tag Change. G.S. 14-72.1(d). (5/2002)	Misd	Misd 3
216.55	Willfully Concealing the Merchandise of a Store—Using Lead- or Aluminum-Lined Bag or Article of Clothing to Prevent Activation of Anti-Shoplifting Device or Inventory Control Device. G.S. 14-72.1(a), (d1). (5/2004)		H
216.56	Larceny from a Merchant. G.S. 14-72.11. (6/2018)		H
216.57	Organized Retail Theft. Retail Property with Value Exceeding \$1,500, Aggregated Over 90-Day Period. G.S. 14-86.6(a)(1). (6/2018)		H
216.57A	Organized Retail Theft Conspiracy — Retail Property with Value Exceeding \$20,000, Aggregated Over 90-Day Period. (6/2018)		
216.58	[Receiving] [Possessing] Retail Property Obtained by Organized Retail Theft. G.S. 14-86.6(a)(2). (6/2009)		H
216.59	Organized Retail Theft — Acting as Leader. (6/2018)		
216.60	Larceny by an Employee. G.S. 14-74. (3/1998)	H	H
216.60A	Larceny by an Employee. G.S. 14-74, -75. (4/1998)		C, H (12/97)
216.61	Appropriation of Partnership Funds by Partner to Personal Use. G.S. 14-97. (5/1998)		C, H
216.62	Embezzlement by Insurance [Agents] [Brokers] [Administrators]. G.S. 58-2-162. (6/2010)		C, H
216.70	Felonious [Altering] [Destroying] [Disassembling] [Dismantling] [Reassembling] [Storing] of Any [Motor Vehicle] [Motor Vehicle Part] Illegally Obtained by [Theft] [Fraud] [Other Illegal Means]. G.S. 14-72.7(a)(1). (6/2014)		
216.71	Felonious Permitting of Chop Shop Activity on Property. G.S. 14-72.7(a)(2). (6/2014)		H
216.72	Felonious [Purchasing] [Disposing] [Selling] [Transferring] [Receiving] [Possessing] of [Motor Vehicles] [Motor Vehicle Parts] with an Altered [Vehicle Identification Number] [Vehicle Part Identification Number]. G.S. 14-72.7(a)(3). (6/2014)		H

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
216.73	Felonious [Purchasing] [Disposing of] [Selling] [Transferring] [Receiving] [Possessing] a [Motor Vehicle] [Motor Vehicle Part] from a Person Engaged in a Chop Shop Activity. G.S. 14-72.7(a)(4). (6/2014)		H
216.77	Purchasing of Vehicles for the Purpose of Scrap Parts Only and Failing to Comply with Certain Requirements Mandated by Law. G.S. 20-62.1 (6/2019)		I
216.80	Purchase of Regulated Metals by Secondary Metals Recyclers from Other Than a Fixed Location. G.S. 66-11(d)(1). (6/2008)		Misd 1
216.81	[Purchasing] [Receiving] of Regulated Metals by Secondary Metals Recyclers from (a) Minor(s). G.S. 66-11(d)(1). (6/2008)		Misd 1
216.82	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] Less than \$1,000. G.S. 14-159.4(c)(1) (6/2013)		Misd 1
216.83	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$1,000 or More (But Less than \$10,000). G.S. 14-159.4(c)(1) (6/2013)		H
216.84	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$10,000 or More. G.S. 14-159.4(c)(1) (6/2013)		F
216.85	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Injury. G.S. 14-159.4(c)(2) (6/2013)		Misd A1
216.86	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Bodily Injury. G.S. 14-159.4(c)(3). (6/2013)		F
216.87	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Death. G.S. 14-159.4(c)(4) (6/2013)		D
216.88	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Critical Infrastructure. G.S. 14-159.4(c)(5) (6/2013)		Misd 1
216.90	Unauthorized Use of a Conveyance. G.S. 14-72.2. (5/2002)	I, Misd	I, Misd 7
216.93	Larceny of Pinestraw. G.S. 14-79.1. (11/1998)		H
216.95	Felonious Larceny of Ungathered Crops. G.S. 14-78. (5/2002)	H, Misd	H, Misd 1
216.96	Felonious Larceny of Horses, Mules, Swine, Cattle, or Dogs. G.S. 14-81. (2/2003)	H, J	H, I
216.97	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Deprive the Owner of the [Special] [Temporary] Use of Such Property. G.S. 14-82. (2/2003)	Misd	Misd 2
216.98	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Use Such Property for a [Special] [Temporary] Purpose. G.S. 14-82. (2/2003)	Misd	Misd 2
	Robbery.		
217.10	Common Law Robbery. G.S. 4-1, 14-2, 14-87.1. (6/2022)	H	G
217.20	Robbery with a Firearm. G.S. 14-87. (6/2022)	D	D
217.25	Attempted Robbery with a Firearm. G.S. 14-87. (5/2003)	D	D

217.30	Robbery with a Dangerous Weapon—Other Than a Firearm Covering Common Law Robbery as a Lesser Included Offense. G.S. 14-87, 14-87.1, 14.1, 14.2. (6/2022)	D, H	D
217.50	Safecracking—By Explosives, Drills, or Tools. G.S. 14-89.1(a)(1). (6/2017)	H	I
217.51	Safecracking—By Stolen Combination, Key, Electronic Device or Fraudulently Acquired Implement or Means. G.S. 14-89.1(a)(2). (6/2017)	H	I
217.52	Safecracking—By Use of [[Master Key] [Duplicate Key] [Device] [[Made] [Obtained]] in an Unauthorized Manner] [Stethoscope] [Listening Device] [Surreptitious Means]. G.S. 14-89.1(a)(3). (6/2017)	H	I
217.53	Safecracking—All Other Means. G.S. 14-89.1(a)(3) and (4). (6/2017)	H	I
217.54	Safecracking—Removing Safe or Vault from Premises. G.S. 14-89.1(b). (5/2003)	H	I
	Embezzlement.		
218.10	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162. (6/2010)	H	H
218.10A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90; 58-2-162. (6/2010)		C, H (12/97)
218.15	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		H
218.15A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		C
218.20	Willful Misapplication of Corporate Money, Funds or Credits. G.S. 14-254. (5/2003)	G	H
218.21	Unauthorized Issuance of Corporate Instruments. G.S. 14-254. (5/2003)	G	H
218.22	False Entries by Corporate Officers or Agents. G.S. 14-254. (5/2003)	G	H
218.25	Embezzlement of State Property by Public Officers and Employees. G.S. 14-91. (6/2010)		F
218.25A	Embezzlement of State Property Valued at \$100,000 or More by Public Officers and Employees. G.S. 14-91. (6/2010)		C
218.30	[Misapplication] [Embezzlement] of Bank Funds (6/2013)		C, H
	False Pretenses and Cheats.		
219.10	Obtaining Property by False Pretenses. G.S. 14-100. (6/2021)	H	H
219.10A	Obtaining Property by False Pretenses (Value of Property \$100,000 or More). G.S. 14-100. (6/2020)		C, H (12/97)
219.11	Fraudulent Misrepresentation Involving Child Care Subsidies. G.S. 110-107. (4/2000)	-	Class 1; I
219.20	Obtaining Advances under Promise to Work. G.S. 14-104. (10/1998)	-	Misd 2
219.40	Obtaining Property in Return for Worthless Check, with Intent to Cheat and Defraud. G.S. 14-106. (3/2003)	Misd	Misd 2
219.50A	Worthless Check—Insufficient Funds (Less Than \$2,000). G.S. 14-107(a), (d)(1). (6/2014)	-	Misd 2

219.51A	Worthless Check—Insufficient Funds (More Than \$2,000). G.S. 14-107(a), (d). (6/2014)	J	I
219.52	Worthless Check—Drawn on Non-Existent Account. G.S. 14-107(d)(3). (5/2000)	Misd	Misd 1
219.53	Worthless Check—Drawn on Closed Account. G.S. 14-107(d)(4). (5/2000)	Misd	Misd 1
	Credit Card Crime Act.		
219B.10	Credit Card (Financial Transaction Card) Theft. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.11	Credit Card (Financial Transaction Card) Theft—Receiving Stolen Card. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.20	Credit Card (Financial Transaction Card) Theft—Use of Lost, Mislaid, or Mistakenly Delivered Card. G.S. 14-113.9(a)(2). (4/2003)	J	I
219B.25	Credit Card (Financial Transaction Card) Theft—Buying a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.26	Credit Card (Financial Transaction Card) Theft—Selling a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.30	Forgery of a Credit Card (Financial Transaction Card)—Making or Embossing Credit Card. G.S. 14-113.11(a)(1). (4/2003)	J	I
219B.31	Forgery or Uttering of a Forged Credit Card (Financial Transaction Card)—Falsely Encoded, Duplicated, Altered, or Uttered. G.S. 14-113.11(a)(2). (4/2003)	J	I
219B.35	Forgery of a Credit Card (Financial Transaction Card)— Unauthorized Signing of a Credit Card. G.S. 14-113.11(a)(3). (4/2003)	J	I
219B.40	Credit Card (Financial Transaction Card) Fraud—Credit Card Stolen, Forged, Falsely Represented, Expired, or Revoked. G.S. 14-113.13(a)(1)(2); (b). (4/2003)	J, Misd	I, Misd 2
219B.41	Credit Card Fraud—False Representation as to Holding or Issuance of Card. G.S. 14-113.13(a)(2). (5/2003)	J, Misd	I, Misd 2
219B.42	Credit Card Fraud—Where Defendant Held or Controlled Card as Security for Debt. G.S. 14-113.13(a)(3). (5/2003)	J, Misd	I, Misd 2
219B.43	Credit Card Fraud—By Furnisher of Goods and Services. G.S. 14-113.13(b)(1). (4/2003)	J, Misd	I, Misd 2
219B.44	Credit Card (Financial Transaction Card)—Fraud by Misrepresentation to Issuer. G.S. 14-113.13(b)(2). (4/2003)	J, Misd	I, Misd 2
219B.50	Criminal Possession of Incomplete Credit Cards (Financial Transaction Card). G.S. 14-113.14(a)(1). (4/2003)	J	I
219B.55	Criminal Possession of Credit Card (Financial Transaction Card)—Reproduction Device. G.S. 14-113.14(a)(2). (4/2003)	J	I
219B.60	Credit Card Fraud—Criminal Factoring of Transaction Card Records of Sale. G.S. 14-113.15A. (4/2003)	I	I
219B.65	[Possessing] [Selling] [Delivering] a Skimming Device. (6/2022)		I
219B.80	Identity Theft. G.S. 14-113.20, 14-113.22. (6/2020)		F, G
219B.80A	Identity Theft—Financial Fraud Resulting in Another Person’s [Arrest] [Detention] [Conviction of a Criminal Offense]. G.S. 14-113.20, -113.22. (6/2010)	-	F, G
219B.80B	Identity Theft—Possession of Identifying Information Pertaining to Three or More Persons. G.S. 14-113.20, - 113.22. (6/2010)		F, G

		Before	On or After
		10/1/94	10/1/94
219B.85	Identity Theft—Trafficking in Stolen Identities. G.S. 14-113.20A. (6/2010)		E
219C.05	Willfully Failing to Make North Carolina Income Tax Returns. G.S. 105-236(9). Deleted. (6/2013).	Misd	Misd 1
219D.10	Fraudulent Misrepresentation Involving a [License Application] [Other Document] Filed Pursuant to the North Carolina Money Transmitters Act. G.S. 53-208.58(b). (6/2017)		Misd 1
219D.15	Engaging in the Business of Money Transmission Without a License. G.S. 53-208.58(c). (6/2017)		Misd 1
219D.20	Unlawfully Engaging in the Business of Money Transmission—Any Reason. G.S. 53-208.58(a). (6/2017)		Misd 1
	Frauds.		
220.10	Fraudulent Disposal of Personal Property on Which There Is a Security Interest. G.S. 14-114. (5/2003)	Misd	Misd 2
220.20	Secreting Property to Hinder Enforcement of Lien or Security Interest. G.S. 14-115. (5/2003)	Misd	Misd 2
220.22	Filing False Security Agreements (6/2013)		I
220.24	Improper Filing of Lien on [Real Property] [Other Document]. G.S. 44A-12.1(c). (6/2013)		I
220.26	Filing [False Lien] [Encumbrance]. G.S. 14-118.6. (6/2020)		I
220.28	Simulation of Court Process in Connection with Collection of [a Claim] [a Demand] [an Account]. G.S. 14-118.1 (6/2013)		I
220.30	Residential Mortgage Fraud. G.S. 14-118.12(a)(1)–(2). (6/2013)		H
220.31	[Receiving] [Attempting to Receive] Proceeds from Residential Mortgage Fraud. G.S. 14-118.12(a)(3). (6/2008)		H
220.32	Conspiracy to Commit Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.33	Solicitation of Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.34	Pattern of Residential Mortgage Fraud. G.S. 14-118.15. (6/2008)		H, E
220.35	False Statement of Sums Due for [Labor] [Materials] Furnished at Site of Improvements to Real Property (6/2013)		Misd 1
220.40	Fraudulent and Deceptive Advertising. G.S. 14-117. (5/2003)	Misd	Misd 2
220.50	[Improper] [Fraudulent] Receipt of Decedent’s [Retirement Allowance] [Disability Benefit]. G.S. 135-18.11. (6/2013)		Misd 1
220.53	Improper Receipt of a Decedent’s Disability Income Plan Allowance from the State of North Carolina. G.S. 135.111.1. (6/2014)		Misd 1
220.55	Fraudulently [Obtaining] [Increasing] Benefit Under Unemployment Insurance. G.S. 96-18.A. (6/2013)		I, Misd 1
220.60	Blackmail—Other Than by Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.65	Blackmail—By Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.70	Obtaining Academic Credit by Fraudulent Means. G.S. 14-118.2. (5/2003)	Misd	Misd 2
220.80	Extortion. G.S. 14-118.4. (5/2003)	H	F
220.85	Exploitation of [Disabled] [Older] Adult by a Person in a [Position of Trust] [Business Relationship with the Adult]. G.S. 14-112.2(b), (d). (6/2014)		F, G, H
220.90	Fraud in Connection with Rental of Motor Vehicle. G.S. 20-106.1. (3/2003)	J	I

220.91	Failing to Return Rented Property on Which There Is a Purchase Option (Rent to Own). G.S. 14-168.4. (5/2003)	Misd	Misd 2
220.95	Interfering with Gas, Electric, and Steam [Appliances] [Meters]. G.S. 14-151. (6/2014)		Misd 1
220.97	[Possession] [Transfer] [Use] of Automated Sale Suppression Device. G.S. 14-118.7. (6/2014)		H
	Forgery.		
221.10	Forgery of Notes, Checks, and Other Securities. G.S. 14-119(a). (6/2008)	I	I
221.12	Possession of Counterfeit Instrument(s). G.S. 14-119(a). (6/2008)		I
221.14	Possession of Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.16	Transporting Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.20	Uttering Forged Instrument or Instrument Containing a Forged Endorsement. G.S. 14-120. (4/2003)	I	I
221.40	Forgery of Deeds, Wills and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.41	Showing Forth in Evidence Forged Deeds, Wills, and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.80	Forgery of Writings (Common Law Misdemeanor). (5/2003)	Misd	Misd 1; H
	Trespasses to Land and Fixtures.		
222.15	Willful and Wanton Injury to Real Property. G.S. 14-127. (5/2003)	Misd	Misd 1
222.16	Felonious Injury to Houses or Other Buildings Including Lesser Offense (6/2009)		I
222.17	Misdemeanor Injury to Houses or Other Buildings. G.S. 14-144. (6/2009)		Misd 2
222.18	Felonious Injury to Fences or Walls Including Lesser Offense. G.S. 14-144. (6/2009)		I
222.19	Misdemeanor Injury to Fences or Walls. G.S. 14-144. (6/2009)		Misd 2
222.20	Forcible Trespass to Real Property (Common Law Misdemeanor). (5/2003)	Misd	Misd 1
222.22	Unlawfully [Stopping] [Impeding] [Delaying] [Detaining] a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.23	Refusing to Leave a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.24	Trespassing on Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.26	Trespass—Electric Power Supplier—Basic Offense. G.S. 14-159.12(c). (6/2013)		Misd A1
222.28	Trespass—Electric Power Supplier—[Intent to Disrupt Normal Operation of Facility] [Act that Placed [Offender] [Another Person] at Risk of Serious Bodily Injury]. G.S. 14-159.12(d). (6/2013)		H
222.30	Domestic Criminal Trespass. G.S. 14-134.3(a). (5/2003)		Misd 1
222.31	Aggravated Domestic Criminal Trespass. G.S. 14-134.3(b). (5/2003)		G

222.32	Interfering with Emergency Communications. G.S. 14-286.2. (5/2002)		Misd A1
222.33	Trespassing by Person Subject to Valid Protective Order onto Property Operated as a Safe House or Haven for Victims of Domestic Violence. (6/2011)		H
222.40	Setting Fire to [Grassland] [Brushland] [Woodland] Property of Another. G.S. 14-136. (4/2003)	Misd	Misd 2
222.40A	Setting Fire to [Grassland] [Brushland] [Woodland] (Defendant's Property). G.S. 14-136. (4/2003)	Misd	Misd 2
222.41	Setting Fire to [Grassland] [Brushland] [Woodland] with Intent to Damage Property of Another. G.S. 14-136. (3/2003)	I	I
222.42	[Cutting] [Injuring] [Removing] Another's Timber. G.S. 14-135, 14-72.		Misd 1, H
222.45	Toxic Substances, Dumping. G.S. 14-284.2. (5/2003)		F
222.50	Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		Misd 1
222.51	Desecration of Human Remains. G.S. 14-149. (6/2008)		H
222.52	Felonious Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		I
222.60	Injuring Telecommunication Wires. G.S. 14-154. (6/2008)		I
222.65	Trespassing for the Purpose of [Hunting] [Fishing] [Trapping] (6/2012)		Misd 1
222.66	Trespassing for the Purpose of [Raking] [Removing] Pine Straw (6/2012)		Misd 1
222.68	Improper Taking of [Menhaden] [Atlantic Thread] Herring. G.S. 113-187. (6/2013)		Misd A1
222.69	Unlawful Dealings with [Ginseng] [Galax] [Venus Flytrap]. G.S. 106-202.19(a). (6/2013)		Misd 2
222.70	Trespass to Land on a Motorized All Terrain Vehicle. G.S. 14-159.3. (6/2015)		Misd 2
222.75	Collection of [Seismic] [Geophysical] Data on Another's Property Without Written Consent. G.S. 113-395.4. (6/2015)		Misd 1
222.80	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		Misd
222.85	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		
	Trespasses to Personal Property.		
223.15	Willful and Wanton Injury to Personal Property Causing Damage of More Than \$200. G.S. 14-160. (5/2003)	Misd	Misd 1, 2
223.20	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property. G.S. 14-160.1(a). (3/2022)	Misd	Misd 1
223.20A	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property Worth More Than \$1,000. (6/.2022)		H
223.21	[Buying] [Selling] [Possessing] Item of Personal Property on Which the Permanent Identification Mark Has Been [Altered] [Destroyed] [Defaced] [Removed]. G.S. 14-160.1(b). (3/2022)	Misd	Misd 1
223.21A	[Buying] [Selling] [Possessing] Item of Personal Property Worth More Than \$1,000 on Which the Permanent Identification Mark has Been [Altered] [Destroyed] [Defaced] [Removed]. (6/2022)		I
223.25	Felonious Computer Trespass. G.S. 14-453, -458. (4/2000)		Class 3; 1/I
223.30	Willfully Damaging [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455. (6/2009)		Misd 1

223.31	Willfully Damaging Government [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455(b). (6/2009)		F
223.40	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		Misd 1
223.45	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		I, Misd 1
223.70	Injuring, Destroying, Removing, Vandalizing, or Tampering with Firefighting or Emergency Medical Services Machinery or Equipment. (6/2018)		
223.71	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System. (6/2020)		Misd 2
223.72	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System in a [Prison] [Local Confinement Facility]. (6/2020)		H
223.73	Giving False Alarms. (6/2020)		Misd 2
223.74	Willfully [Misusing] [Damaging] a Portable Fire Extinguisher. (6/2020)		Misd 2
	Vehicles and Draft Animals—Protection of Bailor against Acts of Bailee.		
224.10	[Willful] [Malicious] Injury to [Rented] [Hired] Personal Property. G.S. 14-165. (3/2003)	Misd	Misd 2
224.20	Failure to Return [Rented] [Hired] Property. G.S. 14-167. (3/2003)	Misd	Misd 2
224.25	Failure to Return [Rented] [Hired] [Leased] Motor Vehicle Valued in Excess of \$4,000. G.S. 14-167. (6/2006)		
224.30	Felonious Conversion by Bailee. G.S. 14-168.1 (4/2003)	H, Misd	H, Misd 1
	Offenses against Public Morality and Decency.		
225.10	[Knowingly] [Willingly] [Abusing] [Mutilating] a Dead Human Body in a Person’s Custody. 90-210.25(5)(2) (6/2019)		Misd 2
225.15	Unauthorized Practice of [Embalming] [Funeral Directing] [Funeral Service] [Operating Funeral Establishment]—Practicing Without a License (Including While Representing Oneself as Being Licensed. G.S. 90-210.25(f)(1) (6/2019)		Misd 2
226.10	Crime against Nature—Animals. G.S. 14-177. (6/2006)	H	I
226.10A	Crime against Nature—Persons. G.S. 14-177. (6/2019)		
226.20	Incest. G.S. 14-178. (3/2003)	G	F
226.20A	Incest with a Person under the Age of Thirteen Years. G.S. 14-178. (3/2003)	G	B1
226.20B	Incest with a Person [Thirteen] [Fourteen] [Fifteen] Years of Age. G.S. 14-178. (3/2003)		B1, C
226.45	Bigamy. G.S. 14-183. (3/2003)	H	I
226.46	Bigamous Cohabitation. G.S. 14-183. (4/2003)	H	I
226.50	Fornication and Adultery. G.S. 14-184. (1/2004)	Misd	Misd 2
226.55	Using Profane or Indecent Language over a Telephone. G.S. 14-196(a)(1). (3/2001)	Misd	Misd 2
226.56	Using Threatening Language by Way of Telephone. G.S. 14-196(a)(2). (3/2001)	Misd	Misd 2
226.57	Harassing by Repeated Telephone Calls. G.S. 14-196(a)(3). (3/2001)	Misd	Misd 2
226.58	Disrupting Telephone Service of Another. G.S. 14-196(a)(4). (3/2001)	Misd	Misd 2

		Before 10/1/94	On or After 10/1/94
226.59	Harassing by Imparting False Information by Telephone. G.S. 14-196(a)(5). (3/2001)	Misd	Misd 2
226.60	Cyberstalking—Threatening Language. G.S. 14-196.3(b)(1). (3/2001)		Misd 2
226.60A	Cyberstalking—Harassment. G.S. 14-196.3(b)(2). (1/2001)		Misd 2
226.60B	Cyberstalking—False Statement. G.S. 14-196.3(b)(3). (3/2001)		Misd 2
226.60C	Cyberstalking—Permitting Communication. G.S. 14-196.3(b)(4). (3/2001)		Misd 2
226.62	Cyberstalking Through Use of An Electronic Tracking Device. G.S. 14-196.3 (6/2016)		
226.65	Cyber-bullying with Intent to [Intimidate] [Torment] a Minor. G.S. 14-458.1(a)(1). (6/2017)		Misd 1, Misd 2
226.66	Cyber-bullying with Intent to [Intimidate] [Torment] [a Minor] [a Minor’s [Parent] or [Guardian]]. G.S. 14-458.1(a)(2). (6/2010)		Misd 1, Misd 2
226.67	Cyber-bullying—Using a [Computer] [Computer Network] to Plant any Statement to Provoke a Third Party to [Stalk] [Harass] a Minor. G.S. 14-458.1(a)(3). (6/2010)		Misd 1, Misd 2
226.68	Cyber-bullying—Using a [Computer] [Computer Network] to [Copy and Disseminate] [Cause to be Made] an Unauthorized Copy of Data Pertaining to a Minor for the Purpose of [Intimidating] [Tormenting] that Minor. G.S. 14-458.1(a)(4). (6/2010)		Misd 1, Misd 2
226.69	Cyber-bullying—Signing up a Minor for a Pornographic Internet Site. G.S. 14-458.1(a)(5). (6/2010)		Misd 1, Misd 2
226.70	Cyber-bullying—Using a [Computer] [Computer Network] to Sign up a Minor for [Electronic Mailing List] [Electronic Messages] Without Consent of the [Minor] [Minor’s [Parent] [Guardian]] Resulting in [Intimidation] [Torment] of the Minor. G.S. 14-458.1(a)(6). (6/2010)		Misd 1, Misd 2
226.71A	Cyber-bullying of School Employee by Student—[Computer] [Internet] Interference with Employee. G.S. 14-458.2(b)(1). (6/2013)		Misd 2
226.72B	Cyber-bullying of School Employee by Student—Statements Likely to Provoke Action. G.S. 14-458.2(b)(2). (6/2013)		Misd 2
226.72C	Cyber-bullying of School Employee by Student—Unauthorized Copying of Data. G.S. 14-458.2(b)(3). (6/2013)		Misd 2
226.72D	Cyber-bullying of School Employee by Student—Pornographic Internet Site. G.S. 14-458.2(b)(4). (6/2013)		Misd 2
226.72E	Cyber-bullying of School Employee by Student—Electronic Mailing Lists. G.S. 14-458.2(b)(5). (6/2013)		Misd 2
226.75	Secretly Peeping into Room Occupied by Another Person. G.S. 14-202(a). (12/2003)	Misd	Misd 1
226.75A	Secretly Peeping through the Use of a Mirror or Other Device. G.S. 14-202(a1). (2/2005)		Misd 1
226.76	Secretly Peeping into Room While in Possession of a Device Used to Create a Photographic Image. G.S. 14-202(c). (4/2004)		Misd A1
226.77	Felonious Secretly Peeping into Room Occupied by Another Person and Using a Device to Create a Photographic Image of a Person in That Room for the Purpose of Sexual Arousal or Gratification. G.S. 14-202(d). (4/2004)		

		Before	On or After
		10/1/94	10/1/94
226.78	Secretly or Surreptitiously Using a Device to Create a Photographic Image of Another Person Underneath or through the Clothing. G.S. 14-202(e). (4/2004)		I
226.79	Secretly or Surreptitiously Installing a Device Used to Create a Photographic Image. G.S. 14-202(f). (4/2004)		I
226.80	Knowingly Possessing a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(g). (5/2004)		I
226.81	Knowingly Disseminating a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(h). (5/2004)		H
226.85	Taking an Indecent Liberty with a Child. G.S. 14-202.1. (4/2003)	H	F
226.86A	Taking Indecent Liberties with a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	I
226.86B	Taking Indecent Liberties with a Student (by Member of School Personnel Other Than Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	Misd A1
226.90	Promoting Prostitution. G.S. 14-205.3. (6/2014)		E, F
226.91	Patronizing a Prostitute. G.S. 14-205.2. (6/2014)		E, F
226.92	Patronizing a Prostitute G.S. 14-205.2. (6/2014)		E, F
226.93	Patronizing a Prostitute who Had a [Severe] [Profound] Mental Disability. G.S. 14-205.2. (6/2019)		D
226.94	Promoting Prostitution of a Person Who Had a [Severe] [Profound] Mental Disability. G.S. 14-205/3(b) (6/2019)		Misd A1, G
226.96	Solicitation for Prostitution with a Person who Has a [Severe] [Profound] Mental Disability. G.S. 14-204(5), 14-205.1. (6/2019)		E
226.97	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)		G, H
226.98	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)	Misd	Misd 1
227.10	Massage and Bodywork Therapy Licensing Violation. (6/2018)		
227.15	[Sexual Activity] [Solicitation of Sexual Activity] in a Message and Bodywork Therapy Establishment. (6/2018)		
227.20	Owner of Massage and Bodywork Therapy Establishment Permitting or Engaging in Sexual Activity. (6/2018)		
	Perjury.		
228.10	Perjury. G.S. 14-209. (1/2001)	H	F
228.20	Subornation of Perjury. G.S. 14-210. (1/2001)	H	I
228.30	Presenting a False Statement to Procure Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.30A	Presenting a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.35	Making (or Participating in) a False Statement to Procure Benefit of an Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
228.35A	Making (or Participating in) a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
	Bribery.		
229.05	Bribery of Officials. G.S. 14-217. (5/2005)	I	F
229.10	Offering a Bribe to Public Officials. G.S. 14-218. (4/2003)	I	F
229.15	[Buying] [Selling] Public Offices. G.S. 14-228. (6/2016)		

229.20	Commercial Bribery. G.S. 14-353. (6/2014)	Misd	Misd 2
229.21	Commercial Bribery (Making Bribe). G.S. 14-353. (6/2014)	Misd	Misd 2
	Obstructing Justice.		
230.20	Breaking or Entering with the Intent of Altering, Destroying, or Stealing Evidence. G.S. 14-221.1. (1/1999)	I	I
230.21	[Altering] [Destroying] [Stealing] Evidence of Criminal Conduct. G.S. 14-221.1. (6/2010)	I	I
230.25	[Destroying] [Altering] [Concealing] [Tampering With] Biological Evidence of Criminal Conduct. G.S. 15A-268. (6/2010)		H, I
230.26	Felonious Misrepresentation of Evidence (6/2012)		H
230.27	Non-Felonious Misrepresentation of Evidence (6/2012)		Misd 1
230.30	Resisting, Delaying, or Obstructing a Public Officer—All Situations Other Than Arrest. G.S. 14-223. (6/2022)	Misd	Misd 2
230.31	Resisting Arrest—Lawfulness of Arrest. G.S. 14-223. (1/1999)	Misd	Misd 2
230.32	Resisting, Delaying or Obstructing an Officer—Excessive Force by the Officer. G.S. 14-223. (6/2022)	Misd	Misd 2
230.34	Resisting, Delaying, or Obstructing a Public Officer—Serious Bodily Injury. (6/2022)		F, I, Misd 2
230.36	Resisting, Delaying, or Obstructing a Public Officer—Serious Injury. (6/2022)		I, Misd 2
230.40	Obstructing the Administration of Justice by [Picketing] [Parading] [Use of a Sound Truck or Similar Device]. G.S. 14-225.1. (12/1998)	Misd	Misd 1
230.60	Harassment or Intimidation of or Communication with Juror. G.S. 14-225.2. (12/1998)	I	H, I
230.60A	Harassment or Intimidation of or Communication with Juror’s Spouse. G.S. 14-225.2. (1/1999)	I	H, I
230.61A	Intimidating Witnesses by Threatening the Assertion or Denial of Parental Rights. G.S. 14-226. (2/2005)		H
230.62	Obstruction of Justice. Common Law Misdemeanor. (3/2003)	Misd	Misd 1, H
230.65	[Intimidating] [Interfering] With a Witness. G.S. 14-226(a). (Delete Sheet). (6/2022)		G
230.66	Intimidating a Witness. (6/2022)		G
230.67	Interfering with a Witness. (6/2022)		G
230.70	Impersonation of Law-Enforcement Officer by [Verbally Informing Another] [Displaying any Badge or Identification] [Unlawfully Operating a Vehicle with an Operating Red Light]. Misdemeanor. G.S. 14-277(a). (6/2011)	Misd	Misd 1
230.70A	Impersonating of Law-Enforcement Officer by Operating a Vehicle with an Operating Blue Light. Felony. (6/2011)		H, I
230.71	Impersonating a Law Enforcement Officer by Operating a Vehicle with an Operating Blue Light Causing a Person to [Stop] [Yield] (Blue Light Bandit). G.S. 14-277(a)(4), (b)(5). (12/1997)		H, I
230.73	Impersonation of [a Firefighter] [an Emergency Medical Services Personnel]. G.S. 14-276.1 (6/2016)		
230.75	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Misdemeanor. G.S. 14-277(b). (6/2011)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
230.75A	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Felony. G.S. 14-277(b). (6/2011)		H, I
230.77	Driving with a Light Bar. (6/2018)		
230.80	Concealment of Death. G.S. 14-401.22. (6/2006)		Felony
230.81	Harassment of a Participant in a Neighborhood Crime Watch Program. G.S. 14-226.2. (6/2007)		Misd 1
230.91	Concealment of Death—Intent to Conceal Death by Dismembering or Destroying Human Remains (6/2012)		H
230.92	Concealment of Death—Intent to Conceal Unnatural Death by Dismembering or Destroying Human Remains (6/2012)		D
230.93	Concealment of Death—Aiding, Counseling, and Abetting (6/2012)		Misd 1
230.94	Disturbing Human Remains—Physical Alteration or Manipulation (6/2012)		I
230.95	Disturbing Human Remains—Acts of Sexual Penetration (6/2012)		I
	Prison Breach and Prisoners.		
233.45	Prison Breach and Escape from [County] [Municipal] Confinement [Facilities] [Officers]. G.S. 14-256. (6/2014)		Misd 1, H
233.47	Possession of Tools for Escape by a Prisoner G.S. 14-258(c) (6/2019)		H
233.50	Feloniously Harboring or Aiding an Escaped Prisoner. G.S. 14-259. (12/1998)	I	I
233.60	Injury to Prisoner by Jailer. G.S. 162-55. (12/1998)	Misd	Misd 1
233.70	Harboring a Fugitive. G.S. 14-267. (2/1999)	Misd	Misd 1
233.80	Furnishing a Controlled Substance to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.81	Furnishing a Deadly Weapon, Cartridge or Ammunition to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.82	Furnishing an Alcoholic Beverage to an Inmate. G.S. 14-258.1(b). (6/2010)	Misd	Misd 1
233.83	Furnishing a Tobacco Product (Including Vapor Products) to an Inmate. G.S. 14-258.1(c). (6/2015)	Misd	Misd 1
233.84	Furnishing a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]] to an Inmate. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
233.85	Providing [Forbidden Articles] [Tools to Escape] to a Prisoner. G.S. 14-258(a) (6/2019)		H
233.90	Possession of Tobacco Product (Including Vapor Products) by an Inmate. G.S. 14-258.1(e). (6/2015)	Misd	Misd 1
233.95	Possession of a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]]. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
	Offenses against the Public Peace.		
235.10	Carrying a Concealed Weapon Other Than a Pistol or Handgun. G.S. 14-269(a). (6/2014)	Misd	Misd 2
235.12	Carrying a Concealed [Pistol] [Handgun]. G.S. 14-269(a1). (6/2015)		Misd 2, H
235.15	Carrying Weapons into Assemblies. G.S. 14-269.3. (6/2014)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
235.16	Carrying Weapons into Establishments Where Alcoholic Beverages Are Sold and Consumed. G.S. 14-269.3. (6/2014)	Misd	Misd 1
235.17	[Carrying] [Possessing] Weapons [on Educational Property] [at School Sponsored Activity]. G.S. 14-269.2(b) and (b1). (6/2016)	I, Misd	I, Misd 1
235.17A	[Causing] [Encouraging] [Aiding] a Minor to [Carry] [Possess] Weapons on Educational Property. G.S. 14-269.2(c) and (c1). (6/2014)	I, Misd	I, Misd 1
235.17B	Willfully Discharging a Firearm on Educational Property or at School Sponsored Activity. G.S. 14-269.2(b) and (b1). (6/2014)		F
235.18	Communicating Threats. G.S. 14-277.1. (2/2000)	Misd	Misd 1
235.19	Stalking. G.S. 14-277.3A(c)(d). (6/2009)	I, Misd	F, H, Misd A1
235.19A	Stalking (Court Order in Effect). G.S. 14-277.3A(c)(d). (6/2009)		H
235.19B	Stalking (Previously Convicted). G.S. 14-277.3A(c)(d). (6/2009)		F
235.20	Going about Armed with Unusual and Dangerous Weapons to the Terror of the People (Common Law Misdemeanor). (4/1999)	Misd	Misd 1
235.30	Pointing a Laser Device towards an Aircraft. G.S. 14-280.2. (6/2006)		H
235.35	Interference with Manned Aircraft by Unmanned Aircraft Systems. G.S. 14-280.3. (6/2015)		H
235.37	Use of Unmanned Aircraft System Near a [Confinement] [Correctional] Facility. (6/2018)		
235.38	Use of an Unmanned Aircraft System Near a [Confinement] [Correctional] Facility to [[Deliver] [Attempt to Deliver]] [[a Weapon] [Contraband]]. (6/2018)		
235.50	Terrorism (Basic Offense). G.S. 14-10.1. (6/2013)		B1*
235.51	Terrorism—Continuing Criminal Enterprise. G.S. 14-7.20. (6/2013)		D
235.61	Unlawful Distribution Of Images Taken by Unmanned Aircraft. G.S. 14-401.25. (6/2015)		Misd A1
235.65	Disclosure of Private Images by Offender Under the Age of 18. G.S. 14-190.5A(c)(2). (6/2018)		Misd 1
235.65A	Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(2). (6/2018)		Misd
235.67	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(c)(1). (6/2018)		H
235.67A	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(b), (c)(1). (6/2018)		F
235.69	Felonious Disclosure of Private Images by Offender Under the Age of 18 G.S. 14-190.5A(c)(3). (6/2018)		H
235.69A	Riots and Civil Disorders. Felonious Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(3). (6/2018)		

* If the underlying act of violence is a Class A or B1 felony offense. Otherwise, it is one class higher than felony for underlying act of violence.

236A.10	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—More Than \$1,500 Property Damage or Serious Injury. G.S. 14-288.2(c)(1). (5/1999)	I, Misd	H, Misd 1
236A.15	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—Dangerous Weapon or Substance. G.S. 14-288.2(c)(2). (5/1999)	I, Misd	H, Misd 1
236A.20	Inciting to Riot—\$1,500 or Less in Damage—Misdemeanor. G.S. 14-288.2(d). (5/1999)	Misd	Misd 1
236A.25	Felonious Inciting to Riot—Damage in Excess of \$1,500 or Serious Bodily Injury (with Misdemeanor Inciting as a Lesser Included Offense). G.S. 14-288.2(e). (5/1999)	H, Misd	F, Misd 1
236A.27	Failure to Disperse. G.S. 14-288.5. (6/2013)		Misd 2
236A.28	[Standing] [Sitting] [Lying] Upon [Highways] [Streets]. G.S. 20-174.1. (6/2015)		Misd 2
236A.30	Disorderly Conduct (Fighting or Other Violent Conduct). G.S. 14-288.4(a)(1). (5/1999)	Misd	Misd 2
236A.31	Disorderly Conduct (Abusive Language or Gestures). G.S. 14-288.4(a)(2). (5/1999)	Misd	Misd 2
236A.33	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8). (6/2014)		Misd 1, H, I
236A.35	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8) (6/2014)		Misd 1, H, I
236A.40	Disorderly Conduct [In] [Near] a Public [Building] [Facility]. G.S. 14-132(a)(1). (6/2016)		
236A.60	Looting (Lesser Included Offense of Trespass during Emergency). G.S. 14-288.6. (5/1999)	I, Misd	H, Misd 1
	Lotteries and Gaming.		
237.20	Possession of Lottery Tickets Used in the Operation of a Lottery. G.S. 14-290. (6/2006)	Misd	Misd 2
237.25	Sale of Lottery Tickets. G.S. 14-291. (6/2006)	Misd	Misd 2
237.26	Sale of Tickets Used in a Numbers Lottery. G.S. 14-291.1. (6/2006)	Misd	Misd 2
237.30	Gambling. G.S. 14-292. (1/2000)	Misd	Misd 2
237.40	Unlicensed Operation of a Beach Bingo Game. G.S. 14-309.14(5). (6/2017)		Misd 2
237.45	Providing False Information in Order to Obtain a License to Operate a Beach Bingo Game. G.S. 14-309.14(5)(c). (6/2017)		Misd 2
237.60	Possession of Illegal Slot Machine. G.S. 14-301. (8/1999)	Misd	Misd 2
237.70	Unlawful [Operation] [Possession] of Video Gaming Machines. G.S. 14-306.1, -306.1A. (6/2007).		Misd 1, H, G
237.75	Operating Electronic Sweepstakes. G.S. 14-306.4(b). (6/2013)		Misd 1, H, G
237.80	Unlawful [Promotion] [Operation] [Conducting] of a Server-Based Electronic Game Promotion. G.S. 14-306.3(a). (6/2009)		Misd 1, H, G
237.90	Unlawful Possession of Game Terminal for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3(b). (6/2009)		Misd 1

237.91	Felonious Possession of Game Terminals for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3; 14-309(c). (6/2009)		G
238.10	Obscenity. Disseminating Obscenity Intentionally (Physical Transfers). G.S. 14-190.1(a)(1), (3). (11/1999)	J	I
238.10A	Disseminating Obscenity Intentionally (Live Performance). G.S. 14-190.1(a)(2). (12/1999)	J	I
238.10B	Disseminating Obscenity Intentionally (Transmissions or Deliveries of Actual Images—Not Drawings). G.S. 14-190.1(a)(4). (12/1999)	J	I
238.11	Creating, Buying, Procuring, or Possessing Obscene Material with the Intent to Disseminate. G.S. 14-190.1(e). (12/1999)	J	I
238.12	Advertising or Promoting Sale of Material as Obscene. G.S. 14-190.1(f). (12/1999)	J	I
238.13	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] of Himself or Another for the Purpose of Dissemination. G.S. 14-190.5(1). (12/1999)	Misd	Misd 1
238.13A	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] for the Purpose of Dissemination (Modeling or Assisting the Photographer). G.S. 14-190.5(2). (12/1999)	Misd	Misd 1
238.14	Intentionally [Employing] [Permitting] Minor to Assist in Obscenity Offense. G.S. 14-190.6. (12/1999)	I	I
238.15	Disseminating Obscene Material to Minors under the Age of Sixteen. G.S. 14-190.7. (12/1999)	I	I
238.16	Disseminating Obscene Material to Minors under the Age of Thirteen. G.S. 14-190.8. (12/1999)	H	I
238.17	Indecent Exposure. G.S. 14-190.9. (6/2006)	Misd	Misd 2
238.17A	Indecent Exposure to Minor for Purpose of Arousing or Gratifying Sexual Desire. G.S. 14-190.9. (6/2020)		
238.18	Displaying Material Harmful to Minors. G.S. 14-190.14. (12/1999)	Misd	Misd 2
238.19	Disseminating Harmful Material to Minors (Distribution). G.S. 14-190.15(a)(1). (12/1999)	Misd	Misd 1
238.19A	Disseminating Harmful Material to Minors (Allowing Minor to Review). G.S. 14-190.15(a)(2). (12/1999)	Misd	Misd 1
238.20	Exhibiting a Harmful Performance to Minors. G.S. 14-190.15(b). (12/1999)	Misd	Misd 1
238.21	First Degree Sexual Exploitation of a Minor (Using or Employing a Minor to Engage in or Assist Others in Engaging in Sexual Activity). G.S. 14-190.16(a)(1). (1/2000)	G	D
238.21A	First Degree Sexual Exploitation of a Minor (Permitting a Minor to Engage in Sexual Activity for Live Performance, etc.) G.S. 14-190.16(a)(2). (1/2000)	G	D
238.21B	First Degree Sexual Exploitation of a Minor by Transporting a Minor. G.S. 14-190.16(a)(3). (1/2000)	G	D
238.21C	First Degree Sexual Exploitation of a Minor by Photographing, etc. G.S. 14-190.16(a)(4). (1/2000)	G	D
238.22	Second Degree Sexual Exploitation of a Minor (Producing Material). G.S. 14-190.17(a)(1). (1/2000)	H	F
238.22A	Second Degree Sexual Exploitation of a Minor (Circulating Material). G.S. 14-190.17(a)(2). (1/2000)	H	F

238.22B	Third Degree Sexual Exploitation of a Minor. G.S. 14-190.17A. (6/2015)	J	I
238.23	Promoting Prostitution of a Minor (Enticing Prostitution). G.S. 14-190.18(a)(1). (6/2014)	G	D
238.23A	Promoting Prostitution of a Minor (Supervising Prostitution). G.S. 14-190.18(a)(2). (6/2014)	G	D
238.23C	Patronizing a Prostitute, a Minor. G.S. 14-205.2. (6/2014)		Misd 1, D, F, G
238.24	Participating in Prostitution of a Minor. G.S. 14-190.19(a). (6/2014)	H	F
238.26A	Solicitation for Prostitution with a Minor. G.S. 14-204(5), 14-205.1 (6/2014)		Misd 1, E, G, H
238.30	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act. G.S. 14-202.3. (6/2017)		H
238.35	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act and Appearing at Location. G.S. 14-202.3(c)(2). (6/2017)		G
238.40	DELETE SHEET. Soliciting a Child by [Computer] [Electronic Device] to Commit an Unlawful Sex Act. (Offenses after December 1, 2009). G.S. 14-202.3 (6/2017)		H, G
	Protection of Minors.		
239.10	[Selling] [Giving] a Weapon to a Minor. G.S. 14-315. (11/1999)	-	H, Misd 1
239.11	Improper Storage of Firearms to Protect Minors. G.S. 14-315.1. (8/1999)	Misd	Misd 1
239.20	Permitting a Young Child Under the Age of Twelve to Use a Dangerous Firearm. G.S. 14-316. (6/2014)	Misd	Misd 2
239.21	Furnishing a Young Child a Dangerous Firearm—Nonparent. G.S. 14-316. (Delete Sheet) (6/2014)	Misd	Misd 2
239.23	Possession of Handguns by Minors (6/2012)		Misd 1
239.25	Contributing to the Delinquency and Neglect by Parents and Others. G.S. 14-316.1; 7B-101(1), (15); 7B-1501(7), (27). (6/2019)	Misd	Misd 1
239.30	Child Care Facility Report of Missing Child. G.S. 110-102.1(a). (6/2014)		
239.31	Concealment of Death—Failure to Notify Law Enforcement of Death of Child or Secretly Burying Child. G.S. 14-401.22(a1). (6/2014)		H
239.32	Failure to Report the Disappearance of a Child to Law Enforcement. G.S. 14-318.5. (6/2014)		I
239.33	False Reports to Law Enforcement [Agency] [Officer] Related to the Disappearance of a Child. G.S. 14-225(b). (6/2014)		Misd 2, H
239.34	False Reports to Law Enforcement [Agency] [Officer]. G.S. 14-225(a). (6/2014)		Misd 2
239.35	Failure to Report [Abuse] [Neglect] [Dependency] [Death] Due to Maltreatment of a Juvenile. G.S. 7B-301(a), (b). (6/2019)		Misd 1
239.36	Failure of Department of Social Services Director to Notify the State Bureau of Investigations of a Report of Sexual Abuse of a Juvenile in a Child Care Facility. G.S. 7B-301(a), (c) (6/2014)		Misd 1

		Before 10/1/94	On or After 10/1/94
239.37	Failure to Report Crimes Against Juveniles. Misdemeanor. (6/2020)		Misd 1
239.55	Felonious Child Abuse. G.S. 14-318.4(a); 14-318.2. (6/2009)	H, Misd	E, Misd 1
239.55A	Felonious Child Abuse by Prostitution. G.S. 14-318.4(a1). (5/2000)	H	E
239.55B	Felonious Child Abuse by a Sexual Act by a [Parent] [Legal Guardian]. G.S. 14-318.4(a2). (5/2020)	H	H
239.55C	Felonious Child Abuse (Reckless Disregard—Serious Bodily Injury). G.S. 14-318.4(a4); 2414-318.2. (6/2014)		E
239.55D	Felonious Child Abuse (Reckless Disregard—Serious Physical Injury). G.S. 14-318.4(a5); 14-318.2 (6/2014)		H
239.57	Felonious Child Abuse [Inflicting Serious Bodily Injury] [Resulting in Permanent or Protracted Loss or Impairment of any Mental or Emotional Function]. G.S. 14-318.4(a3). (6/2009)		C
239.60	Child Abuse. G.S. 14-318.2. (6/2009)	Misd	Misd 1
239.65	Permitting a Child under 16 Years of Age to [Operate] [Be a Passenger on] a Bicycle without a Protective Bicycle Helmet. G.S. 20-171.9. (2/2002)		Infraction
239.70	Failure to Secure a Child in a Restraint System. G.S. 20-137.1. (2/2005)		Infraction
239.80	[Transporting] [Keeping] Child Outside the State with Intent to Violate Custody Order. G.S. 14-320.1. (5/2000)	J	I
239.90	Felonious Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		F, Misd A1
239.91	Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		Misd A1
239.95	Distribution of Certain Food at Halloween and All Other Times Prohibited—Controlled Substance. G.S. 14-401.11. (6/2020)		F
239.96	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Greater Than Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		H
239.97	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		I
239.98	Distribution of Certain Food at Halloween and All Other Times Prohibited—Poisonous Chemical, Compound, or Foreign Substance. G.S. 14-401.11. (6/2020)		C
	Protection of Family.		
240.05	Abandonment by Supporting Spouse. G.S. 14-322(b). (5/2000)	Misd	Misd 2
240.06	Failure to Support Child. G.S. 14-322(d). (5/2000)	Misd	Misd 2
240.07	Felonious Abandonment and Lesser Included Offense of Failure to Support by Parent. G.S. 14-322.1, -322(d). (6/2014)	I, Misd	I, Misd 2
240.10	Failure of Supporting Spouse to Provide Adequate Support for Dependent Spouse. G.S. 14-322(c). (5/2000)	Misd	Misd 2
240.40	Willful Neglect or Refusal to Adequately Support and Maintain a Born Out of Wedlock Child. G.S. 49-2. (6/2014)	Misd	Misd 2
240.50	Violation of Valid Protective Order. G.S. 50B.4.1(a). (6/2016)		Misd A1

240.51	Violation of a Protective Order While in Possession of a Deadly Weapon. G.S. 50B-4.1(g). (6/2016)		H
240.55	Felonious Violation of Valid Protective Order. G.S. 50B.4.1(f). (6/2009)		H
240.60	Violation of Permanent Civil No-Contact Order. G.S. 50D-10. (6/2016)		
240.70	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		II, H
240.71	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		I, H
240.75	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		F
240.76	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		F
240.80	[Employee] [Volunteer] At a [Care] [Treatment] [Habilitation] [Rehabilitation] Facility of Individuals With [Mental Illness] [Developmental Disabilities] [Substance Abuse Disorders] Causes [Pain] [Injury] to a Client Other Than as Part of a Generally Accepted [Medical] [Therapeutic] Procedure. G.S. 122C-66(a). (6/2016)		Misd A1
240.82	[Employee] [Volunteer] at a Facility Who [Borrows] [Takes] Personal Property From a Client. G.S. 122C-66(a1). (6/2016)		Misd 1
240.84	[Employee] [Volunteer] at a Facility Failed to Report Violations of Client Abuse. G.S. 122C-66(b). (6/2016)		Misd 1
240.86	[Employee] [Volunteer] at a Facility Failed to Report Violations of [Borrowing] [Taking] Client Property. G.S. 122C-66(a1)-(b). (6/2016)		Misd 1
240.88	[Employee] [Volunteer] at a Facility Failed to Report Accidental Injury to a Client. G.S. 122C-66(b). (6/2016)		Misd A1
240.90	Furnishing False Information on an Employment Application to a Child Care Institution. Misdemeanor. (6/2021)		
	Intoxicating Liquors.		
241.05	Manufacturing Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(a). (8/2000)	H	H
241.10	Selling Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.11	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] of Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.15	Selling Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.16	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] Poisonous Spirituous Liquor. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.20	[Transportation] [Possession] of Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(d). (8/2000)	Misd	Misd 1
242.10	Intentional Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(1). (6/2008)		C
242.15	Culpably Negligent Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(2). (6/2008)		E
242.20	Patient Abuse Resulting in Serious Bodily Injury. G.S. 14-32.2(a)-(b)(3). (6/2008)		F

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
242.25	Pattern of Patient Abuse Resulting in Bodily Injury. G.S. 14-32.2(a)-(b)(4). (6/2008)		H
247.10	Cruelty to Animals. Non-Felonious Cruelty to (an) Animal(s). G.S. 14-360(a). (6/2017)	Misd	Misd 1
247.10A	Felonious Cruelty to (an) Animal(s). G.S. 14-360(b). (6/2017)		H
247.10B	Misdemeanor Cruelty to Animals by Depriving of Necessary Sustenance. G.S. 14-360(a1). (6/2008)		Misd 1
247.15	Willful Killing of [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		H
247.15A	[Causing] [Attempting to Cause] Serious Harm to a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		I
247.15B	Willfully [Taunting] [Teasing] [Harassing] [Delaying] [Obstructing] [Attempting to [Delay] [Obstruct]] a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal in the Performance of its Duties. G.S. 14-163.1. (6/2010)		Misd 2
247.20	Instigating or Promoting Cruelty to an Animal(s). G.S. 14-361. (6/2017)	Misd	Misd 1
247.30	Cockfighting. G.S. 14-362. (1/2001)	Misd	Misd 2
247.31	Dog Fighting and Baiting. G.S. 14-362.2. (6/2008)		H
247.40	Interference with Animal Research Involving Release of an Animal Having an Infectious Disease. G.S. 14-159.2(a)(1), (b), (c). (12/2000)	J, Misd	I, Misd 1
247.50	Interference with Animal Research—Willfully Damaging an Animal Research Facility. G.S. 14-159.2(a)(2). (8/2000)	Misd	Misd 1
247.60	Interference with Animal Research—Willful, Unauthorized Release of an Animal from an Enclosure or Restraining Device. G.S. 14-159.2(a)(3). (12/2000)	Misd	Misd 1
247.70	Interference with Animal Research—Willful Interference with the Care of an Animal Kept within an Animal Research Facility. G.S. 14-159.2(a)(4). (12/2000)	Misd	Misd 1
247.80	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Venomous Reptile not Housed in a Sturdy and Secure Enclosure. G.S. 14-417. (6/2020)		Misd 2, Misd A1
247.80A	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Crocodilian not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.2. (6/2020)		Misd 2, Misd A1
247.80B	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Constricting Snake not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.1. (6/2020)		Misd 2, Misd A1
247.81	Failure to Immediately Notify Local Law Enforcement of Escape of [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-417. (6/2010)		Misd 2, Misd A1
247.82	Handling a [Venomous Reptile] [Large Constricting Snake] [Crocodilian] in a Manner That [Intentionally] [Negligently] Exposes Another to Unsafe Contact with the [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
247.83	Intentionally Releasing into the Wild a Nonnative [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-422. (6/2010)		Misd A1

247.84	[Intentionally] [Negligently] [[Suggesting] [Enticing] [Inviting] [Challenging] [Intimidating] [Exhorting] [Inducing] [Aiding]] Any Person to [Handle] [Be Exposed] in an Unsafe Manner to a [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
252.65	Miscellaneous Police Regulations. Tattooing a Minor. G.S. 14-400. (8/2000)	Misd	Misd 2
254A.10	Felony Firearms. Possession of a Weapon of Mass Death and Destruction. (6/2021)		F
254A.11	Possession of a Firearm or Weapon of Mass Death and Destruction by a Felon. G.S. 14-415.1. (6/2020)		G
254A.15	[Altering] [Defacing] [Destroying] [Removing] the Serial Number of a Firearm. G.S. 14-160.2 (6/2010)		H
254A.17	[Selling] [Buying] [Possessing] Firearm with Serial Number [Altered] [Defaced] [Destroyed] [Removed]. G.S. 14-160.2 (6/2010)		H
254A.19	Purchase or Possession, or Attempted Purchase or Possession of Firearms by Person Subject to Domestic Violence Protective Order. (6/2022)		H
255.01	Miscellaneous. Felony Willful Failure to Appear. G.S. 15A-543. (12/2000)		I
255.02	Misdemeanor Willful Failure to Appear. G.S. 15A-543. (12/2000)	Misd	Misd 2
255.03	Failure to Appear (Alcohol-Related Offenses). G.S. 20-28(a2). (6/2007)		Misd 1
256.10	Intoxicated and Disruptive in Public. G.S. 14-444. (12/2000)	Misd	Misd 3
257.10	Willfully Violating Occupational Safety and Health Act of North Carolina Resulting in Death of an Employee. G.S. 95-139. (6/2010)		Misd 2
257.11	Knowingly Making a False [Statement] [Representation] [Certification] in a(n) [Application] [Record] [Report] [Plan] [Document] Required to be [Filed] [Maintained] Pursuant to the Occupational Safety and Health Act of North Carolina. G.S. 95-139. (6/2010)		Misd 2
257.12	Giving Advance Notice of OSHA Inspection Without Authorization. G.S. 95-139. (6/2010)		Misd 2
258.10	Failure of Secondary Metals Recycler to Issue Receipt for Purchase of Regulated Metals Property. G.S. 66-11(a1) (6/2010)		Misd 1, I
258.12	Failure of Secondary Metals Recycler to Maintain Records of Purchases of Regulated Metals. G.S. 66-11(b) (6/2010)		Misd 1, I
258.14	Failure to Hold and Retain Regulated Metals for Seven Days Before [Selling] [Dismantling] [Defacing] [Altering] [Disposing of] Regulated Metals. G.S. 66-11(d1) (6/2010)		Misd 1, I
258.16	Purchase of [Air Conditioning [Coils] [Condensers]] [Catalytic Converter] by Secondary Metals Recycler. G.S. 66-11(d)(3) (6/2010)		Misd 1, I

258.18	Purchase of Nonferrous Metal by Secondary Metals Recycler. G.S. 66-11(d)(4) (6/2010)	Misd 1, I
258.20	Purchase of Prohibited Material by Secondary Metals Recycler. G.S. 66-11(d)(5). G.S. 136-32(a). (6/2010)	Misd 1, I
258.30	Erecting or Maintaining Signs on Highways (6/2012)	Misd 3
258.31	Erecting or Maintaining Political Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (b), (c), (d). (6/2012)	Misd 1, 3
258.32	Erecting or Maintaining Commercial Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (d). (6/2012)	Misd 1
258.33	[Stealing] [Defacing] [Vandalizing] [Unlawfully Removing] Political Signs That Are Lawfully Placed. G.S. 136-32(a), (b), (c), (d), (e). (6/2012)	Misd 3
258.35	Removal or Destruction of Warning Signs—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
258.36	Possession of Signs Posted by Department of Environment and Natural Resources—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
259.10	Unauthorized Practice of Medicine—Practicing Without a License. G.S. 90-18. (6/2012)	Misd 1
259.11	Unauthorized Practice of Medicine—Practicing Without a License While Representing Oneself as Being Licensed. G.S. 90-18. (6/2012)	I
259.12	Unauthorized Practice of Medicine—Practicing Without a License in North Carolina By an Out-of-State Practitioner. (G.S. 90-18). (6/2012)	I
259.13	Unauthorized Practice of Medicine—Practicing Without a License Due to Failure to Complete Timely Annual Registration or Practice While Licensed Under Another Article. G.S. 90-18. (6/2012)	Misd 1
259.20	Unauthorized Practice of Law—Non-Members of the State Bar. G.S. 84-4. (6/2017)	Misd 1
259.21	Unauthorized Practice of Law—Corporations. G.S. 84.5. (6/2012)	Misd 1
259.22	Unauthorized Practice of Law—Foreclosure Fees. G.S. 84.6. (6/2012)	Misd 1
259.23	Unauthorized Practice of Law—Appearing for Creditors in [Insolvency] [Bankruptcy] and Other Proceedings. G.S. 84.9. (6/2012)	Misd 1
259.30	Practice as a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(1). (6/2020)	Misd 1
259.31	Practice as a Clinical Addiction Specialist Without a License—Using [Letters] [Words] [Numerical Codes] [Insignia]. G.S. 90-113.43(a)(2). (6/2020)	Misd 1
259.32	[Practice] [Attempt to Practice] as a Clinical Addiction Specialist With a [Revoked] [Lapsed] [Suspended] Certification or License. G.S. 90-113.43(a)(3). (6/2020)	Misd 1
259.33	[Aiding] [Abetting] [Assisting] the Practice of a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(4). (6/2020)	Misd 1
259.34	Knowingly Serving in a Position Required by Law to be Filled by a Clinical Addiction Specialist. G.S. 90-113.43(a)(5). (6/2020)	Misd 1
259.40	Bank Examiner Making False Report. G.S. 53C-8-7. (6/2013)	H

259.41	[Bank Examiner] [Other Employee] Disclosing Confidential Information. G.S. 53C-8-8. (6/2013)		Misd 1
259.42	Willfully and Maliciously Making [False] [Derogatory] Reports about the Financial Condition of a Bank. G.S. 53C-8-10. (6/2013)		Misd 1
259.43	[Bank] [Officer] [Director] [Employee] Making Extension of Credit to a Disqualified Individual. G.S. 53C-8-9. (6/2013)		Misd 1
259.50	Attempt to [Evade] [Defeat] Tax. G.S. 105-236(a)(7). (6/2016)		H
259.51	Willful Failure to [Collect] [Withhold] [Pay Over] Tax. G.S. 105-236(a)(8). (6/2016)		Misd 1
259.52	Willful Failure to [File Return] [Supply Information] [Pay Tax]. G.S. 105-236(a)(9). (6/2016)		Misd 1
259.53	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.53A	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by Any Person Other Than a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.55	Identity Theft – Submission to the Department of Revenue. G.S. 105-236(a)(9b). (6/2018)		
259.57	Identity Theft – Submission to the Department of Revenue Resulting in Adverse Financial Impact. G.S. 105-236(a)(9b). (6/2018)		
259.60	Unlawful Handling of Waste Kitchen Grease. G.S. 14-79.2. (6/2013)		H, Misd 1
259.70	Medicaid Subrogation – Withholding Information. G.S. 108A-57(b). (6/2014)		Misd 1
259.80	Misuse of 911 System. G.S. 14-111.4. (6/2014)		Misd 1
259.85	Subsurface Injection of Waste. G.S. 113-395.2, 143-214.2 (6/2015)		Misd 1
259.90	Member of a [County] [City] Inspection Department Who Willfully [Fails to Perform Duties] [Improperly [Issues Permit] [Gives Certificate of Compliance]] [Improperly Gives a Certificate of Compliance Without First Making the Required Inspections by Law] [Improperly Gives a Certificate of Compliance]. G.S. 153A-356; 160A-416. (6/2016)		Misd 1
259.95	Illegal Operation of Amusement Devices Causing [Death] [Serious Injury]. G.S. 95-111.13. (6/2016)		E
259.97	[Counterfeiting] [Selling] [Lending] [Permitting Use of] Photo Identification for Voting. G.S. 163A-1389(19) (6/2019)		I
259.98	Voting More Than One Time in an Election—Verdict Form. G.S. 163-275(7). (6/2017)		I
	Dangerous Drugs.		
260.10	260 Series—Directory of Dangerous Drug Charges. (6/1996) Possession of a Controlled Substance. G.S. 90-95(a)(3)(d). (6/2014)	I, Misd	I, Misd 1, Misd 2, 3
260.11	Aggravated Possession of a Controlled Substance—Including Lesser Offenses. G.S. 90-95. (6/2014)	I, Misd	I, Misd 1, Misd 2, 3

		Before 10/1/94	On or After 10/1/94
260.12	Possession of a Controlled Substance on Premises of a [Penal Institution] [Local Confinement Facility]. G.S. 90-95(a)(3), (e)(9). (6/2021)	I	I*
260.15	Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offense. G.S. 90-95(a)(1), (3), (b), (d). (6/2014)	H, I, Misd	H, I, Misd 1, Misd 2, 3
260.15A	Possession of a Counterfeit Controlled Substance with Intent to [Sell] [Deliver]. G.S. 90-87(6) and 90-95(a)(2), (c). (6/2014)	I	I
260.15B	Possession of an Immediate Precursor Chemical. G.S. 90-95(d1), (d2). (12/2004)	H	H
260.16	Aggravated Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offenses. G.S. 90-95(a)(1), (b)(2), (e)(1-4). (6/2014)	E, H, I, Misd	E, H, I, Misd 1,2,3
260.17	Drug Trafficking—Possession (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E F, G, H	D, D, E F, G, H
260.18	Forged Prescription—Acquiring or Obtaining Possession of a Controlled Substance by [Misrepresentation] [Fraud] [Forgery] [Deception] [Subterfuge]. G.S. 90-108(a)(10). (6/2014)	I	I
260.19	Manufacturing a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I
260.19A	Creating a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(b). (1/2001)	I	I
260.20	Aggravated Manufacture of Controlled Substance—Lesser Included Offense. G.S. 90-95(a)(1), (e)(1-4). (1/2001)	Misd	Misd 1, 2
260.20A	Drug Trafficking—Manufacturing (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2016)	C, D, E, F, G, H	C, D, E, F, G, H
260.21	[Selling] [Delivering] a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I*
260.21A	[Selling] [Delivering] a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(6). (1/2001)	I	I
260.22	Sale or Delivery of a Controlled Substance to a Minor or Pregnant Woman—Lesser Included Offense. G.S. 90-95(a)(1), (e)(5). (1/2001)	E, H, I	E, H
260.22A	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of School Property. G.S. 90-95(e)(8). (6/2012)		E
260.22B	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of a Public Park G.S. 90-95(e)(10). (6/2008)		E
260.22C	Sale or Delivery of a Controlled Substance on Property Used for a Child Care Center. G.S. 90-95(e)(8). (6/2008)		E

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.
* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

260.23	Drug Trafficking—[Selling] [Delivering] (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones or Synthetic Cannabinoid) G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.30	Drug Trafficking—Transportation (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.40	Employing a Minor to Commit a Drug Law Violation. G.S. 90-95.4. (1/2001)		
260.41	Promoting Drug Sales by a Minor. G.S. 90-95.6. (1/2001)		D
260.42	Participating in a Drug Violation by a Minor. G.S. 90-95.7. (3/2001)		G
260.45	General Aggravating Conditions Applicable to Drug Charges. G.S. 90-95(d), (e)(1-5). (12/2003)		
260.70	Continuing Criminal Enterprise—The Controlled Substances Act. G.S. 90-95.1. (3/2001)	C	C
260.80	Feloniously Dispensing a Controlled Substance (Practitioner or Registrant)—Lesser Included Offense. G.S. 90-108(a)(2) and (b); 90-106. (3/2001)	I, Misd	I, Misd 1
260.81	Feloniously [Diverting] [Embezzling] a Controlled Substance (Practitioner, Registrant, or Employee). G.S. 90-108(b) and 90-108(a)(14) (6/2019)		E
260.82	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (Practitioner, Registrant, or Employee). G.S. 90-108(b)(3) and 90-108(a)(14) (6/2019)		E
260.83	Feloniously [Diverting] [Embezzling] a Controlled Substance (by Virtue of Occupation). G.S. 90-108(b)(2) and 90-108(a)(15) (6/2019)		E
260.84	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (by Virtue of Occupation). G.S. 90-108(b)(3) and 90-108(a)(15) (6/2019)		E
260.85	Felonious Use of Controlled Substances Reporting System—Unauthorized [Disclosure] [Dissemination] G.S. 90-113.74(k)(2) (6/2019)		I
280.86	Felonious Use of Controlled Substances Reporting System—[Commercial Advantage] [Personal Gain] [Maliciously Harm] G.S. 90-113.74(k)(3) (6/2019)		H
260.87	Felonious Use of Controlled Substances Reporting System for an Unauthorized Purpose. G.S. 90-113.74(k)(1) (6/2019)		I
260.90	[Intentionally] [Knowingly] [Keeping] [Maintaining] a Building or Vehicle for the [Use] [Keeping] [Selling] of Controlled Substances. G.S. 90-108(a)(7). (6/2009)	I, Misd	I, Misd 1
260.95	[Possession] [Use] of Drug Paraphernalia. G.S. 90-113.22. (6/2014)	Misd	Misd 1
260.96A	Willfully and Knowingly Offering a [Glass Tube] [Splitter] for Retail Sale by Self-Service. G.S. 90-113.82(a) (6/2010)		Misd 2

260.96B	Failure to Comply with Restrictions on Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(b) (6/2010)		Misd 1
260.96C	Failure to Maintain Records of Purchasers of [Glass Tubes] [Splitters]. G.S. 90-113.82(c) (6/2010)		Misd 2
260.96D	Failure to Train Agents and Employees on Requirements of Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(e) (6/2010)		Misd 2
261.10	Adulterating a [Urine] [Bodily Fluid] Sample with the Intent to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20(b). (4/2003)		Misd 1, I
261.20	Attempt to [Foil] [Defeat] a [Drug] [Alcohol] Screening Test by the [[Substitution] [Spiking] of a Urine Sample] [Advertisement of a [Sample Substitution] [Spiking Device or Measure]]. G.S. 14-401.20(a)(2). (4/2003)		Misd 1, I
261.30	Distributing or Transporting Urine to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20. (4/2003)		Misd 1, I
261.40	[Possessing] [Selling] Adulterants Intended to Be Used to Adulterate a [Urine] [Bodily Fluid] Sample for the Purpose of Defrauding a [Drug] [Alcohol] Screening Test. G.S. 14-401.20(b)(2), (3). (4/2003)		Misd 1, I
261.50	Pseudoephedrine Sales—Retailer. G.S. 90-113.56. (6/2013)		Misd A1, I
261.51	Pseudoephedrine Sales—Purchaser. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.52	Pseudoephedrine Sales—[Employee of Retailer] [Other Person]. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.53	Pseudoephedrine Sales—Retailer Who Fails to Train Employees. G.S. 90-113.56. (6/2012)		Misd A1, I
261.55	Possession of a Pseudoephedrine Product with Prior Conviction for the [Possession] With Intent to [Sell] [Deliver]] [Trafficking] [Manufacture of] a [Methamphetamine] [Immediate Precursor Chemical]. G.S. 90-95(d1)(1)(c). (6/2016)		H
261.60	[Manufacturing] [Distributing] [Dispensing] [Delivering] [Purchasing] Marijuana on Property Lawfully Used for Industrial Hemp Production. G.S. 106-568.57(a). (6/2017)		I
261.65	Providing [False] [Misleading] Information to the Industrial Hemp Commission Related to a License [Application] [Renewal] [Inspection] [Investigation]. G.S. 106-568.57(b). (6/2017)		Misd 1
261.70	[Tampering With] [Adulterating] a Lawfully Planted Industrial Hemp Crop. G.S. 106-568.57(c). (6/2017)		Misd 1
Traffic Offenses.			
270.00	Model Jury Instruction. (6/2011)		
270.05	Punishment Levels For Impaired Driving. (1/1995)		
270.05A	Punishment Levels For Impaired Driving. (1/1999)		
270.15	Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.15A	Verdict Form—Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.20	Impaired Driving. G.S. 20-138.1. (6/2010)	Misd	Misd
270.20A	Impaired Driving. G.S. 20-138.1. (6/2022)		Misd 1

		Before 10/1/94	On or After 10/1/94
270.21	Impaired Driving of a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2010)		Misd 1
270.21A	Impaired Driving in a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2022)		Misd 1
270.23	Operating a [School Bus] [School Activity Bus] [Child Care Vehicle] [Ambulance] [EMS Vehicle] [Firefighting Vehicle] [Law Enforcement Vehicle] After Consuming Alcohol. G.S. 20-138.2B(a). (6/2014)		Misd 3
270.25	Habitual Impaired Driving—Including Chemical Test.). G.S. 20-138.5. (6/2015)	J	F
270.25A	Habitual Impaired Driving—Including Chemical Test. G.S. 20-138.2A. (6/2022)	J	F
270.30	Driving by a person Less Than 21 Years Old [While] [After] Consuming Alcohol or Drugs. G.S. 20-138.3. (5/1999)	Misd	Misd 2
270.35	Possession of an Open Container of Alcoholic Beverage. G.S. 20-138.7(a1). (6/2014)		Infraction
270.40	Transporting an Open Container of Alcoholic Beverage. G.S. 20-138.7(a). (6/2010)		Misd 2, Misd 3
270.50	Speeding in Excess of [15 mph More Than Speed Limit] [80 mph]. G.S. 20-141(j1). (5/2001)	Misd, Infraction	Misd 2, Infraction
270.51	Driving Too Fast for Conditions. G.S. 20-141(a). (4/2001)	Infraction	Infraction
270.52	Speeding Inside Municipal Corporate Limits—No Limit Posted. G.S. 20-141(b). (3/2001)	Infraction	Infraction
270.53	Exceeding the Posted Speed Limit. G.S. 20-141(d), (e), (f). (4/2001)	Infraction	Infraction
270.54	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a). (6/2021)	Misd	Misd 1
270.54A	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a) and (b). (6/2021)		H, Misd 1
270.54B	Operating a Motor Vehicle to Elude Arrest Resulting in Death. G.S. 20-141.5(b1). (6/2006)		H
270.54C	Operating a Motor Vehicle to Elude Arrest Accompanied by Aggravating Factors Resulting in Death. G.S. 20-141.5(b1). (6/2006)		E
270.55	Willfully Engaging in a Speed Competition on a Street or Highway. G.S. 20-141.3(b). (3/2001)	Misd	Misd 1
270.56	Willfully Engaging in a Prearranged Speed Competition on a Street or Highway. G.S. 20-141.3(a). (3/2001)	Misd	Misd 2
270.57	Failure to Slow Down. G.S. 20-141(m). (3/2020)		Infraction
270.58	Turning at Intersections. G.S. 20-153. (4/2001)	Infraction	Infraction
270.59	Turning at Intersections—Local Ordinance. G.S. 20-153(c). (4/2001)		
270.60	Unsafe Movement (Starting, Stopping, or Turning). G.S. 20-154. (6/2014)	Infraction	Infraction
270.60A	Unsafe Movement Causing [Property Damage] [Personal Injury] to Motorcycle Operator. G.S. 20-154(a1). (6/2014)		Infraction
270.60B	Unsafe Movement Causing [Property Damage in Excess of Five Thousand (\$5,000) Dollars] [Serious Bodily Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)		Infraction
270.61	Unsafe Movement (Backing). G.S. 20-154. (6/2012)	Infraction	Infraction
270.61A	Unsafe Movement (Backing) Causing [Property Damage]		

	[Personal Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1). (6/2014)		Infraction
270.61B	Unsafe Backing Causing [Property Damage in Excess of Five Thousand Dollars (\$5,000)] [Serious Bodily Injury] to a Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)		Infraction
270.62	Willfully Covering Registration Plate. G.S. 20-63(g). (2/2005)		Misd 2
270.65	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle). G.S. 20-157(a); 20-125. (6/2013)	Misd	Misd 2
270.66	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Serious Injury or Death to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (i); 20-125. (6/2006)		I
270.67	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Injury to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (h); 20-125. (6/2006)		Misd 1
270.68	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Damage to Property in Excess of \$500. G.S. 20-157(a), (h); 20-125. (6/2006)		Misd 1
270.70	Failure to Stop for a Traffic Control Signal. G.S. 20-158(b)(2). (12/2004)	Infraction	Infraction
270.71	Failure to Stop for Flashing Red Light. G.S. 20-158(b)(3). (4/2004)	Infraction	Infraction
270.72	Failure to Stop for Stop Sign. G.S. 20-158(b)(1). (4/2004)	Infraction	Infraction
270.73	Failure to Yield to a Pedestrian. G.S. 20-158(b). (3/2005)		
270.75	Passing Stopped School Bus. G.S. 20-217. (6/2006)	Misd	Misd 2
270.76	Passing Stopped School Bus—Striking a Person Causing Serious Bodily Injury. G.S. 20-217. (6/2010)		I
270.76A	Passing Stopped School Bus—Striking a Person Causing Death. G.S. 20-217. (6/2010)		H
270.77	Unlawful Use of Mobile Phone to [Manually Enter Multiple Letters or Text As a Means of Communicating with Another Person] [Read Any [Electronic Mail] [Text Message] [Transmitted to] [Stored Within] the Device] While Operating a School Bus. (Texting While Operating a School Bus) G.S. 20-137.4(b). (6/2010)		Misd 2
270.80	Reckless Driving—Carelessly and Heedlessly. G.S. 20-140(a). (5/2001)	Misd	Misd 2
270.81	Reckless Driving—Driving to Endanger. G.S. 20-140(b). (5/2001)	Misd	Misd 2
270.90	Failure to Maintain Lane Control. G.S. 20-146(d)(1) (6/2019)		Infraction
270A.10	Infliction of Serious Bodily Injury by Operation of Aircraft While Impaired (Flying High). G.S. 63-28. (6/2022)	H	F
270A.15	Operation of Aircraft While Impaired (Flying High). G.S. 63-27. (6/2022)	Misd	Misd 1
270A.20	Operating Vessel in Reckless Manner. G.S. 75A-10(a). (6/2008)		Misd 2
270A.25	Operating Vessel While under the Influence of an Impairing Substance. G.S. 75A-10(b1). (6/2022)		Misd 2

270A.27	[Recklessly] [Negligently] [Operating a [Motorboat] [Vessel]] [Manipulating [Water Skis] [A Surfboard.]]. G.S. 75A-10(a). (6/2017)		Misd 2
270A.27A	Manipulating [Water Skis] [A Surfboard] [Nonmotorized Vessel] [Similar Device] While Under the Influence of an Impairing Substance. G.S. 75A-10(b). (6/2022)		Misd 2
270A.27B	[Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(a),(b),(f). (6/2022)		D
270A.27C	Aggravated [Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(c),(d),(f). (6/2022)		D, F
270A.27D	Repeat Death by Impaired Boating. G.S. 75A-10.3(e),(f). (6/2022)		B2
270A.30	Improper Vessel Registration. G.S. 75A-4. (6/2009)		Misd 3
Non-Traffic Automobile Offenses.			
271.10	Driving a Motor Vehicle on a Highway While License Has Been Suspended or Revoked. G.S. 20-28. (5/2001)	Misd	Misd 1
271.12	Driving a Motor Vehicle on a Highway while License Has Been Revoked for Impaired Driving. G.S. 20-28(a1). (6/2018)		
271.15	Operating a Motor Vehicle in Violation of License Limitation. G.S. 20-7(e). (5/2001)	Misd	Misd 1
271.16	Operating a Motor Vehicle in Violation of a Limited Driving Privilege. G.S. 20-179.3(j). (5/2001)	Misd	Misd 1
271.21	Knowingly Permitting Motor Vehicle to Be Driven by a Person Having No Legal Right to Do So. G.S. 20-34; 20-35. (5/2001)	Misd	Misd 2
271.22	[Driving] Knowingly Permitting Another to Drive] a Vehicle that [was Not Registered with the Division of Motor Vehicles] [Did Not Display a Current Registration Plate]. Misdemeanor. G.S. 20-111(1) (6/2011)		Misd 2
271.23	Sex Offender Driving [Commercial Passenger Vehicle] [School Bus]. G.S. 20-27.1. (6/2010)		F
271.25	[Receiving] [Transferring] a Stolen Vehicle with Intent to [Procure] [Pass] Title to That Vehicle. G.S. 20-106. (5/2001)	I	H
271.26	Possession of a Stolen Vehicle. G.S. 20-106. (6/2016)	I	H
271.28	Forging an Inspection [Sticker] [Receipt]. G.S. 20-183.8(c)(1). (6/2017)		I
271.28A	[Buying] [Selling] [Issuing] [Possessing] a Forged [Inspection Sticker] [An Electronic Inspection Authorization]. G.S. 20-183.8(c)(2). (6/2017)		I
271.28B	Unlawfully [Buying] [Selling] [Issuing] [Possessing] an [Inspection Sticker] [Electronic Inspection Authorization]. G.S. 20-183.8(c)(3). (6/2017)		I
271.28C	Failing the [Safety] [Emissions] Inspection of a Vehicle for an Unlawful Reason. G.S. 20-183.8(c)(5). (6/2017)		I
271.28D	[Soliciting] [Accepting] Something of Value in Order to Pass a Vehicle That Fails [Safety] [Emissions] Inspection. G.S. 20-183.8(c)(4). (6/2017)		I
271.30	Willfully Injuring or Tampering with or Removing Parts from a Vehicle without the Consent of the Owner. G.S. 20-107(a). (5/2001)	Misd	Misd 2

271.31	[Climbing Into] [Attempting to or Setting in Motion] a Vehicle with Intent to Steal, Commit Malicious Injury, etc. G.S. 20-107(b). (5/2001)	Misd	Misd 2
271.34	[Failure] [Refusing] to Surrender to the Division of Motor Vehicles, Upon Demand, Any [Title Certificate] [Registration Card] [Registration Number Plate] Which Has Been [Suspended] [Cancelled] [Revoked]. Misdemeanor. G.S. 20-111(4) (6/2011)		Misd. 2
271.35	Alteration or Change of Engine or Other Number on a Vehicle. G.S. 20-109(a)(1). (5/2001)	Misd	I
271.36	Permitting the Alteration or Change of Engine or Other Numbers on a Vehicle. G.S. 20-109(a)(2). (5/2001)	Misd	I
271.37	Unlawful Placing or Stamping of a Serial or Other Number upon a Vehicle, Where Such Number Has Not Been Assigned to the Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(3). (5/2001)	Misd	I
271.38	Knowingly Permitting the Placing or Stamping of a Serial or Motor Number upon a Motor Vehicle by Its Owner, Where the Number Has Not Been Assigned to Such Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(4). (5/2001)	Misd	I
271.39	Alteration of a Serial or Motor Number Assigned to a Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(1). (5/2001)	I	I
271.40	Permitting by Owner of a Vehicle the Alteration or Use of a Serial or Motor Number Assigned to That Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(2). (5/2001)	I	I
271.41	Unlawful Use of a [Driver's License] [Learner's Permit] [Special Identification Card] Issued by the Division of Motor Vehicles. G.S. 20-30(a); 20-37.8(b). (2/2000)	-	I
271.42	Possession or Manufacture of Certain Fraudulent Forms of Identification. G.S. 14-100.1. (5/2002)		Misd 1
271.43	Willfully Displaying an Expired [License] [Registration Plate] on a Vehicle Knowing the Same to be Expired. G.S. 20-111(2). Misdemeanor. (6/2011)		Misd 2
271.44	[Displaying] [Causing to be Displayed] [Permitting to be Displayed] [Possessing] a [Registration Card] [Certificate of Title] [Registration Number Plate] That Is [Fictitious] [Has Been [Cancelled] [Revoked] [Suspended] [Altered]] Misdemeanor. G.S. 20-111(2). (6/2011)		Misd 2
271.45	Performing [Safety] [Emissions] Inspection on a Motor Vehicle Without a License. G.S. 20-183.8(b)(1). (6/2017)		Misd 3
271.46	[Giving] [Lending] [Borrowing] of a License Plate for the Purpose of Using Same on a Motor Vehicle Other Than That for Which It Was Issued. Misdemeanor. G.S. 20-111(3). (6/2011)		Misd 3
271.47	Knowingly [Making a False Statement] [Concealing a Material Fact] [Committing Fraud] in any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). Misdemeanor. (6/2011)		Misd 1

271.48	Using a [Name] [Address] That Is [False] [Fictitious] in Any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). (6/2011)		Misd 1
271.49	[Giving] [Lending] [Selling] [Obtaining] a Certificate of Title for the Purpose of Using the Certificate of Title for Any Purpose Other Than the [[Registration] [Sale] of a Vehicle] [Use in Connection with the Vehicle for which the Certificate was Issued]. G.S. 20-111(6). (6/2011)		Misd 2
271.50 Series—	Introduction to Hit and Run Instructions. (1/1997)		
271.50	Felonious Hit and Run with Serious Bodily Injury or Death (Failure to Stop), Including Lesser Offense. G.S. 20-166(a), (c)(2). (6/2018)		F, Misd 1
271.51	Hit and Run with Personal Injury or Death (Failure to Stop or Give Required Information). G.S. 20-166(c), (c1). (6/2009)		Misd 1
271.52	Hit and Run with Serious Bodily Injury or Death (Defendant Stopped but Failed to Give Required Information or Render Assistance). G.S. 20-166(b). (6/2009)		Misd 1
271.53	Hit and Run with Property Damage. G.S. 20-166(c), (c1). (6/2009)	Misd	Misd 1
271.54	Felonious Hit and Run with Injury (Failure to Stop) Including Lesser Offense. G.S. 20-166(a1), (c)(2). (6/2009)		H
271.61	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.62	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [[Injury] [Death] to Any Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.66	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.67	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [[Injury] [Death] to Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.70	Leaving Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.71	Leaving Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.72	Failure to Render Assistance—Passenger. G.S. 20-166.2(b) (6/2006)		Misd 1
271.73	Failure to Stop or Give Required Information after Accident—Passenger. G.S. 20-166.2(b). (6/2006)		Misd 1
271.74	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.75	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger Was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1

271.76	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.77	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.80	Tampering with Ignition Interlock Device—Avoiding or Altering Testing in Operation of a Vehicle. G.S. 20-178A. (6/2012)		Misd 1
271.81	Tampering with Ignition Interlock Device—Altering Testing Results on Ignition Interlock Device. G.S. 20-178A. (6/2012)		Misd 1
271.91	Liability Insurance for Motor Vehicles. G.S. 20-279.21, 20-308, 20-309.—Deleted. See G.S. 20-311. (6/2019)		Misd 1
271.92	Operation of Motor Vehicles Without Financial Responsibility G.S. 20-309(b), 20-313 (6/2019)		Misd 1
271.94	Impersonation of a Transportation Network Company Driver. (6/2020)		Misd 2
271.95	Impersonation of a Transportation Network Company Driver While [Committing] [Attempting to Commit] a Felony. (6/2020)		H
271.97	[Import] [Manufacture] [Sale] [Offer of Sale] [Installation] [Reinstallation] of [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		Misd 1
271.98	Contributing to a Person’s [Physical Injury] [Death] By [Importing] [Manufacturing] [Selling] [Offering to Sale] [Installing] [Reinstalling] A [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		H
	Intoxicating Liquors.		
272.10	Possession of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.11	Transporting of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.13	Possession of Nontaxpaid Alcoholic Beverages with the Intent to Sell. G.S. 18B-304(b)(3). (5/2002)		Misd 1
272.14	Knowingly Selling or Giving Cigarettes, Cut Tobacco, Cigarette Wrapping Papers, or Smokeless Tobacco, or Tobacco Product to a Person under the Age of 18 Years. G.S. 14-313. (6/2014)	Misd	Misd 2
272.15A	Selling or Giving Fortified Wine, Spirituous Liquor, or Mixed Beverages to a Person Less Than Twenty-One Years. G.S. 18B-302(a)(2). (5/2001)	Misd	Misd 1
272.18	Purchase or Possession of Fortified Wine, Spirituous Liquor or Mixed Beverages by a Person Less Than Twenty-One. G.S. 18B-302(b)(2). (6/2014)	Misd	Misd 1
272.18A	Attempt to Purchase Fortified Wine, Spirituous Liquor, or Mixed Beverages by a Person Less Than Twenty-One Years. G.S. 18B-302(b)(2). (5/2001)	Misd	Misd 2
272.19	Aiding and Abetting an Underage Person to Purchase or Possess Malt Beverages, Unfortified Wine, Fortified Wine, Spirituous Liquor or Mixed Beverages. G.S. 18B-302(c). (5/2001)	Misd	Misd 1,2

272.20	Transportation within Passenger Area of Motor Vehicle of Fortified Wine or Spirituous Liquor in Other Than Manufacturer's Unopened Original Container. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21	Consuming Malt Beverage or Unfortified Wine by the Driver of Motor Vehicle. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21A	Possession of Malt Beverages with the Intent to Sell without Obtaining Permit or License. G.S. 18B-304(a). (5/2002)		Misd 1
272.22	Fraudulent Use of Identification by an Underage Person in Obtaining or Attempting to Obtain Alcoholic Beverage. G.S. 18B-302(e); (b). (5/2001)	Misd	Misd 1 or Infraction
272.25	Consumption of Alcohol by a Person Less Than 19 Years of Age. G.S. 18B-302(b)(3). (6/2014)		Misd 1
272.26	Consumption of Alcohol by Person Greater Than 19 Years of Age but Less Than 21 Years of Age. G.S. 18B-302 (6/2014)		Misd 3
272.40	[Manufacturer] [Sale] [Transportation] [Importation] [Furnishing] [Consumption] [Possession] of Powdered Alcohol. G.S. 18B-102 (6/2016)		Misd 1
272.60	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container without Child-Resistant Packaging. G.S. 14-401.18A. (6/2016)		Misd A1
272.65	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container for E-liquid Product Containing Nicotine without Labeling Nicotine Contents on Packaging. G.S. 14-401.18A (6/2016)		Misd A1
272.80	Knowingly Making a False Statement in an Application for Reissuance of a Special Occasion Permit. G.S. 18B-903.1(e) (6/2019)		Misd 1
	Game Laws.		
273.10	Firelighting or Spotlighting (Taking Deer by Artificial Light). G.S. 113-291.1(b)(2), -130(7), -294(e). (5/2001)	Misd	Misd 1
273.20	Taking a Deer from a Boat. G.S. 113-109(e). (9/2001)	Misd	Misd 1
273.30	Hunting, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.40	[Purchasing] [Possessing] License to Hunt, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.50	Unlawful Hunting with a Firearm on Sunday. G.S. 103-2(a), (a1). (6/2018)		
273.55	Unlawful Hunting of Migratory Birds on Sunday. (6/2018)		
	Welfare Fraud.		
274.10	Misdemeanor Misrepresentation in Obtaining Public Assistance. G.S. 108A-39(a). (9/2001)	Misd	Misd 1
274.15	Felonious Misrepresentation in Obtaining Public Assistance— More Than \$400. G.S. 108A-39(b). (9/2001)	I, Misd	I, Misd 1
274.20	Misdemeanor Obtaining Food Stamps by Misrepresentation. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.21	Feloniously Obtaining Food Stamps by Misrepresentation— More Than \$400 G.S. 108A-53(a). (10/2001)	I, Misd	I, Misd 1

Criminal Volume Table of Contents Replacement June 2022 Page 50 of 52		<u>Offense Classification</u>	
		Before 10/1/94	On or After 10/1/94
274.22	Misdemeanor Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.23	Feloniously Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	I,Misd	I,Misd 1
275.10	Unsupervised Use of Fully Autonomous Vehicle by a Person Under the Age of 12. G.S. 103-2(a2).(6/2018)		
Escape.			
280.20	Felonious Escape. G.S. 148-45(a), (b); 14-256(1), (2). *(On or after 12/97, Voluntary Manslaughter Is a Class D felony.) (6/2014)	J	I*
280.21	Escape from Private Correction Facility. G.S. 14-256.1. (5/2001)		H
280.40	Escape from Imprisonment by Use of a Dangerous Weapon. G.S. 14-258.2. (5/2001)	H	F
280.41	Assault with a Deadly Weapon Inflicting Bodily Injury While Assisting a Prisoner to Escape or Attempt to Escape. G.S. 14-258.2(b). (12/2001)	H	H
280.42	Using a Deadly Weapon in Assisting a Prisoner to Effect His Escape. G.S. 14-258.2. (5/2001)	H	H
280.43	Unauthorized Possession or Fabrication of Dangerous Weapon by Prisoner. G.S. 14-258.2(a). (11/2000)	Misd	H
280.44	Misdemeanor Jailbreak or Escape from Confinement Facility Officer. G.S. 14-256. (5/2001)	J, Misd	Misd 1
280.45	Escape of a Working Prisoner. G.S. 14-255. (5/2001)		Misd 1
Election/Voting Offenses.			
285.05	False Statement Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.10	False Statement Not Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.15	Candidate Witnessing Absentee Ballot of Non-Relative. Misdemeanor. (6/2021)		Misd 1
285.20	Attempted Vote by Absentee Ballot—Forgery. Felony. (6/2021)		G
285.25	[Sale of] [Attempted Sale of] [Purchase of] [Agreement to Purchase] Absentee Voting Materials. Felony. (6/2021)		I
285.30	[Destruction of] [Failure to Deliver] Absentee Ballot. Felony. (6/2021)		G
285.35	[Copy] [Retention] of a [Request for] [Completed Application for] [Identifying Information Disclosed in] an Absentee Ballot. Felony. (6/2021)		G
285.40	Compensation Based on Requests for Absentee Ballots. Felony. (6/2021)		I
285.45	Intent to Unlawfully Influence a(n) [Primary] [Election]. Felony. (6/2021)		F
285.50	Disclosure of Register of Absentee Ballot Requests. Felony. (6/2021)		G
285.55	Sending of Unrequested Absentee Ballot. Felony. (6/2021)		I

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

PART III. DEFENSES

- 301.10 Alibi. (3/2003)
- 302.10 Automatism.
Automatism or Unconsciousness. (6/2009)
- 304.10 Insanity.
Insanity Defense. (6/2009)
- 305.10 Intoxication.
Voluntary Intoxication, Liquor or Drugs—In General. (6/2020)
- 305.11 Voluntary Intoxication, Lack of Mental Capacity—Premeditated and Deliberate First-Degree Murder. (6/2009)
- 306.10 Accepted Medical Purpose (Defense to First and Second-Degree Sexual Offenses Involving Penetration). (6/2020)
- 307.10 Accident.
Accident (Defense to Homicide Charge, Except Homicide Committed during Perpetration of a Felony). (5/2003)
- 307.11 Accident (Defense in Cases Other Than Homicide). (5/2020)
- 308.10 Self-Defense.
Self-Defense, Retreat—Including Homicide (to Be Used Following Self-Defense Instructions Where Retreat Is in Issue). G.S. 14-51.2(1), .3(a). (6/2022)
- 308.40 Self-Defense—Assaults Not Involving Deadly Force. G.S. 14.15.2, .3, .4. (6/2022)
- 308.41 Detention of Offenders by Private Persons. G.S. 15A-404. (6/2009)
- 308.45 Self-Defense—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.45A Self-Defense Example with 208.10—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.47 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to Assaults Not Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.50 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to All Assaults Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.60 Killing in Lawful Defense of a [Family Member] [Third Person]—(Defense to Homicide). G.S. 14.51.2, .3, .4. (6/2022)
- 308.70 Self-Defense to Sexual Assault—Homicide. G.S. 14.51.2, .3. (6/2022)
- 308.80 Defense of [Habitation] [Workplace] [Motor Vehicle]—Homicide and Assault. G.S. 14-51.1, .2, .3, .4. (6/2022)
- 308.90 Justification for Defensive Force Not Available—Defendant Attempting to Commit, Committing, or Escape After the Commission of a Felony. (6/2022)
- 309.10 Entrapment.
Entrapment. (6/2021)

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310.10	Compulsion, Duress, or Coercion. (6/2022)		
310.11	Duress or Necessity Defense to Escape from Department of Correction. (5/2003)		
310.12	Necessity. (6/2022)		
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311.10	Lack of Jurisdiction (with Special Verdict Form). (5/2003)		

APPENDICES:

A. TABLE OF SECTIONS OF GENERAL STATUTES INVOLVED IN CRIMINAL INSTRUCTIONS.

B. CRIMINAL VOLUME INDEX.

214.40 BREAKING OR ENTERING INTO MOTOR VEHICLE. FELONY.

NOTE WELL: G.S. 14-56 was amended, effective December 1, 2015. For offenses committed after December 1, 2015, it is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside needing first aid or emergency health care treatment.

The defendant has been charged with breaking or entering into a motor vehicle.¹

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that there was

[a breaking² by the defendant. (*State how breaking allegedly occurred*) would be a breaking.

[an entry by the defendant. (*State how entry allegedly occurred*) would be an entry.

[either a breaking or an entry by the defendant. (*State how breaking allegedly occurred*) would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, the State must prove that it was a motor vehicle which was [broken into] [entered] [broken into or entered].

Third, that there was something of value in the motor vehicle.

Fourth, that the owner did not consent to the [breaking] [entering] [breaking or entering].

And Fifth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended³ to commit larceny⁴ therein. Larceny is the taking and carrying away of the personal property of another without that person's consent with the intent to deprive that person of its possession

permanently. (If you find that the defendant was found in the motor vehicle and that the defendant had no lawful purpose for being there, you are permitted but not required to infer from this that the defendant entered with the intent to commit larceny therein.)

If you find from the evidence beyond a reasonable doubt, that on or about the alleged date, the defendant without the consent of the owner [broke into] [and] [or] [entered] another's motor vehicle which contained something of value, intending at that time to commit larceny therein, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Railroad cars, aircraft, boats or other watercraft, and trailers as well as motor vehicles are included under this statute.

2. A breaking need not be actual but may be by threat of force, by some trick or fraudulent representation.

3. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

4. Defendant may be charged with intent to commit a felony other than larceny. If so, substitute that felony for larceny and define the felony. Failure to define the crime may constitute reversible error. *State v. Elliott*, 21 N.C. App. 555 (1974).

214.46 BREAKING OR ENTERING INTO CERTAIN LAW ENFORCEMENT VEHICLES. FELONY.¹

NOTE WELL: It is not a violation of this statute when a person breaks or enters a motor vehicle, boat, etc., to provide assistance to a person inside needing first aid or emergency health care treatment. See N.C.G.S. § 14-56(b).

The defendant has been charged with breaking or entering into a law enforcement vehicle. For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that there was [a breaking² by the defendant. (*State how breaking allegedly occurred*)] [an entry by the defendant. (*State how entry allegedly occurred*)] [either a breaking or an entry by the defendant. (*State how breaking allegedly occurred*)] [either a breaking or an entry by the defendant. (*State how entry allegedly occurred*)] would be a breaking. (*State how entry allegedly occurred*) would be an entry.]

Second, the State must prove that it was a law enforcement vehicle³ that was [broken into] [entered] [broken into or entered]. A law enforcement vehicle is a motor vehicle, railroad car, trailer, aircraft, or boat or other watercraft, owned or operated by a law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.

Third, that the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [*(name branch of the United States Armed Forces)*].

Fourth, that there was something of value in the law enforcement vehicle.

Fifth, that the owner did not consent to the [breaking] [entering] [breaking or entering].

And Sixth, that at the time of the [breaking] [entering] [breaking or entering], the defendant intended⁴ to commit larceny⁵ therein. Larceny is the taking and carrying away of the personal property of another without that person's consent with the intent to deprive that person of its possession permanently. (If you find that the defendant was found in the law enforcement vehicle and that the defendant had no lawful purpose for being there, you are permitted, but not required, to infer from this that the defendant entered with the intent to commit larceny therein.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant without consent of the owner [broke into] [and] [or] [entered] another's law enforcement vehicle which contained something of value, intending at that time to commit larceny therein, and the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [(*name branch of the United States Armed Forces*)], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁶

1. Effective December 1, 2021. S.L. 2021-167 amended N.C.G.S. § 14-56 to increase the penalties for breaking or entering into certain law enforcement vehicles.

2. A breaking need not be actual, but may be by threat of force, by some trick or fraudulent representation.

3. Railroad cars, aircrafts, boats or other watercrafts, and trailers as well as motor vehicles which are owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States are included under this statute.

4. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

5. Defendant may be charged with intent to commit a felony other than larceny. If so, substitute that felony for larceny and define the felony. Failure to define the crime may constitute reversible error. *State v. Elliott*, 21 N.C. App. 555 (1974).

6. Felony breaking or entering into a motor vehicle is a lesser-included offense. N.C.G.S. § 14-56(a). See N.C.P.I.—Crim. 214.40.

216.37 FELONIOUS LARCENY—LARCENY OF MOTOR VEHICLE PARTS WHERE THE COST OF REPAIRING THE MOTOR VEHICLE IS \$1,000 OR MORE OR A CATALYTIC CONVERTER. FELONY.

The defendant has been charged with felonious larceny of [(a) motor vehicle part(s) costing \$1,000 or more to repair the motor vehicle] [which is a catalytic converter]¹.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the defendant took (a) motor vehicle part(s) belonging to (*name alleged victim*).²

Second, that the defendant carried away³ the motor vehicle part(s).

Third, that (*name alleged victim*) did not consent to the taking and carrying away of the motor vehicle part(s).

Fourth, that at the time of the taking, the defendant intended to deprive (*name alleged victim*) of the use of the part(s) permanently.⁴

Fifth, that the defendant knew the defendant was not entitled to take the motor vehicle part(s).

And Sixth, that the [cost of repairing the motor vehicle was \$1000 or more]⁵ [motor vehicle part was a catalytic converter].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another's motor vehicle part(s) without another's consent, knowing that the defendant was not entitled to take the part(s) and intending at that time to deprive (*name alleged victim*) of the use of the part(s) permanently, and that the [cost of repairing the motor vehicle was \$1,000 or more]⁶ [vehicle part was a catalytic converter], it would be your duty to return a verdict of guilty. If you do not

so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Effective December 1, 2021, S.L. 2021-154 amended N.C.G.S. § 14-72.8(a) to include larceny of a catalytic converter. A person in possession of a catalytic converter that has been removed from a motor vehicle is presumed to have obtained the catalytic converter under circumstances constituting a violation of N.C.G.S. § 14-72.8(a) unless the person falls into the categories listed in N.C.G.S. § 14-72.8(b).

2. If there is evidence of conduct which would constitute "taking," but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element:

"(Describe conduct which would constitute a taking) would be a taking." See S. v. Carswell, 296 N.C. 101 (1978).

3. In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

4. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf. S. v. Smith, 268 N.C. 167 (1966).*

5. The cost of repairing the motor vehicle means the cost of the replacement part and any additional costs necessary to install the replacement part in the motor vehicle. (N.C. Gen. Stat. § 14-72.8(c)).

6. If the cost is less than \$1,000 and the motor vehicle part is not a catalytic converter, misdemeanor larceny may be instructed upon (N.C.P.I.—Crim. 216.05).

216.38 LARCENY OF LAW ENFORCEMENT EQUIPMENT WORTH MORE THAN
\$1,000 FROM CERTAIN LAW ENFORCEMENT VEHICLES. FELONY.

The defendant has been charged with felonious larceny of law enforcement equipment worth more than \$1,000. For you to find the defendant guilty of this offense, the State must prove nine things beyond a reasonable doubt:

First, that the defendant took¹ law enforcement equipment belonging to another person. Law enforcement equipment means any equipment owned or operated by a law enforcement agency, and used by law enforcement agencies to conduct law enforcement operations. (*(Name equipment enumerated in N.C.G.S. § 14-92.9(a)(1))*)²

Second, that the defendant carried away³ the law enforcement equipment.

Third, that the alleged victim did not consent to the taking and carrying away of the law enforcement equipment.

Fourth, that at the time, the defendant intended to deprive the alleged victim of its use permanently.⁴

Fifth, that the defendant knew the defendant was not entitled to take the law enforcement equipment.

Sixth, that the law enforcement equipment was taken from a law enforcement vehicle. A law enforcement vehicle is a motor vehicle, railroad car, trailer, aircraft, or boat or other watercraft, owned or operated by a law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.⁵

Seventh, that the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other

watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [*(name branch of the United States Armed Forces)*].

Eighth, that the defendant knew or reasonably should have known that the property was law enforcement equipment.

And Ninth, that the law enforcement equipment was worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's law enforcement equipment without the alleged victim's consent, knowing that the defendant was not entitled to take it, intending at that time to deprive the alleged victim of its use permanently, which the defendant knew or reasonably should have known was law enforcement equipment, and that the law enforcement equipment was taken from a law enforcement vehicle, which the defendant knew or reasonably should have known was a law enforcement vehicle, and that the law enforcement equipment was worth more than \$1,000, it would be your duty to return a verdict of guilty of felonious larceny of law enforcement equipment worth more than \$1,000. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious larceny of law enforcement equipment worth more than \$1,000, but must determine whether the defendant is guilty of felonious larceny of law enforcement equipment. Felonious larceny of law enforcement equipment differs from felonious larceny of law enforcement equipment worth more than \$1,000 in that the law enforcement equipment need not be worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's law enforcement equipment without the alleged victim's consent, knowing that

the defendant was not entitled to take it, intending at that time to deprive the alleged victim of its use permanently, which the defendant knew or reasonably should have known was law enforcement equipment, and that the law enforcement equipment was taken from a law enforcement vehicle, which the defendant knew or reasonably should have known was a law enforcement vehicle, and that the law enforcement equipment was not worth more than \$1,000, it would be your duty to return a verdict of guilty of felonious larceny of law enforcement equipment. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁶

1. If there is evidence of conduct that would constitute "taking," but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element: "(Describe conduct that would constitute a taking) would be a taking." See *State v. Carswell*, 296 N.C. 101 (1978).

2. N.C.G.S. § 14-72.9(a)(1) describes certain instruments which would be considered law enforcement equipment, including firearms and any other type of weapon, ammunition, radios, computers, handcuffs and other restraints, phones, cell site simulators, light bars, and sirens. In analogous cases regarding larceny of certain property, appellate courts have explained that in some circumstances the better practice may be to designate the specific property taken as alleged in the indictment, rather than generally referring to the property. *State v. Wright*, 273 N.C. App. 188, 848 S.E.2d 252 (2020), *aff'd per curiam*, 2021-NCSC-126.

3. In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

4. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf. State v. Smith*, 268 N.C. 167 (1966).

5. N.C.G.S. § 14-72.9(a)(2).

6. If there is a discrepancy as to whether the property stolen was law enforcement equipment or the equipment was stolen from a law enforcement vehicle, then either felony or misdemeanor larceny pursuant to N.C.G.S. § 14-72(a) may be submitted as lesser-included offenses, depending on the alleged value of the items. See N.C.P.I.—Crim. 216.10 (Felonious Larceny—Goods Worth More Than \$1,000) and/or 216.05 (Misdemeanor Larceny).

216.39 LARCENY OF LAW ENFORCEMENT EQUIPMENT FROM CERTAIN LAW
ENFORCEMENT VEHICLES WORTH LESS THAN \$1,000. FELONY.

The defendant has been charged with felonious larceny of law enforcement equipment. For you to find the defendant guilty of this offense, the State must prove eight things beyond a reasonable doubt:

First, that the defendant took¹ law enforcement equipment belonging to another person. Law enforcement equipment means any equipment owned or operated by a law enforcement agency, and used by law enforcement agencies to conduct law enforcement operations. (*Name equipment enumerated in N.C.G.S. § 14-92.9(a)(1)*) is law enforcement equipment.)²

Second, that the defendant carried away³ the law enforcement equipment.

Third, that the alleged victim did not consent to the taking and carrying away of the law enforcement equipment.

Fourth, that at the time, the defendant intended to deprive the alleged victim of its use permanently.⁴

Fifth, that the defendant knew the defendant was not entitled to take the law enforcement equipment.

Sixth, that the law enforcement equipment was taken from a law enforcement vehicle. A law enforcement vehicle is a motor vehicle, railroad car, trailer, aircraft, or boat or other watercraft, owned or operated by a law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States.⁵

Seventh, that the defendant knew or reasonably should have known that the [railroad car] [motor vehicle] [trailer] [aircraft] [boat or other

watercraft] was owned or operated by [a law enforcement agency] [the North Carolina National Guard] [(*name branch of the United States Armed Forces*)].

And Eighth, that the defendant knew or reasonably should have known that the property was law enforcement equipment.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away another person's law enforcement equipment without the alleged victim's consent, knowing that the defendant was not entitled to take it, intending at that time to deprive the alleged victim of its use permanently, which the defendant knew or reasonably should have known was law enforcement equipment, and that the law enforcement equipment was taken from a law enforcement vehicle, which the defendant knew or reasonably should have known was a law enforcement vehicle, it would be your duty to return a verdict of guilty of felonious larceny of law enforcement equipment. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁶

1. If there is evidence of conduct that would constitute "taking," but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element: "(*Describe conduct that would constitute a taking*) would be a taking." See *State v. Carswell*, 296 N.C. 101 (1978).

2. N.C.G.S. § 14-72.9(a)(1) describes certain instruments which would be considered law enforcement equipment, including firearms and any other type of weapon, ammunition, radios, computers, handcuffs and other restraints, phones, cell site simulators, light bars, and sirens. In analogous cases regarding larceny of certain property, appellate courts have explained that in some circumstances the better practice may be to designate the specific property taken as alleged in the indictment, rather than generally referring to the property. *State v. Wright*, 273 N.C. App. 188, 848 S.E.2d 252 (2020), *aff'd per curiam*, 2021-NCSC-126.

3. In the event that there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

4. In the event that there is some dispute as to permanent deprivation, the jury should be told that a temporary deprivation will not suffice. *But cf. State v. Smith*, 268 N.C. 167 (1966).

5. N.C.G.S. § 14-72.9(a)(2).

6. If there is a discrepancy as to whether the property stolen was law enforcement equipment or the equipment was stolen from a law enforcement vehicle, then misdemeanor larceny pursuant to N.C.G.S. § 14-72(a) may be submitted as a lesser-included offense. See N.C.P.I.—Crim. 216.05.

217.10 COMMON LAW ROBBERY. FELONY.

The defendant has been charged with common law robbery, which is taking and carrying away personal property of another from his/her person or in his/her presence without his/her consent by violence or by putting him/her in fear, and with the intent to deprive him/her of its use permanently, the taker knowing that he/she was not entitled to take it.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the defendant took property from the person of (*name alleged victim(s)*)¹ or in the presence of (*name alleged victim(s)*).²

Second, that the defendant carried away the property.³

Third, that (*name alleged victim(s)*) did not voluntarily consent to the taking and carrying away of the property.

Fourth, that at the time, the defendant intended to deprive (*name alleged victim(s)*) of its use permanently.⁴

Fifth, that the defendant knew the defendant was not entitled to take the property.⁵

And Sixth, that the taking was by violence or by putting (*name alleged victim(s)*) in fear.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away property from the person or the presence of (*name alleged victim(s)*) without (*name alleged victim's*) voluntary consent, by violence or by putting (*name alleged victim(s)*) in fear, the defendant knowing that the defendant was not entitled to take it and intending at that time to deprive (*name alleged victim(s)*) of its use

permanently, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty. ⁶

1. See *State v. McLymore*, 2021-NCCOA-425, ¶ 23 (noting that “it is better practice to designate in the robbery with a firearm jury instruction the individual(s) named in the indictment as the alleged victim(s)”).

2. If there is evidence of conduct which would constitute “taking” but there is also evidence that the defendant's conduct fell short of what would constitute “taking,” add the following to this element: “To constitute a taking the defendant must have the property in his possession or under his control, if only for an instant. There must be a severance of the property from the owner's possession.” See *State v. Carswell*, 296 N.C. 101 (1978).

3. If there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

4. In the event that there is some dispute as to permanent deprivation, the jury should be told that temporary deprivation will not suffice. *But cf. State v. Smith*, 268 N.C. 167 (1966).

5. In the event that a defendant relies on claim of right, the jury should be told that if the defendant honestly believed he was entitled to take the property, he cannot be guilty of robbery.

6. If there is to be instruction on lesser included offenses, the last phrase should be: “...you will not return a verdict of guilty of common law robbery.”

217.20 ROBBERY WITH A FIREARM.¹ FELONY.

The defendant has been charged with robbery with a firearm, which is taking and carrying away the personal property of another from his/her person or in his/her presence without his/her consent by endangering or threatening a person's life with a firearm, the taker knowing that he/she was not entitled to take the property and intending to deprive another of its use permanently.

For you to find the defendant guilty of this offense, the State must prove seven things beyond a reasonable doubt:

First, that the defendant took property from the person of (*name alleged victim(s)*)² or in the presence of (*name alleged victim(s)*).³

Second, that the defendant carried away the property.⁴

Third, that (*name alleged victim(s)*) did not voluntarily consent to the taking and carrying away of the property.

Fourth, that the defendant knew that defendant was not entitled to take the property.

Fifth, that at the time of taking the defendant intended to deprive (*name alleged victim(s)*) of its use permanently.⁵

Sixth, that the defendant had a firearm in defendant's possession at the time defendant obtained the property (or that it reasonably appeared to the victim(s) that a firearm was being used, in which case you may infer that the said instrument was what the defendant's conduct represented it to be).⁶

And Seventh, that the defendant obtained the property by endangering or threatening the life of (*name alleged victim(s)*) [another person] with the firearm.⁷

If you find from the evidence beyond a reasonable doubt that on or about

the alleged date, the defendant had in defendant's possession a firearm and took and carried away property from the person or presence of (*name alleged victim(s)*) without (*name alleged victim's*) voluntary consent by endangering or threatening (*name alleged victim's*) [another person's] life with the use or threatened use of a firearm, the defendant knowing that defendant was not entitled to take the property and intending to deprive (*name alleged victim(s)*) of its use permanently, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁸

1. This instruction is to be used when the robbery was completed. If there may have been only an attempt, which is also punishable under N.C. Gen. Stat. § 14-87, N.C.P.I.—Crim. 217.25 should be used. If there is conflicting evidence on this point, both instructions may be appropriate.

2. See *State v. McLymore*, 2021-NCCOA-425, ¶ 23 (noting that "it is better practice to designate in the robbery with a firearm jury instruction the individual(s) named in the indictment as the alleged victim(s)").

3. If there is evidence of conduct which would constitute "taking" but there is also evidence that the defendant's conduct fell short of what would constitute "taking," add the following to this element: "To constitute a taking the defendant must have the property in his possession or under his control, if only for an instant. There must be a severance of the property from the owner's possession." See *State v. Carswell*, 296 N.C. 101 (1978) and *State v. Barnes*, 345 N.C. 146, 478 S.E.2d 188 (1996).

4. If there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

5. In the event there is some dispute as to permanent deprivation, the jury should be told that temporary deprivation will not suffice. *But, cf. S. v. Smith*, 268 N.C. 167 (1966).

6. See *State v. Williams*, 335 N.C. 518 (1994), regarding a mandatory presumption of dangerous or deadly weapon in certain factual situations.

If there is any evidence that a firearm was not involved (e.g. a BB gun), you must also instruct on Common Law Robbery (N.C.P.I.—Crim. 217.10). See *State v. Wise*, 837 S.E.2d 193 (2019)

7. Where use of the firearm is in issue, give the following charge: "Mere possession of the firearm does not, by itself, constitute endangering or threatening the life of the victim." *State v. Gibbons*, 303 N.C. 484 (1981).

Where this fact is in issue, an instruction on the lesser included offense of common law robbery should also be given.

8. If there is to be instruction on lesser included offenses, the last phrase should be: "...you will not return a verdict of guilty of robbery with a firearm." In *State v. White*, 322 N.C. 506, 369 S.E.2d 813 (1988), the North Carolina Supreme Court overruling *State v. Hurst*, 320 N.C. 589

(1987), held that larceny and common law robbery are lesser-included offense of armed robbery. N.C. Gen. Stat. § 14-87(a1) provides that attempted armed robbery with a dangerous weapon is a lesser-included offense of armed robbery. Accordingly, instructions on these and other lesser-included offenses should be given when raised by the evidence.

217.30 ROBBERY WITH A DANGEROUS WEAPON—OTHER THAN A FIREARM¹
COVERING COMMON LAW ROBBERY AS A LESSER INCLUDED OFFENSE.
FELONY.

The defendant has been charged with robbery with a dangerous weapon, which is taking and carrying away the personal property of another from his/her person or in his/her presence without his/her consent by endangering or threatening a person's life with a dangerous weapon, the taker knowing that he/she was not entitled to take the property and intending to deprive another of its use permanently.

For you to find the defendant guilty of this offense, the State must prove seven things beyond a reasonable doubt:

First, that the defendant took property from the person of (*name alleged victim(s)*)² or in the presence of (*name alleged victim(s)*).³

Second, that the defendant carried away the property.⁴

Third, that (*name alleged victim(s)*) did not voluntarily consent to the taking and carrying away of the property.

Fourth, that the defendant knew he was not entitled to take the property.

Fifth, that at the time of the taking the defendant intended to deprive (*name alleged victim(s)*) of its use permanently.⁵

Sixth, that the defendant had a dangerous weapon⁶ in his possession at the time he obtained the property (or that it reasonably appeared to the victim(s) that a dangerous weapon was being used, in which case you may infer that the said instrument was what the defendant's conduct represented it to be).⁷

A dangerous weapon is a weapon which is likely to cause death or serious bodily injury.⁸

And Seventh, that the defendant obtained the property by endangering or threatening the life of (*name alleged victim(s)*) [another person] with the

dangerous weapon.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant had in his possession a dangerous weapon and took and carried away property from the person or in the presence of *(name alleged victim(s))* without *(name alleged victim's)* voluntary consent by endangering or threatening *(name alleged victim's)* [another person's] life with the use or threatened use of a dangerous weapon, the defendant knowing that he was not entitled to take the property and intending to deprive *(name alleged victim(s))* of its use permanently, it would be your duty to return a verdict of guilty of robbery with a dangerous weapon. If you do not find the defendant guilty of robbery with a dangerous weapon you must determine whether the defendant is guilty of common law robbery.

Common law robbery is the taking and carrying away of the personal property of another from his/her person or in his presence without his/her consent by violence or by putting him/her in fear, and with the intent to deprive him/her of its use permanently, the taker knowing that he/she was not entitled to take it.

For you to find the defendant guilty of common law robbery, the State must prove six things beyond a reasonable doubt:

First, that the defendant took property from the person of *(name alleged victim(s))* or in the presence of *(name alleged victim(s))*.

Second, that the defendant carried away the property.

Third, that *(name alleged victim(s))* did not voluntarily consent to the taking and carrying away of the property.

Fourth, that at the time, the defendant intended to deprive *(name alleged victim(s))* of its use permanently.

Fifth, that the defendant knew the defendant was not entitled to take the property.

And Sixth, that the taking was by violence or by putting (*name alleged victim(s)*) in fear.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant took and carried away property from the person or the presence of (*name alleged victim(s)*) without (*name alleged victim's*) voluntary consent, by violence or by putting (*name alleged victim(s)*) in fear, the defendant knowing that the defendant was not entitled to take it and intending at that time to deprive (*name alleged victim(s)*) of its use permanently, it would be your duty to return a verdict of guilty of common law robbery. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.⁹

1. This instruction is to be used when the robbery was completed. If there may have been only an attempt, which is also punishable under G.S. 14-87, N.C.P.I.—Crim. 217.25 should be used (modified for dangerous weapon). If there is conflicting evidence on this point, both instructions may be given.

2. See *State v. McLymore*, 2021-NCCOA-425, ¶ 23 (noting that “it is better practice to designate in the robbery with a firearm jury instruction the individual(s) named in the indictment as the alleged victim(s)”).

3. If there is evidence of conduct which would constitute “taking” but there is also evidence that the defendant's conduct fell short of what would constitute “taking,” add the following to this element: “To constitute a taking the defendant must have the property in his possession or under his control, if only for an instant. There must be a severance of the property from the owner's possession.” See *S. v. Carswell*, 296 N.C. 101 (1978).

4. If there is some dispute as to asportation, the jury should be told that the slightest movement is sufficient.

5. In the event there is some dispute as to permanent deprivation the jury should be told that intent to deprive temporarily will not suffice. See *S. v Smith*, 268 N.C. 167 (1996).

6. In the event there is some dispute as to the nature of the weapon the jury should be told in determining whether the weapon was a dangerous weapon, you should consider the nature of the weapon, the manner in which it was used, and the size and strength of the defendant as compared to the victim.

7. See *State v. Williams*, 335 N.C. 518 (1994), regarding a mandatory presumption of dangerous or deadly weapon in certain factual situations.

8. The State is not required to show that the victim actually sustained serious bodily injury to show that the weapon was used as a dangerous weapon. See *State v. Chavis*, 2021-NCCOA-349, ¶ 15.

9. If there is to be instruction on lesser included offenses, the last phrase should be: "...you will not return a verdict of guilty of common law robbery." *In S. v. White*, 322 N.C. 506, 369 S.E.2d 813 (1988), the North Carolina Supreme Court overruling *S. v. Hurst*, 320 N.C. 589 (1987), held that larceny and common law robbery are lesser-included offense of armed robbery. N.C. Gen. Stat. § 14-87(a1) provides that attempted armed robbery with dangerous weapon is a lesser-included offense of armed robbery. Accordingly, instructions on these and other lesser-included offenses should be given when raised by the evidence.

219B.65 [POSSESSING] [SELLING] [DELIVERING] A SKIMMING DEVICE.
FELONY.¹

The defendant has been charged with knowingly [possessing] [selling] [delivering] a skimming device.

For you to find the defendant guilty of this offense, the State must prove beyond a reasonable doubt that the defendant knowingly [possessed] [sold] [delivered] a skimming device. A skimming device is a self-contained device that (1) is designed to read and store in the device’s internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a financial transaction card or from another device that directly reads the information from a financial transaction card, and (2) is incapable of processing the financial transaction card information for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.²

NOTE WELL: Use the appropriate subsequent parenthetical phrase based on the offense charged in the indictment.

POSSESSION OF SKIMMING DEVICE

(A person possesses a skimming device when the person is aware of its presence, (the defendant knows that what the defendant possessed was a skimming device,)³ and has (either by [himself] [herself] or together with others) both the power and intent to control the disposition or use of the skimming device.

NOTE WELL: If constructive possession is an issue, or if an amplified definition of actual possession is needed, refer to N.C.P.I.—Crim. 104.41 for further instructions.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly possessed a skimming device, it would be your duty to return a verdict of guilty. If you do not so find

or have a reasonable doubt, it would be your duty to return a verdict of not guilty.)

[SALE] [DELIVERY] OF SKIMMING DEVICE

(For you to find the defendant guilty of this offense, the State must prove beyond a reasonable doubt that the defendant knowingly [sold] [delivered] a skimming device to (*name buyer or distributee*) (the defendant knowing that what the defendant [sold] [delivered] was a skimming device)⁴.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly [sold] [delivered] a skimming device to (*name buyer or distributee*), it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt, it would be your duty to return a verdict of not guilty.)

NOTE WELL: N.C. Gen. Stat. § 14-113.9(a)(6) provides that the prohibition against possessing, selling, or delivering a skimming device does not apply to an employee, officer, or agent of any of the following while acting within the scope of the person's official duties: (1) A law enforcement agency; (2) A State or federal court; (3) An agency or department of the State, local, or federal government; or (4) A financial or retail security investigator employed by a merchant. If the defendant presents evidence of one or more of these exceptions, the trial judge should instruct on the relevant subsection below with regards to the defendant's evidence as follows:

(If the defendant was a(n) [employee] [officer] [agent] of [a law enforcement agency] [a [State] [federal] court] [an [agency] [department] of the [State] [local] [federal] government] [a [financial] [retail] security investigator employed by a merchant], acting within the scope of the defendant's official duties when the defendant [possessed] [sold] [delivered] a skimming device, the defendant's [possession] [sale] [delivery] of the skimming device was lawful, and the defendant is not guilty.)

1. Effective December 1, 2021. S.L. 2021-68 amended N.C.G.S. § 14-113.9(a) to make it unlawful to knowingly possess, sell, or deliver a skimming device.

2. Definition effective December 1, 2021 pursuant to S.L. 2021-68. See N.C.G.S. § 14.113.8(11).

3. If the defendant contends that the defendant did not know the true identity of what he/she possessed, add the parenthetical language. See *State v. Boone*, 310 N.C. 284, 294, 311 S.E.2d 552, 559 (1984), *overruled on other grounds by State v. Oates*, 366 N.C. 264, 732 S.E.2d 571 (2012). See also *State v. Nobles*, 329 N.C. 239, 244, 404 S.E.2d 668, 671 (1991) (stating that “when the defendant introduces evidence of lack of guilty knowledge the court must charge on it”).

4. If the defendant contends that the defendant did not know the true identity of what he/she sold or delivered, add the parenthetical language. See *State v. Boone*, 310 N.C. 284, 294, 311 S.E.2d 552, 559 (1984), *overruled on other grounds by State v. Oates*, 366 N.C. 264, 732 S.E.2d 571 (2012). See also *State v. Nobles*, 329 N.C. 239, 244, 404 S.E.2d 668, 671 (1991) (stating that “when the defendant introduces evidence of lack of guilty knowledge the court must charge on it”).

223.20 [ALTERATION] [DESTRUCTION] [REMOVAL] OF PERMANENT IDENTIFICATION MARKS FROM PERSONAL PROPERTY. MISDEMEANOR.

The defendant has been charged with [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property.¹

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that (*describe personal property*) was marked with a [permanent serial number] [manufacturer’s identification plate] [permanent distinguishing number or identification mark].

Second, that the defendant [altered] [destroyed] [defaced] [removed] this [permanent serial number] [manufacturer’s identification plate] [permanent distinguishing number or identification mark].

And Third, that the defendant did this with the intent to [conceal] [misrepresent] the identity of the personal property.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date (*describe item of personal property*) was marked with a [permanent serial number] [manufacturer’s identification plate] [permanent distinguishing number or identification mark] which the defendant [altered] [destroyed] [defaced] [removed] with the intent to [conceal] [misrepresent] its identity, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Effective December 1, 2021 applying to offenses committed on or after that date, S.L. 2021-36 amended N.C.G.S. § 14-160.1(c) to increase the punishment for altering, destroying, or removing permanent personal identification marks from personal property worth more than \$1,000. See N.C.P.I.—Crim. 223.20A.

223.20A [ALTERATION] [DESTRUCTION] [REMOVAL] OF PERMANENT IDENTIFICATION MARKS FROM PERSONAL PROPERTY WORTH MORE THAN \$1,000. FELONY.

NOTE WELL: Effective December 1, 2021 applying to offenses committed on or after that date. S.L. 2021-36 amended N.C.G.S. § 14-160.1(c) to increase the punishment for altering, destroying, or removing permanent personal identification marks from personal property.

The defendant has been charged with felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property worth more than \$1,000.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that (*describe personal property*) was marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark].

Second, that the defendant [altered] [destroyed] [defaced] [removed] this [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark].

Third, that the defendant did this with the intent to [conceal] [misrepresent] the identity of the personal property.

And Fourth, that the personal property was worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date (*describe item of personal property*) was marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] which the defendant [altered] [destroyed] [defaced] [removed] with the intent to [conceal] [misrepresent] its identity, and that personal property was worth more than \$1,000, it would

be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property, but must determine whether the defendant is guilty of non-felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property.¹ Non-felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property differs from felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property in that the property need not be worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date (*describe item of personal property*) was marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] which the defendant [altered] [destroyed] [defaced] [removed] with the intent to [conceal] [misrepresent] its identity, it would be your duty to return a verdict of guilty of non-felonious [altering] [destroying] [defacing] [removing] a permanent identification mark from an item of personal property. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Misdemeanor altering, destroying, or removing permanent personal identification marks from personal property is a lesser-included offense. N.C.G.S. § 14-160.1(c); see also N.C.P.I.—Crim. 223.20.

223.21 [BUYING] [SELLING] [POSSESSING] ITEM OF PERSONAL PROPERTY ON WHICH THE PERMANENT IDENTIFICATION MARK HAS BEEN [ALTERED] [DESTROYED] [DEFACED] [REMOVED]. MISDEMEANOR.

The defendant has been charged with [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed].¹

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant [bought] [sold] [possessed²] (*describe personal property*) which was not the defendant's own.

Second, that the personal property once had a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] on it.

Third, that this [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] had been [altered] [destroyed] [defaced] [removed] in order to [conceal] [misrepresent] the identity of the personal property.

And Fourth, that the defendant knew or had reasonable grounds to believe that this [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] had been so [altered] [destroyed] [defaced] [removed].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [bought] [sold] [possessed] (*describe item of personal property*) which was not the defendant's own and had been marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark], which had

[BUYING] [SELLING] [POSSESSING] ITEM OF PERSONAL PROPERTY ON WHICH THE PERMANENT IDENTIFICATION MARK HAS BEEN [ALTERED] [DESTROYED] [DEFACED] [REMOVED]. MISDEMEANOR.

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been [altered] [destroyed] [defaced] [removed] for the purpose of [concealing] [misrepresenting] its identity, and that the defendant knew or had reasonable grounds to believe that this had been done to [conceal] [misrepresent] the identity of the personal property, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Effective December 1, 2021 applying to offenses committed on or after that date. S.L. 2021-36 amended N.C.G.S. § 14-160.1(c) to increase the punishment for buying, selling, or possessing an item of personal property worth more than \$1,000 on which the permanent identification mark has been altered, destroyed, or removed. See N.C.P.I.—Crim. 223.21A.

2. If a definition of constructive possession is required, see N.C.P.I.—Crim. 104.41.

[BUYING] [SELLING] [POSSESSING] ITEM OF PERSONAL PROPERTY WORTH MORE THAN \$1,000 ON WHICH THE PERMANENT IDENTIFICATION MARK HAS BEEN [ALTERED] [DESTROYED] [DEFACED] [REMOVED]. FELONY.

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223.21A [BUYING] [SELLING] [POSSESSING] ITEM OF PERSONAL PROPERTY WORTH MORE THAN \$1,000 ON WHICH THE PERMANENT IDENTIFICATION MARK HAS BEEN [ALTERED] [DESTROYED] [DEFACED] [REMOVED]. FELONY.

NOTE WELL: Effective December 1, 2021 applying to offenses committed on or after that date. S.L. 2021-36 amended N.C.G.S. § 14-160.1(c) to increase the punishment for buying, selling, or possessing an item of personal property on which the permanent identification mark has been altered, destroyed, or removed.

The defendant has been charged with felonious [buying] [selling] [possessing] an item of personal property worth more than \$1,000 on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed].

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the defendant [bought] [sold] [possessed¹] (*describe personal property*) which was not the defendant's own.

Second, that the personal property once had a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] on it.

Third, that this [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] had been [altered] [destroyed] [defaced] [removed] in order to [conceal] [misrepresent] the identity of the personal property.

Fourth, that the defendant knew or had reasonable grounds to believe that this [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark] had been so [altered] [destroyed] [defaced] [removed].

And Fifth, that the personal property was worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [bought] [sold] [possessed] (*describe item of personal property*) which was not the defendant's own and had been marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark], which had been [altered] [destroyed] [defaced] [removed] for the purpose of [concealing] [misrepresenting] its identity, that the defendant knew or had reasonable grounds to believe that this had been done to [conceal] [misrepresent] the identity of the personal property, and that personal property was worth more than \$1,000, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of felonious [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed], but must determine whether the defendant is guilty of non-felonious [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed].²

Non-felonious [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed] differs from felonious [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed] in that the property need not be worth more than \$1,000.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [bought] [sold] [possessed] (*describe*

[BUYING] [SELLING] [POSSESSING] ITEM OF PERSONAL PROPERTY WORTH MORE THAN \$1,000 ON WHICH THE PERMANENT IDENTIFICATION MARK HAS BEEN [ALTERED] [DESTROYED] [DEFACED] [REMOVED]. FELONY.

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N.C. Gen. Stat. § 14-160.1(b), (c)

item of personal property) which was not the defendant's own and had been marked with a [permanent serial number] [manufacturer's identification plate] [permanent distinguishing number or identification mark], which had been [altered] [destroyed] [defaced] [removed] for the purpose of [concealing] [misrepresenting] its identity, and that the defendant knew or had reasonable grounds to believe that this had been done to [conceal] [misrepresent] the identity of the personal property, it would be your duty to return a verdict of non-felonious [buying] [selling] [possessing] an item of personal property on which the permanent identification mark has been [altered] [destroyed] [defaced] [removed]. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. If a definition of constructive possession is required, see N.C.P.I.—Crim. 104.41.

2. Misdemeanor buying, selling, or possessing an item of personal property on which the permanent identification mark has been altered, destroyed, defaced, or removed is a lesser-included offense. N.C.G.S. § 14-160.1(c); see also N.C.P.I.—Crim. 223.21.

230.30 RESISTING, DELAYING, OR OBSTRUCTING A PUBLIC OFFICER—ALL SITUATIONS OTHER THAN ARREST. MISDEMEANOR.

NOTE WELL: Where the victim is a law enforcement officer, and the state contends only that he was making or attempting to make an arrest, use N.C.P.I.—Crim. 230.31 or 230.32.

The defendant has been charged with willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty.

Now I charge that for you to find the defendant guilty of this offense the State must prove five things beyond a reasonable doubt.

First, that the alleged victim was a public officer. A (*state alleged victim's title, e.g., highway patrolman, building inspector, probation officer*) is a public officer.

Second, that the defendant knew or had reasonable grounds to believe that the alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to discharge] an official duty. (*Describe what alleged victim was doing, e.g., directing traffic, inspecting wiring, making a home visit*), is an official duty of a (*state alleged victim's title, e.g., highway patrolman, building inspector, probation officer*).¹

Fourth, that the defendant [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty.

And Fifth, that the defendant acted willfully and unlawfully, that is intentionally² (and without justification or excuse).³

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim

was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

2. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

3. The parenthetical phrase should be used only where there is evidence of justification or excuse. If justification is resisting an unlawful arrest, or the use of excessive force by the officer, use N.C.P.I.—Crim. 230.31 or 230.32 and not this instruction.

230.32 RESISTING, DELAYING, OR OBSTRUCTING AN OFFICER—
EXCESSIVE FORCE BY THE OFFICER. MISDEMEANOR.

The defendant has been charged with [resisting] [delaying] [obstructing] an officer.

Now I charge that for you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt:

First, that the alleged victim was a public officer. A (*state alleged victim's title, e.g., highway patrolman, building inspector, probation officer*) is a public officer.

Second, that the defendant knew or had reasonable grounds to believe that the alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to discharge] an official duty. (*Describe what alleged victim was doing, e.g., directing traffic, inspecting wiring, making a home visit*), is an official duty of a (*state alleged victim's title, e.g., highway patrolman, building inspector, probation officer*).¹

Fourth, that the defendant [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] this duty.

And Fifth, that the defendant acted willfully and unlawfully, that is intentionally² and without justification or excuse.

The defendant's [resistance] [delay] [obstruction], if any, is excused if it was in response to excessive force by an officer, because any such [resistance] [delay] [obstruction] in that event would not be unlawful. In (*describe duty, e.g., "attempting to make a lawful arrest"*), a (*name officer*) may use whatever force is apparently necessary to him and reasonable for that purpose. However, if an officer uses more force than is apparently

necessary to him or more force than is reasonable under the circumstances, such force is excessive and unlawful. If (*name officer*) used more force than was apparently necessary to him or reasonable under all the circumstances, and if the defendant's [resistance] [delay] [obstruction] was to the excessive force used by (*name officer*), then the defendant is not guilty of this offense.

So I charge that if you find from the evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

2. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

230.34 RESISTING, DELAYING, OR OBSTRUCTING A PUBLIC OFFICER—
SERIOUS BODILY INJURY. FELONY.¹

The defendant has been charged with willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious bodily injury to the public officer.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the alleged victim was a public officer. (A *(state alleged victim's title, e.g., highway patrolman, building inspector, probation officer)* is a public officer.)

Second, that the defendant knew or had reasonable grounds to believe that the alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to discharge] an official duty. (*Describe what alleged victim was doing, e.g., directing traffic, inspecting wiring, making a home visit*), is an official duty of a *(state alleged victim's title, e.g., highway patrolman, building inspector, probation officer)*.²

Fourth, that the defendant [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty.

Fifth, that the defendant acted willfully and unlawfully, that is intentionally³ (and without justification or excuse).⁴

And Sixth, that the defendant's [resistance] [delay] [obstruction] proximately caused serious bodily injury to the alleged victim. Serious bodily injury is injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that

causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.⁵ Proximate cause is a real cause, a cause without which the alleged victim's serious bodily injury would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such injury or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the serious bodily injury to the alleged victim.)⁶

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, and the [resistance] [delay] [obstruction] was the proximate cause of the alleged victim's serious bodily injury, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious bodily injury to the public officer, but you must determine whether the defendant is guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer.⁷

This charge differs from willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an

official duty, proximately causing serious bodily injury to the public officer in that for you to find the defendant guilty of this offense, the defendant's [resistance] [delay] [obstruction] must have proximately caused serious injury to the alleged victim. Serious injury is injury that causes great pain and suffering.⁸

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, and the [resistance] [delay] [obstruction] was the proximate cause of the alleged victim's serious injury, it would be your duty to return a verdict of guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer. However, if you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer, but you must determine whether the defendant is guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty.⁹

This charge differs from willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer in that for you to find the defendant guilty of this offense, the State need only prove that

the defendant [resisted] [delayed] [obstructed] a public officer in [discharging] [attempting to discharge] an official duty. If you find from the evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, it would be your duty to return a verdict of guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Effective December 1, 2021 applying to offenses committed on or after that date. S.L. 2021-138 amended N.C.G.S. § 14-223 to include additional protections for law enforcement officers who either suffered “serious injury” or “serious bodily injury” as a proximate cause of the defendant’s willful and unlawful resist, delay, or obstruction of a public officer who is discharging or attempting to discharge an official duty.

2. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

3. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

4. The parenthetical phrase should be used only where there is evidence of justification or excuse. If justification is resisting an unlawful arrest, or the use of excessive force by the officer, use N.C.P.I.—Crim. 230.31 or 230.32 and not this instruction.

5. S.L. 2021-138 amended N.C.G.S. § 14-223 to include the definition of “serious bodily injury.” See N.C.G.S. § 14-223(d).

6. Where there is a serious issue as to proximate cause, the parenthetical phrase may be helpful. This language was approved in *State v. Messick*, 159 N.C. App. 232 (2003), *aff’d per curiam*, 358 N.C. 145 (2004).

7. Felony resisting, delaying, or obstructing a public officer—serious injury is a lesser-included offenses if supported by the evidence. N.C.G.S. § 14-223(a-b); see also N.C.P.I.—Crim. 230.36. If there is a discrepancy as to whether an alleged resist, delay, or obstructing of a public officer involved serious bodily injury or serious injury, then both charges should be submitted with serious injury being a lesser included offense.

8. See N.C.P.I.—Crim. 120.12 for the definition of serious injury. Serious injury may be physical or mental. *State v. Everhardt*, 326 N.C. 777, 781 (1990). Whether an injury is serious is a question of fact. *Id.* at 781. Relevant factors in determining whether an injury is serious include, but are not limited to, pain and suffering, loss of blood, hospitalization, and time lost at work. *State v. Tice*, 191 N.C. App. 506, 509 (2008); *State v. Morgan*, 164 N.C. App. 298, 303 (2004). For mental injury constituting serious injury see *State v. Boone*, 307 N.C. 198 (1982).

9. If there is to be a lesser included offense of misdemeanor resisting, delaying, or obstructing a public officer, which is a lesser-included offense of felony resisting, delaying, or obstructing a public officer—serious injury, see N.C.P.I.—Crim. 230.30. N.C.G.S. § 14-223(a).

230.36 RESISTING, DELAYING, OR OBSTRUCTING A PUBLIC OFFICER—
SERIOUS INJURY. FELONY.¹

The defendant has been charged with willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt:

First, that the alleged victim was a public officer. (A *(state alleged victim's title, e.g., highway patrolman, building inspector, probation officer)* is a public officer.)

Second, that the defendant knew or had reasonable grounds to believe that the alleged victim was a public officer.

Third, that the alleged victim was [discharging] [attempting to discharge] an official duty. (*Describe what alleged victim was doing, e.g., directing traffic, inspecting wiring, making a home visit*), is an official duty of a *(state alleged victim's title, e.g., highway patrolman, building inspector, probation officer)*.²

Fourth, that the defendant [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty.

Fifth, that the defendant acted willfully and unlawfully, that is intentionally³ (and without justification or excuse).⁴

And Sixth, that the defendant's [resistance] [delay] [obstruction] proximately caused serious injury to the alleged victim. Serious injury is injury that causes great pain and suffering.⁵ Proximate cause is a real cause, a cause without which the alleged victim's serious bodily injury would not have

occurred, and one that a reasonably careful and prudent person could foresee would probably produce such injury or some similar injurious result. (The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the serious bodily injury to the alleged victim.)⁶

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, and the [resistance] [delay] [obstruction] was the proximate cause of the alleged victim's serious injury, it would be your duty to return a verdict of guilty. However, if you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer, but you must determine whether the defendant is guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty.⁷

This charge differs from willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty, proximately causing serious injury to the public officer in that for you to find the defendant guilty of this offense, the State need only prove that the defendant [resisted] [delayed] [obstructed] a public officer in [discharging] [attempting to discharge] an official duty. If you find from the

evidence beyond a reasonable doubt that on or about the alleged date the alleged victim was a public officer, that the defendant knew or had reasonable grounds to believe the alleged victim was a public officer, that the alleged victim was [discharging] [attempting to discharge] an official duty, and that the defendant willfully and unlawfully [resisted] [delayed] [obstructed] the alleged victim in [discharging] [attempting to discharge] an official duty, it would be your duty to return a verdict of guilty of willfully and unlawfully [resisting] [delaying] [obstructing] a public officer in [discharging] [attempting to discharge] an official duty. However, if you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Effective December 1, 2021 applying to offenses committed on or after that date. S.L. 2021-138 amended N.C.G.S. § 14-223 to include additional protections for law enforcement officers who either suffered “serious injury” or “serious bodily injury” as a proximate cause of the defendant’s willful and unlawful resist, delay, or obstruction of a public officer who is discharging or attempting to discharge an official duty.

2. Where the State contends that the victim was doing one thing, which would be an official duty, but there is evidence that he may have been doing something else, which would not be an official duty, state what would and what would not be an official duty.

3. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

4. The parenthetical phrase should be used only where there is evidence of justification or excuse. If justification is resisting an unlawful arrest, or the use of excessive force by the officer, use N.C.P.I.—Crim. 230.31 or 230.32 and not this instruction.

5. See N.C.P.I.—Crim. 120.12 for the definition of serious injury. Serious injury may be physical or mental. *State v. Everhardt*, 326 N.C. 777, 781 (1990). Whether an injury is serious is a question of fact. *Id.* at 781. Relevant factors in determining whether an injury is serious include, but are not limited to, pain and suffering, loss of blood, hospitalization, and time lost at work. *State v. Tice*, 191 N.C. App. 506, 509 (2008); *State v. Morgan*, 164 N.C. App. 298, 303 (2004). For mental injury constituting serious injury see *State v. Boone*, 307 N.C. 198 (1982).

6. Where there is a serious issue as to proximate cause, the parenthetical phrase may be helpful. This language was approved in *State v. Messick*, 159 N.C. App. 232 (2003), *aff’d per curiam*, 358 N.C. 145 (2004).

7. If there is to be a lesser included offense of misdemeanor resisting, delaying, or obstructing a public officer, which is a lesser-included offense of felony resisting, delaying, or obstructing a public officer—serious injury, see N.C.P.I.—Crim. 230.30. N.C.G.S. § 14-223(a).

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N.C.P.I.—CRIM. 230.65

INTIMIDATING OR INTERFERING WITH A WITNESS. FELONY. (DELETE SHEET).

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REPLACEMENT JUNE 2022

N.C. Gen. Stat. § 14-226(a)

230.65 INTIMIDATING OR INTERFERING WITH WITNESS. FELONY. (DELETE SHEET)

This instruction should be deleted. When instructing a jury on the offense of Intimidating a Witness, see N.C.P.I.—Crim. 230.66. When instructing a jury on the offense of Interfering with a Witness, see N.C.P.I.—Crim. 230.67.

Please remove the instruction from the book and replace with this sheet.

230.66 INTIMIDATING A WITNESS. FELONY.

The defendant has been charged with intimidating a witness.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that a person was [summoned] [acting] as a witness in a court of this State.¹

Second, that the defendant [intimidated] [attempted to intimidate]² any person who was [summoned] [acting] as a witness. Intimidate means to make timid or fearful; inspire or affect with fear; frighten.³

Third, that the defendant acted intentionally.⁴

And Fourth, that the defendant did so by (*describe the threat or menace or any other conduct that amounts to intimidating a witness*)^{5 6}.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date a person was [summoned] [acting] as a witness in a court of this state and that the defendant intentionally [intimidated] [attempted to intimidate] a person by (*describe the threat or menace or any other conduct that amounts to intimidating or interfering with a witness*) it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things it would be your duty to return a verdict of not guilty.

1. It is immaterial that the victim was not regularly summoned or legally bound to attend. *See State v. Neely*, 4 N.C. App. 475 (1969).

2. Influencing testimony is the gravamen of the "intimidates" part of the statute. *State v. Neeley, supra, see also State v. Isom*, 52 N.C. App. 331 (1981).

3. *State v. Hines*, 122 N.C. App. 545, 552 (1996).

4. For the definition of intent see N.C.P.I.—Crim 120.10.

5. *See State v. Williams*, 186 N.C. App. 233 (2007) (holding that defendant's letter to witness attempting to persuade her to withdraw the charges in another inmate's case did not

amount to threats or coercive statements attempting to deter or prevent the witness from coming to court.)

6. It is the better practice to instruct on this element and describe the threat or other conduct alleged. *See State v. Barnett*, 245 N.C. App. 101, 784 S.E.2d 188 (2016) (concluding that it was not plain error when the final mandate omitted the language that the defendant must have acted “by threats”), *reviewed on other grounds*, 369 N.C. 298, 794 S.E.2d 306 (2016).

230.67 INTERFERING WITH A WITNESS. FELONY.

The defendant has been charged with interfering with a witness.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that a person was [summoned] [acting] as a witness in a court of this State.¹

Second, that the defendant [deterred] [attempted to deter] [prevented] [attempted to prevent] any person who was [summoned] [acting] as a witness.

Third, that the defendant acted intentionally.²

And Fourth, that the defendant did so by (*describe threats, menace, or other manner of preventing or deterring, or attempting to prevent or deter attendance of the witness*)^{3 4}.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date a person was [summoned] [acting] as a witness in a court of this state and that the defendant intentionally [deterred] [attempted to deter] [prevented] [attempted to prevent] a person by (*describe threats, menace, or other manner of preventing or deterring, or attempting to prevent or deter attendance of the witness*) it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things it would be your duty to return a verdict of not guilty.

1. It is immaterial that the victim was not regularly summoned or legally bound to attend. See *State v. Neely*, 4 N.C. App. 475 (1969).

2. For the definition of intent see N.C.P.I.—Crim 120.10.

3. See *State v. Williams*, 186 N.C. App. 233 (2007) (holding that defendant's letter to witness attempting to persuade her to withdraw the charges in another inmate's case did not amount to threats or coercive statements attempting to deter or prevent the witness from coming to court.)

4. It is the better practice to instruct on this element and describe the threat or other conduct alleged. *See State v. Barnett*, 245 N.C. App. 101, 784 S.E.2d 188 (2016) (concluding that it was not plain error when the final mandate omitted the language that the defendant must have acted “by threats”), *reviewed on other grounds*, 369 N.C. 298, 794 S.E.2d 306 (2016).

North Carolina
Conference of Superior Court Judges
Committee on Pattern Jury Instructions

North Carolina
PATTERN JURY
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for Criminal Cases

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NORTH CAROLINA PATTERN JURY INSTRUCTIONS FOR CRIMINAL CASES: Dates the instructions were adopted are found in parentheses after the title of the instruction.

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PART II. SUBSTANTIVE OFFENSES

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202.10	Acting in Concert. G.S. 4-1. (6/2020)		
202.19	Introductory Comment to N.C.P.I.—Criminal 202.20, 202.30, and 202.40. Accessory Before the Fact.		
202.20	Aiding and Abetting—Felony, Misdemeanor. G.S. 4-1, 14-5.2. (6/2014)		
202.30	Accessory before the Fact. (With Special Verdict Form). G.S. 14-5.2. (6/2011)		
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202.50	Compounding a Crime (Common Law Misdemeanor). (12/2001)	Misd 1	
202.80	Felonious Conspiracy. G.S. 14-2.4. (6/2008)	H, J	
	Habitual Felons.		
203.10	Habitual Felon. G.S. 14-7.1, 14-7.6. (6/2019)		C
203.10A	Habitual Felon—Introductory Remarks. (6/2016)		
203.11	Violent Habitual Felon. G.S. 14-7.7. (5/2019)		Life w/o parole
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204.05	Bifurcated Proceedings—Model Jury Instruction. (7/2005)		
204.10	Factors That Enhance Sentence—[Using] [Displaying] [Threatening to Use or Display] a Firearm While Committing a Felony. G.S. 15A-1340.16A. (12/2003)		
204.15	Factors That Enhance Sentence—[Wearing] [Possessing] a Bullet-Proof Vest during the Commission of a Felony. G.S. 15A-1340.16C. (6/2017)		
204.20	B1 Felony, Sentencing Enhancement, Prior B1 Felony Convictions. G.S. 15A-1340.16B. (1/2004)		
204.25	Aggravating Factor Instruction. G.S. 15A-1340.16. (6/2022)		
204.30	Aggravating Factors for Rape of a Child—G.S. 14-27.2A. (6/2009)		
204.35	Aggravating Factors for Sexual Offense with a Child—G.S. 14-27.4a. (6/2009)		
	Prohibited Secret Societies and Activities.		
204A.10	Criminal Gang Activity—Discharging a Firearm from within an Enclosure. G.S. 14-34.9 (6/2018)		E
204A.10A	Criminal Gang Activity—Discharging a Firearm from within an Enclosure (6/2018)		
204A.15	Pattern of Criminal Street Gang Activity. G.S. 14-50.16. (6/2018)		H
204A.20	Solicitation of Participation in Criminal Street Gang Activity. G.S. 14-50.17. (6/2018)		H
204A.20A	Solicitation of Participation in Criminal Gang Activity. (6/2018)		
204A.25	Solicitation of Participation by a Minor in Criminal Street Gang Activity. G.S. 14-50.18. (6/2018)		F

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

		Before 10/1/94	On or After 10/1/94
204A.25A	Solicitation of Participation by a Minor in Criminal Gang Activity. (6/2018)		
204A.30	Threats to Deter from Gang Withdrawal. G.S. 14-50.19. (6/2018)		H
204A.30A	Intimidation to Deter from Gang Withdrawal. (6/2018)		
204A.32	Injury to Deter Assisting Another in Criminal Gang Withdrawal. (6/2018)		
204A.35	Threats of Punishment or Retaliation for Criminal Street Gang Withdrawal. G.S. 14-50.20. (6/2018)		H
204A.35A	Threats of Punishment or Retaliation for Criminal Gang Withdrawal. (6/2018)		H
204A.38	Injury as Punishment or Retaliation for Criminal Gang Withdrawal. (6/2018)		
204A.70	Placing Burning Cross on Property of Another without Written Permission of the Owner. G.S. 14-12.12(a). (12/2001)	Misd	Misd 1
204A.75	Placing Burning Cross on Property of Another or on a Public Street or Highway with the Intent to Intimidate. G.S. 14-12.12(b). (6/2009)	I	I
	Homicide.		
206 Series	Homicide Punishment Chart. G.S. 14-17, 14-18, 20-141.4. (4/1998)		
206.00	First Degree Murder, Premeditation and Deliberation—Second Degree Murder as Lesser Included Offense. (12/2001)		
206.10	First Degree Murder Where a Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	A, C, F, H	A, B1, D, F*
206.10A	First Degree Murder—Special Instruction for Accessory before the Fact. G.S. 14-5.2. (12/2001)		
206.11	First Degree Murder Where No Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	A, C, F, H	A, B1, D, F*
206.12	First Degree Murder by Means of Poison (Including All Lesser Included Offenses). G.S. 14-17. (6/2014)	A, H	A, F
206.13	First Degree Murder Where a Deadly Weapon Is Used, Not Involving Self-Defense, Covering All Lesser Included Homicide Offenses. G.S. 14-17, 14-18. (6/2018)	A, C, F, H	A, B2, E, F*
206.14	First Degree Murder—Murder Committed in Perpetration of a Felony or Murder with Premeditation and Deliberation Where a Deadly Weapon Is Used & Verdict Sheet. G.S. 14-17, 14-18. (6/2021)	A, C	A, B2
206.15	First Degree Murder in Perpetration of a Felony. G.S. 14-17. (6/2014)	A	A
206.16	First Degree Murder by Lying in Wait. G.S. 14-17. (6/2014)	A	A
206.17	Solicitation to Commit Murder. G.S. 14-2.6. (6/2022)	E	C
206.17A	Attempted First Degree Murder (Where a Deadly Weapon Is Used). (3/2003)		B1
206.18	Conspiracy to Commit Murder. G.S. 14-2.4(a).		
206.20	First Degree Murder by Torture. G.S. 14-17. (6/2014)	A	A
206.22	First Degree Murder Involving Domestic Violence, Covering All Lesser Included Homicide Offenses and Self Defense. (6/2022)		A, B1, D, F

206.24	First Degree Murder Involving Domestic Violence, Covering Lesser Included Homicide Offenses Not Involving Self Defense. (6/2018)		
206.30	Second Degree Murder Where a Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	C, F, H	B1, D, F*
206.30A	Second Degree Murder Where a Deadly Weapon Is Used, Not Including Self-Defense, Covering All Lesser Included Homicide Offenses. G.S. 14-17, 14-18. (6/2014)	C, F, H	B2, E, F*
206.31	Second Degree Murder Where No Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense. G.S. 14-17, 14-18. (6/2022)	C, F, H	B1, D, F*
206.31A	Second Degree Murder Where No Deadly Weapon Is Used, Not Involving Self-Defense, Covering All Lesser Included Homicide Offenses. G.S. 14-17, 14-18. (6/2014)	C, F, H	B2, E, F*
206.31B	Second Degree Murder, Caused by Controlled Substance. G.S. 14-17. (6/2018)	C	B2
206.32	Second Degree Murder by Vehicle, Including Involuntary Manslaughter and Misdemeanor Death by Vehicle. (Impaired Driving). G.S. 14-17, 14-18, 20-139.1, 20-141.4. (6/2014)	C, H, Misd	B2, F, Misd 1
206.32A	Second Degree Murder by Vehicle, Including Involuntary Manslaughter and Misdemeanor Death by Vehicle. (Not Involving Impaired Driving). G.S. 14-17, 14-18, 20-139.1, 20-141.4. (6/2019)	C, H, Misd	B2, F, Misd 1
206.35	Second Degree Murder (Child Beating) Covering Involuntary Manslaughter as a Lesser Included Offense. G.S. 14-17, 14-18, 14-318.2, -318.4. (6/2014)	C, H	B2, F
206.40	Voluntary Manslaughter Including Self-Defense (In the Heat of Passion or Imperfect Self-Defense), Also Including Involuntary Manslaughter. G.S. 14-18. (6/2022)	F, H	D, F*
206.41	Voluntary Manslaughter Not Involving Self-Defense, also including Involuntary Manslaughter. G.S. 14-18. (6/2014)	F, H	E, F*
206.50	Involuntary Manslaughter—Other Than by Automobile. G.S. 14-18. (6/2014)	H	F
206.55	Involuntary Manslaughter—(Including Misdemeanor Death by Vehicle). G.S. 14-18, 20-141.4. (6/2014)	H, Misd	F, Misd 1
206.55A	Involuntary Manslaughter—(Impaired Driving). (Offenses after Dec. 1, 2006). G.S. 20-141.4. (6/2022)	H	F
206.56	Involuntary Manslaughter—(Impaired Driving). (Offenses prior to Dec. 1, 2006). G.S. 20-141.4. (6/2014)	H	F
206.57	Felony Death by Vehicle (offenses prior to Dec. 1, 2006). G.S. 20-141.4(a1). (6/2014)	I	G
206.57A	Felony Death by Vehicle (offenses after Dec. 1, 2006). G.S. 20-141.4(a1). (6/2022)	I	D
206.57B	Aggravated Felony Death by Vehicle. G.S. 20-141.4(a5). (6/2022)		D
206.57C	Felony Serious Injury by Vehicle. G.S. 20-141.4(a3). (6/2022)		F

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206.57D	Aggravated Felony Serious Injury by Vehicle. G.S. 20-141.4(a4). (6/2014)		E
206.58	Misdemeanor Death by Vehicle. G.S. 20-141.4(a2). (6/2014)	Misd	Misd 1
206.60	Murder of Unborn Child—Willful and Malicious Act (6/2012)		A
206.61	Murder of Unborn Child—Inherently Dangerous Act (6/2014)		B2
206.62	Murder of Unborn Child—[Murder] [Voluntary Manslaughter] [Involuntary Manslaughter] of Mother (6/2012)		B2, D, F
206.63	Murder of Unborn Child—Willful and Malicious Act. G.S. 14-23.2(a)(1). (6/2014)		A
206.70	Death By Distribution of Certain Controlled Substances. (6/2020)		C
206.72	Aggravated Death By Distribution of Certain Controlled Substances. (6/2020)		B2
Rape and Sexual Offenses.			
207.10	First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.2, 14-27.3, 14-27.6, 14-33(b)(2). (6/2020)	B, D, F, H, Misd	B1, C, F, H, Misd 1
207.10A	First Degree Forcible Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.21, 14-27.22, 14-27.34. (Offenses on or After Dec. 1, 2015). (6/2020)		B1, B2, C, D, Misd
207.10B	First Degree Forcible Rape (Weapon, Serious Injury, or Multiple Assailants) and Lesser Included Offenses. G.S. 14-27.21, 14-27.22, 14-27.34. (Offenses on or After Dec. 1, 2017). (6/2020)		B1, B2, C, D, Misd
207.11	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.2(2), 14-27.3(1), 14-27.6. (6/2020)	F, H	F, H
207.11A	Attempted First Degree Rape (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Rape as a Lesser Included Offense. G.S. 14-27.21, 14-27.22, 14-27.34. (6/2020)		
207.11B	Attempted First Degree Forcible Rape (Weapon, Serious Injury or Multiple Assailants) Covering Attempted Second-Degree Rape as a Lesser Included Offense. (Offenses on or after Dec. 1, 2017). (6/2020)		B1, C
207.15	Rape of a Child. G.S. 14-27.2A. (6/2016)		B1
207.15A	Statutory Rape of a Child by an Adult G.S. 14-27.23. (6/2016)		
207.15A.1	Attempted First Degree Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.2(a)(1), 14-27.8 (6/2016).	F	F
207.15A.1A	Attempted First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. G.S. 14-27.24(a)(1), 14-27.34. (6/2016)		
207.15.1	First Degree Rape—Female under the Age of Thirteen Years. G.S. 14-27.2(1). (6/2016)	B	B1
207.15.1A	First Degree Statutory Rape—Alleged Victim Under the Age of Thirteen Years. (6/2016)		
207.15.2	Statutory Rape Against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		B1, C

207.15.2A	Statutory Rape Against an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.25. (6/2016)		
207.15.3	Statutory Sexual Offense against a Victim Who Was Thirteen, Fourteen, or Fifteen Years Old. G.S. 14-27.7A. (6/2016)		
207.15.3A	Statutory Sexual Offense of an Alleged Victim Who Was Fifteen Years of Age or Younger. G.S. 14-27.30. (6/2016)		B1, C
207.20	Second Degree Rape—Force. G.S. 14-27.3. (6/2020)	D	C
207.20A	Second Degree Rape—Force (Victim Asleep or Similarly Incapacitated). G.S. 14-27.3. (6/2020)		
207.20A.1	Second Degree Rape—Forcible (Alleged Victim Asleep or Similarly Incapacitated). G.S. 14-27.3 (6/2020)		
207.20B	Second Degree Forcible Rape. G.S. 14-27.22 (6/2020)		
207.25	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)	D	C
207.25A	Second Degree Rape—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.3. (6/2020)		
207.40	First Degree Sexual Offense—Weapon, Serious Injury, or Multiple Assailants, Covering Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4, 14-27.5. (5/2020)	B, D	B1, C
207.40A	Attempted First Degree Sexual Offense (Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Sex Offense as a Lesser Included Offense. G.S. 14-27.4(2), 14-27.5(2), 14-27.6. (5/2020)	F, H	F, H
207.40A.1	Attempted First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Attempted Second Degree Forcible Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27, 14-27.34. (6/2020)		
207.40B	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2015). (6/2020)		
207.40C	First Degree Forcible Sexual Offense—(Weapon, Serious Injury, or Multiple Assailants) Covering Second Degree Sex Offense as a Lessor Included Offense. G.S. 14-27.26, 14-27.27. (Offenses on or After Dec. 1, 2017). (6/2020)		
207.45	Sexual Offense with a Child. G.S. 14-27.4A. (6/2016)		B1
207.45.1	First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4. (6/2016)	B	B1
207.45.1A	First Degree Statutory Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.29. (6/2016)		
207.45A	Statutory Sexual Offense with a Child by an Adult. G.S. 14-27.28 (6/2016)		
207.45A.1	Attempted First Degree Sexual Offense—Child under the Age of Thirteen Years. G.S. 14-27.4, 14-27.8. (6/2016)	F	F
207.45A.1A	Attempted First Degree Statutory Sexual Offense—Child Under the Age of Thirteen Years. G.S. 14-27.29, 14-27.34. (6/2016)		
207.60	Second Degree Sexual Offense—Force. G.S. 14-27.5. (6/2020)	D	C
207.60A	Second Degree Forcible Sexual Offense. G.S. 14-27.27. (6/2020)		

		Before 10/1/94	On or After 10/1/94
207.65	Second Degree Sexual Offense—Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.5. (Offenses Prior to Dec. 1, 2015). (6/2020)	D	C
207.65A	Second Degree Forcible Sexual Offense—Alleged Victim Mentally Disabled, Mentally Incapacitated or Physically Helpless. G.S. 14-27.27. (Offenses On or After to Dec. 1, 2015). (6/2020)	D	C
207.70	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)	G	E
207.70A	Felonious Sexual Activity with Person in Defendant’s Custody. G.S. 14-27.7. (6/2016)		
207.71	DELETE SHEET. Unlawfully Accessing a Commercial Social Networking Website by a Sex Offender. G.S. 14-202.5A. (6/2018)		I
207.71A	Unlawful Online Conduct By A High-Risk Sex Offender That Endangers Children. (6/2020)		I
207.72	Sex Offender Unlawfully on Certain Premises. G.S. 14-208.18. (6/2017)		H
207.73	Failure to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(a). (6/2008)		F
207.74	Failing to [Provide Necessary Information to] [Cooperate with Guidelines and Regulations of] the Department of Corrections While Required to Enroll in a Satellite-Based Monitoring Program. G.S. 14-208.44(c). (6/2008)		Misd 1
207.75	Willfully Failing to Comply with Sex Offender Registration Law. G.S. 14-208.11. (6/2022)	-	F
207.76	Failure to Comply with Sex Offender Residential Restrictions. G.S. 14-208.16. (6/2022)	-	F
207.77	Failure to Comply with Sex Offender Limitations on Residential Use—Minor in Residence. G.S. 14-208.17(b). (6/2007)	-	F
207.78	Intentionally [Tampering with] [Removing] [Vandalizing] [Interfering with Proper Functioning of] a Satellite-Based Monitoring Device. G.S. 14-208.44(a). (6/2008)	-	F
207.79	Failure to Comply with Sex Offender Prohibition on Working or Volunteering for Child-Involved Activities. G.S. 14-208.17(a). (6/2007)	-	F
207.80A	Felonious Sexual Activity Involving Students (by teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G
207.80A.1	Felonious Sexual Activity With a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G
207.80B	Felonious Sexual Activity Involving Students (by member of school personnel other Than teacher, school administrator, student teacher, school safety officer, coach). G.S. 14-27.7(b). (6/2016)	-	G, Misd A1
207.80B.1	Felonious Sexual Activity With a Student (by member of school personnel other than teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-27.32. (6/2016)		G, I
207.90	Sexual Battery. G.S. 14-27.5A. (Offenses Prior to Dec. 1, 2015) (6/2020)		Misd A1

207.90A	Sexual Battery. G.S. 14-27.33 (Offenses Occuring on or After Dec. 1, 2015) (6/2020)		Misd A1
207.95	Knowingly and Without Authority [Removing] [Destroying] [Circumventing Operation of] an Electronic Monitoring Device. G.S. 14-226.3 (June 2010)		
207.97	Sexual [Contact] [Penetration] Under Pretext of Medical Treatment—Representations. (6/2020)		C
207.98	Engaging In Sexual [Contact] [Penetration] Under Pretext of Medical Treatment – Incapacitated Patient. (6/2020)		C
	Assaults.		
208.01	Assault on [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (6/2011)	H	I
208.01A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a). (4/2004)	H	I
208.02	Assault on a(n) [Legislative] [Executive] [Court] Officer with a Deadly Weapon. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.02A	Making a Violent Attack with a Deadly Weapon upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(a), (b). (4/2004)	G	F
208.03	Assault on a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury. G.S. 14-16.6(c). (4/2004)	F	F
208.03A	Making a Violent Attack upon the [Residence] [Office] [Temporary Accommodation] [Means of Transport] of a(n) [Legislative] [Executive] [Court] Officer Inflicting Serious Injury to a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.6(c). (4/2004)	F	F
208.04	Threatening to Kill or Inflict Serious Bodily Injury upon a [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(a), 14-16.8. (6/2022)	J	I
208.04A	Mailing a Threat to Kill or Inflict Serious Bodily Injury upon a(n) [Legislative] [Executive] [Court] Officer. G.S. 14-16.7(b), 14-16.8. (4/2022)	J	I
208.04B	Threatening to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(a) (6/2022)		I
208.04C	Mailing a Threat to Kill or Inflict Serious Bodily Injury Upon a Person as Retaliation Against a [Legislative] [Executive] [Court] Officer. Felony. G.S. 14-16.7(b) (6/2022)		I
208.05	Malicious Castration. G.S. 14-28, -29. (3/2002)	D, H	C, E
208.06	Castration or Other Maiming without Malice Aforethought. G.S. 14-29. (3/2002)	H	E
208.07	Malicious Maiming. G.S. 14-30. (3/2002)	H	C
208.08	Malicious Throwing of Corrosive Acid or Alkali. G.S. 14-30.1. (3/2002)	H	E
208.09	Malicious Assault and Battery in a Secret Manner with a Deadly Weapon with Intent to Kill. G.S. 14-31. (3/2002)	F	E
208.10	Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury. G.S. 14-32(a). (3/2002)	F	C
208.13	Hazing. G.S. 14-35. (4/2004)		Misd 2
208.14	Assault upon a Sports Official. G.S. 14-33(b)(9). (6/2011)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
208.15	Assault with a Deadly Weapon Inflicting Serious Injury. G.S. 14-32(b). (6/2008)	H	E
208.16	Felonious Assault Inflicting Serious Bodily Injury. G.S. 14-32.4. (3/2002)		F
208.25	Assault with a Deadly Weapon with Intent to Kill. G.S. 14-32(c). (3/2002)	H	E
208.30	Assault Offense Classification Chart. (12/1995)		
208.40	Simple Assault—(Not Involving Physical Contact) G.S. 14-33(a). (6/2011)	Misd	Misd 2
208.40A	Simple Assault on an Individual with a Disability. G.S. 14-32.1(f). (6/2019)	Misd	Misd 1
208.41	Simple Assault—(Involving Physical Contact) G.S. 14-33(a). (6/2010)	Misd	Misd 2
208.43	Simple Affray. G.S. 14-33. (6/2017)		Misd 2
208.45	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2011)		H
208.45A	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.45A.1	Habitual Misdemeanor Assault. G.S. 14-33.2. (6/2017)		H
208.50	Assault with a Deadly Weapon. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.50A	Aggravated Assault on an Individual with a Disability. G.S. 14-32.1(e). (6/2019)	I	F
208.55	Assault Attempting to Inflict Serious Injury. G.S. 14-33(c)(1). (3/2002)	Misd	Misd 1
208.60	Assault Inflicting Serious Injury. G.S. 14-33(c)(1). (6/2020)	Misd	Misd A1
208.61	Assault Inflicting Physical Injury by Strangulation. G.S. 14-32.4. (2/2005)		H
208.65	Assault by a Prisoner with a Deadly Weapon Inflicting Bodily Injury. G.S. 14-258.2. (3/2002)	H	F
208.67	Malicious Conduct by a Prisoner—Throwing of [Bodily Fluids] [Excrement] [Unknown Substance] by a Prisoner at a [State] [Local Government] Employee in the Performance of Employee’s Duties. G.S. 14-258.4. (6/2019)		F
208.68	Malicious Conduct by a Prisoner—Exposing Genitalia by a Prisoner to an Employee of [State] [Local Government] in the Performance of Employee’s Duties. G.S. 14-258.4 (6/2019)		I
208.70	Assault on a Female by a Male Person. G.S. 14-33(c)(2). (6/2015)	Misd	Misd A1
208.72	Assault by [Inflicting Serious Injury] [Using a Deadly Weapon] in the Presence of a Minor G.S. 14-33(d). (6/2017)		Misd A1
208.75	Assault on a Child under the Age of Twelve Years. G.S. 14-33(c)(3). (6/2011)	Misd	Misd A1
208.76	Assault on an Unborn Child (6/2012)		Misd A1
208.77	Assault Inflicting Serious Bodily Injury—Unborn Child 6/2012)		F
208.80 Series	Notes to 208.80, 208.80A, 208.80B, 208.80C		
208.80	Index to Instructions in 208.81 Series. Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81	Model Instruction—Assault on an Officer—Arrest Situations. G.S. 14-33(c)(4); 15A-401. (6/2015)		
208.81A	Assault on an Officer—Arrest Situations (Only Officer’s and Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1

		Before 10/1/94	On or After 10/1/94
208.81B	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest and Defendant’s Force). G.S. 14-33(c)(4); 15A-401, 15A-402. (6/2015)	Misd	Misd A1
208.81C	Assault on an Officer and Simple Assault—Arrest Situations (Issues as to Lawfulness of Arrest without a Warrant, and as to Force Used by Officer and Defendant). G.S.14-33(c)(4). (6/2015)	Misd	Misd A1
208.81D	Simple Assault—Arrest Situations (Issue as to Force Used by Defendant to Resist Unlawful Arrest). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81E	Assault on an Officer—Arrest Situations (Issues as to Officer Status of Victim, Fact of Arrest, and Lawfulness of Arrest—Neither Officer’s Nor Defendant’s Force in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81F	Assault on an Officer and Simple Assault—Arrest Situations (All Issues in Dispute). G.S. 14-33(c)(4). (6/2015)	Misd	Misd A1
208.81G	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2013)		F
208.82	Assault upon an Officer or Employee of the State or of Any Political Subdivision of the State or Public Transit Operator. G.S. 14-33(c)(4). (6/2011)	Misd	Misd A1
208.83	Assault upon a School Employee or Volunteer. G.S. 14-33(c)(6). (6/2011)	-	Misd A1
208.84	Ethnic Intimidation. G.S. 14-401.14. (4/2002)	Misd	Misd 1
208.85	Assault by Pointing a Gun. G.S. 14-34. (4/2002)	Misd	Misd A1
208.90	Discharging a Firearm into Occupied Property. G.S. 14-34.1. (6/2020)	H	E
208.90A	Discharging Barreled Weapon into Occupied Property. G.S. 14-34.1. (6/2011)	H	E
208.90B	[Discharging] [Attempting to Discharge] a Firearm Within an Occupied Building or Other Enclosure With Intent to Incite Fear. G.S. 14-34.10. (6/2018)		F
208.90C	Discharging a Barreled Weapon into Occupied Dwelling. G.S. 14-34.1. (6/2016)		D
208.90D	Discharging a Firearm into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2021)		D
208.90E	Discharging a Barreled Weapon into Occupied Vehicle in Operation. G.S. 14-34.1(b). (6/2011)		D
208.90F	Discharging a Firearm into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90G	Discharging a Barreled Weapon into Occupied Property Inflicting Serious Bodily Injury. G.S. 14-34.1(c). 6/2011)		C
208.90H	Discharging a Firearm into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90I	Discharging a Barreled Weapon into Occupied Dwelling Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C
208.90J	Discharging a Firearm into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.(c). (6/2011)		C
208.90K	Discharging a Barreled Weapon into Occupied Vehicle in Operation Inflicting Serious Bodily Injury. G.S. 14-34.1(c). (6/2011)		C

208.94	Assault Inflicting [Serious Bodily] [Serious] Injury on a [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]. G.S. 14-34.7. (6/2017)		F
208.95	Assault with a Firearm on a Law Enforcement, Probation, or Parole Officer or on a Person Employed at a State or Local Detention Facility. G.S. 14-34.5. (11/1998)	I	E, G
208.95A	Assault with a Firearm or Other Deadly Weapon upon Emergency Medical Services Personnel. G.S. 14-34.6. (2/1999)	I	I, F
208.95B	Assault with a Firearm or Other Deadly Weapon upon an Officer or Employee of the State or of any Political Subdivision of the State, Company Police Officer, or Campus Police Officer. G.S. 14-34.2. (3/1999)	I	F
208.95C	Assault on [[Law Enforcement] [Probation] [Parole] Officer] [Member of the North Carolina National Guard] [Person Employed at a [State] [Local] Detention Facility]—Physical Injury. G.S. 14-34.7(c) (6/2017)		I
208.95D	Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] [Licensed Health Provider]. (6/2018)		I
208.95E	[Serious Bodily Injury Inflicted] [Deadly Weapon Used Other Than a Firearm] in Assault on [Firefighter] [Emergency Medical Technician] [Emergency Health Care Provider] [Medical Responder] [Emergency Department Personnel] (6/2012)		H
208.95F	Assault on Emergency Personnel—Dangerous [Weapon] [Substance] (6/2012)		I, F
208.95G	Assault on Emergency Personnel—Physical Injury (6/2012)		
208.96A	Adulteration or Misbranding of Food, Drugs or Cosmetics with Intent to Inflict Serious Injury or Death. G.S. 14-34.4(a). (4/2002)	C	C
208.96B	Extortion by Adulteration or Misbranding of Food, Drugs, or Cosmetics. G.S. 14-34.4(b). (4/2002)	C	C
	Kidnapping.		
210.15	False Imprisonment. (4/2002)	Misd	Misd 1
210.20	First Degree Kidnapping (Hostage, Ransom, Shield, or Terror) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2011)	D, E	C, E
210.25	First Degree Kidnapping to Commit [Felony] [Serious Injury] Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39. (6/2016)	D, E	C, E
210.26	First Degree Kidnapping (Involuntary Servitude) Covering Second Degree Kidnapping as a Lesser Included Offense. G.S. 14-39; 14-43.2. (3/2005)	D, E	C, E
210.30	Second Degree Kidnapping (Hostage, Ransom, Shield, or Terror). G.S. 14-39. (6/2017)	E	E
210.35	Second Degree Kidnapping (to Commit Felony or Serious Injury). G.S. 14-39. (6/2017)	E	E
210.36	Second Degree Kidnapping (Involuntary Servitude). G.S. 14-39; 14-43.2. (4/2002)	E	E
210.40	Felonious Restraint. G.S. 14-43.3. (6/2011)	J	F

210.50	Involuntary Servitude (offenses prior to Dec. 1, 2006). G.S. 14-43.2. (6/2011)	I	F
210.50A	Involuntary Servitude. G.S. 14-43.12. (6/2019)	I	F
210.52	Involuntary Servitude of a Minor. G.S. 14-43.12. (6/2019)		C
210.60	Child Abduction. G.S. 14-41. (6/2011)	G	F
210.70	Sexual Servitude. G.S. 14-43.13. (6/2020)		F
210.72	Sexual Servitude of a Minor. G.S. 14-43.13. (6/2020)		C
210.80	Human Trafficking Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		F
210.82	Human Trafficking Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		F
210.84	Human Trafficking of a Minor Involving Involuntary Servitude. G.S. 14-43.11. (6/2019)		C
210.86	Human Trafficking of a Minor Involving Sexual Servitude. G.S. 14-43.11. (6/2020)		C
210.88	Unlawful [Sale] [Surrender] [Purchase] of a Minor. G.S. 14-43.14. (6/2019)		F
210.89	Promoting Travel For Unlawful Sexual Conduct. (6/2020)		G
210.90	Unlawful Transfer of Custody of a Minor Child by a Parent. G.S. 14-321.2(a)(1). (6/2017)		Misd 2
210.91	Unlawful Transfer of Custody of a Minor Child by a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(1). (6/2017)		G
210.92	Unlawful Acceptance of Custody of a Minor Child from a Parent. G.S. 14-321.2(a)(2). (6/2017)		Misd 2
210.93	Unlawful Acceptance of Custody of a Minor Child from a Parent Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(2). (6/2017)		G
210.94	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] or [Assisting] in the Unlawful Transfer of Custody of a Minor Child. G.S. 14-321.2(a)(3). (6/2017)		Misd 2
210.95	Unlawful [Advertising] [Recruiting] [Soliciting] [Aiding] [Abetting] [Conspiring] [Assisting] in the Unlawful Transfer of Custody of a Minor Child Resulting in Serious Physical Injury to the Child. G.S. 14-321.2(a)(3). (6/2017)		G
210.96	Knowingly Mutilating The Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.97	[Consenting to] [Permitting] the Mutilation of the Female Genitals of a Child Less Than 18 Years of Age. (6/2020)		C
210.98	Knowingly [Removing] [Permitting the Removal of] a Child Less Than 18 Years of Age From The State For The Purpose of Mutilating The Child's Female Genitals. (6/2020)		C
	Abortion and Similar Offenses.		
211.50	Concealing Birth of a Child. G.S. 14-46. (5/2002)	H	H
211.60	Unlawful Sale of the Remains of an Unborn Child from [Abortion] [Miscarriage]. G.S. 14-46.1 (6/2016)		
	Libel and Slander.		
212.10	Communicating Libelous Matter to Newspapers. G.S. 14-47. (5/2002)	Misd	Misd 2

		Before	On or After
		10/1/94	10/1/94
	Use of Explosives or Incendiary Devices.		
213.10	Malicious Use of Explosive or Incendiary Device—Personal Injury. G.S. 14-49(a). (5/2002)	E	D
213.15	Malicious Use of Explosive or Incendiary Device—Property Damage. G.S. 14-49(b). (5/2002)	E	G
213.20	Malicious Damage of Occupied Property by Use of Explosive or Incendiary [Device] [Material]. G.S. 14-49.1. (11/2003)	C	D
213.25	Maliciously Damaging Church or Other Building of Worship by Use of an Explosive or Incendiary Device. G.S. 14-49(b1). (1/2004)		E
213.30	Maliciously Damaging State or Local Government Buildings by Use of an Explosive or Incendiary Device. G.S. 14/49(b2). (1/2004)		E
	Burglary and Breaking and Entering.		
214.10	First Degree Burglary Covering Second Degree Burglary, Felonious Breaking or Entering and Nonfelonious Breaking or Entering as Lesser Included Offenses. G.S. 14-51, -52, -54. (6/2011)	C, D, H, Misd	D, G, H, Misd 1
214.11	Second Degree Burglary. G.S. 14-51, -52. (6/2011)	D	G
214.20	Habitual Breaking or Entering (6/2018)		E
214.30	Felonious Breaking or Entering. G.S. 14-54. (5/2002)	H, Misd	H, Misd 1
214.31	First-Degree Trespass. G.S. 14-159.12. (5/2019)	Misd	Misd 2
214.31A	Second-Degree Trespass. G.S. 14-159.13. (5/2002)	Misd	Misd 3
214.31B	First-Degree Trespass. G.S. 14-159.12(f). (6/2017)		I
214.32	Felonious Breaking or Entering. G.S. 14-54. Felonious Larceny—Pursuant to a Breaking or Entering Where the Property Is Worth More Than \$1,000. G.S. 14-70, 14-72(a), (b)(2). (6/2012)	H, Misd	H, Misd 1
214.34	Misdemeanor Breaking or Entering. G.S. 14-54. (5/2002)	Misd	Misd 1
214.35	Possession without Lawful Excuse of an Implement of Housebreaking. G.S. 14-55. (6/2011)	E	I
214.40	Breaking or Entering into Motor Vehicle. G.S. 14-56. (6/2022)	I	I
214.41	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		Misd 1
214.42	Preparation to Commit Breaking or Entering into Motor Vehicles—Possession of a Motor Vehicle [Master Key] [Manipulative Key] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(b). (6/2006)		I, Misd 1
214.43	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		Misd 1
214.44	Preparation to Commit Breaking or Entering into Motor Vehicles—[Buying] [Selling] [Transferring] a Motor Vehicle [Master Key] [Manipulative Key] [Key Cutting Device] [Lock-Picking Device] [Hot Wiring Device]. G.S. 14-56.4(c). (6/2006)		I, Misd 1
214.45	Felonious Breaking or Entering—Place of Religious Worship. G.S. 14-54.1. (6/2006)		G

214.46	Breaking or Entering into Certain Law Enforcement Vehicles. (6/2022)		H
214.47	Felonious Breaking or Entering—Intent to [Injure] [Terrorize] Occupant. G.S. 14-54. (6/2014)		H
214.50	(Misdemeanor) Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	Misd	Misd 1
214.51	Opening Coin- or Currency-Operated Machines by Unauthorized Use of [a Key] [an Instrument]. G.S. 14-56.1. (5/2002)	H, Misd	H, Misd 1
214.55	(Misdemeanor) Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	Misd	Misd 1
214.56	Breaking into Coin- or Currency-Operated Machines. G.S. 14-56.1, -56.3. (5/2002)	H, Misd	H, Misd 1
214.60	Destroying or Damaging Coin- or Currency-Operated Machines. G.S. 14-56.2. (5/2002)	Misd	Misd 1
214.65	Burglary with Explosives or Acetylene Torch. G.S. 14-57. (5/2002)	E, H, Misd	D, H, Misd 1
214.70	Breaking or Entering of a Pharmacy With The Intent To Commit Larceny of a Controlled Substance. (6/2020)		E
	Arson and Other Burnings.		
215.11	First Degree Arson (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (5/2002)	C, D, E	D, G, F
215.11A	First Degree Arson, Burning a Structure within the Curtilage of the Dwelling House (Including Second Degree Arson, Burning an Uninhabited House). G.S. 14-58, -62. (3/2005)	C, D, E	D, G, F
215.12	Second Degree Arson. G.S. 14-58. (5/2002)	D	G
215.25	Wanton and Willful Burning—Property. G.S. 14-58 through 14-67.1. (5/2002)	E	D-H
215.30	Wanton and Willful Burning of a [Boat] [Barge] [Ferry] [Float]. G.S. 14-63. (5/2002)	H	H
215.35	Wanton and Willful Burning of a [Ginhouse] [Tobacco House] [Miscellaneous Structure]. G.S. 14-64, -67.1. (5/2002)	H	H
215.40	Wanton and Willful or Fraudulent Burning of a Dwelling House by the Owner or Occupant. G.S. 14-65. (5/2002)	H	H
215.45	Burning Personal Property with Intent to Injure or Prejudice. G.S. 14-66. (5/2002)	H	H
215.50	Arson or Other Unlawful Burning Resulting in Serious Bodily Injury to a Firefighter, Law Enforcement Officer, or Emergency Medical Technician. G.S. 14-69.3. (6/2019)		E
215.60	Burning Caused During Commission of Another Felony. G.S. 14-67.2 (6/2019)		D
215.85	Making a False Report concerning a Destructive Device. (Other Than Public Building). G.S. 14-69.1(a). (6/2006)	-	H
215.85B	Making a False Report concerning a Destructive Device—(Public Building). G.S. 14-69.1(c). (6/2006)	-	H, G
215.86	Perpetrating Hoax by Use of a False Bomb or Other Device—(Other Than Public Building). G.S. 14-69.2(a). (2/2000)	-	H
215.86B	Perpetrating Hoax by Use of a False Bomb or Other Device—(Public Building). G.S. 14-69.2(c). (2/2000)	-	H, G
215.87	Making a False Report Concerning a Threat of Mass Violence on Educational Property. G.S. 14-277.5(b). (6/2008)	H	

215.90	Communicating a Threat of Mass Violence on Educational Property. G.S. 14-277.6 (6/2019)		H
215.91	Communicating a Threat of Mass Violence at a Place of Religious Worship. G.S. 14-277.7 (6/2019)		H
	Larceny.		
216.05	Misdemeanor Larceny. G.S. 14-72(a). (6/2013)	Misd	Misd 1
216.07	Larceny of Motor Fuel Valued at Less Than \$1,000. G.S. 14-72.5(a). (6/2010)		Misd 1
216.08	Felonious Larceny—Habitual Misdemeanor Larceny. G.S. 14-72(b)(6). (6/2013).		H
216.10	Felonious Larceny—Goods Worth More Than \$1,000. G.S. 14-70, -72(a). (6/2021)	H, Misd	H, Misd 1
216.11	Felonious Larceny—[Explosive Device] [Incendiary Device]. G.S. 14-70, -72(b)(3). (2/2000)	H, Misd	H, Misd 1
216.11A	Felonious Larceny—Firearm. G.S. 14-70, -72(b)(4). (12/1999)	H, Misd	H, Misd 1
216.13	Larceny of Chose in Action. G.S. 14-75. (6/2017)		H
216.15	Felonious Larceny—by Trick. G.S. 14-70, -72. (5/2002)	H, Misd	H, Misd 1
216.20	Felonious Larceny—From the Person. G.S. 14-70, -72(b)(1). (6/2011)	H, Misd	H, Misd 1
216.30	Felonious Larceny—Pursuant to Breaking/Entering Offense. G.S. 14-70, -72(b)(2). (5/2002)	H	H
216.35	Felonious Larceny—Pursuant to Breaking/Entering Offense Where the Property Is Worth More Than \$1,000. G.S. 14-70, -72(a), (b)(2). (5/2002)	H, Misd	H, Misd 1
216.36	Larceny from a Permitted Construction Site—Goods Worth More Than \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.37	Felonious Larceny—Motor Vehicle Parts Worth More Than \$1,000. G.S. 14-72.8 (6/2022)		I
216.38	Larceny of Law Enforcement Equipment Worth More Than \$1,000 from Certain Law Enforcement Vehicles. (6/2022)		G
216.39	Larceny of Law Enforcement Equipment from Certain Law Enforcement Vehicles Worth Less Than \$1,000. (6/2022)		H
216.40	Feloniously Receiving Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.41	Feloniously Receiving Stolen Goods from a Permitted Construction Site—Goods Valued in Excess of \$300 and Less Than \$1,000. G.S. 14-72.6. (6/2006)		I
216.42	Felonious [Receiving] [Possessing] Property in the Custody of a Law Enforcement Agency. G.S. 14-71(b). (6/2009)		H
216.43	Receiving Stolen Controlled Substances – Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.45	Felonious Receiving Stolen Goods—Pursuant to a Breaking or Entering. G.S. 14-71, -72. (5/2002)	H, Misd	H, Misd 1
216.46	Misdemeanor Possession of Stolen Goods. G.S. 14-70, -72(a). (5/2002)	Misd	Misd 1
216.47	Felonious Possession of Stolen Goods—Goods Worth More Than \$1,000. G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.48	Possession of Property Stolen Pursuant to a Breaking or Entering. G.S. 14-71.1, -72(b)(1) and (2). (5/2002)	H	H

		Before 10/1/94	On or After 10/1/94
216.48A	Felonious Possession of Stolen Goods—Stolen Pursuant to a Breaking or Entering or Worth More Than \$1,000 (Including Non-Felonious Possession). G.S. 14-71.1, -72(b)(1) and (2). (6/2008)	H, Misd	H, Misd 1
216.48B	Possession of Controlled Substances—Pursuant to a Breaking or Entering of a Pharmacy. (6/2020)		F
216.49	Possession of Stolen Explosives, Public Records. G.S. 14-71.1, -72(b)(3), (4), and (5). (5/2002)	H	H
216.49A	Possession of Feloniously Taken Property Other Than by Larceny (e.g., Embezzlement). G.S. 14-70, -71.1, -72(a). (5/2002)	H, Misd	H, Misd 1
216.49B	Possession of Stolen Firearm. G.S. 14-71.1 and -72(b)(4). (5/2002)	H	H
216.49C	Felonious Possession of Stolen Goods from Permitted Construction Site—Goods Valued in Excess of \$300 but Less Than \$1,000. G.S. 14-72.6. (6/2006)		
216.50	Willfully Concealing the Merchandise of a Store—Shoplifting. G.S. 14-72.1(a). (3/2003)	Misd	Misd 3
216.52	Larceny by Price Tag Change. G.S. 14-72.1(d). (5/2002)	Misd	Misd 3
216.55	Willfully Concealing the Merchandise of a Store—Using Lead- or Aluminum-Lined Bag or Article of Clothing to Prevent Activation of Anti-Shoplifting Device or Inventory Control Device. G.S. 14-72.1(a), (d1). (5/2004)		H
216.56	Larceny from a Merchant. G.S. 14-72.11. (6/2018)		H
216.57	Organized Retail Theft. Retail Property with Value Exceeding \$1,500, Aggregated Over 90-Day Period. G.S. 14-86.6(a)(1). (6/2018)		H
216.57A	Organized Retail Theft Conspiracy — Retail Property with Value Exceeding \$20,000, Aggregated Over 90-Day Period. (6/2018)		
216.58	[Receiving] [Possessing] Retail Property Obtained by Organized Retail Theft. G.S. 14-86.6(a)(2). (6/2009)		H
216.59	Organized Retail Theft — Acting as Leader. (6/2018)		
216.60	Larceny by an Employee. G.S. 14-74. (3/1998)	H	H
216.60A	Larceny by an Employee. G.S. 14-74, -75. (4/1998)		C, H (12/97)
216.61	Appropriation of Partnership Funds by Partner to Personal Use. G.S. 14-97. (5/1998)		C, H
216.62	Embezzlement by Insurance [Agents] [Brokers] [Administrators]. G.S. 58-2-162. (6/2010)		C, H
216.70	Felonious [Altering] [Destroying] [Disassembling] [Dismantling] [Reassembling] [Storing] of Any [Motor Vehicle] [Motor Vehicle Part] Illegally Obtained by [Theft] [Fraud] [Other Illegal Means]. G.S. 14-72.7(a)(1). (6/2014)		
216.71	Felonious Permitting of Chop Shop Activity on Property. G.S. 14-72.7(a)(2). (6/2014)		H
216.72	Felonious [Purchasing] [Disposing] [Selling] [Transferring] [Receiving] [Possessing] of [Motor Vehicles] [Motor Vehicle Parts] with an Altered [Vehicle Identification Number] [Vehicle Part Identification Number]. G.S. 14-72.7(a)(3). (6/2014)		H

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
216.73	Felonious [Purchasing] [Disposing of] [Selling] [Transferring] [Receiving] [Possessing] a [Motor Vehicle] [Motor Vehicle Part] from a Person Engaged in a Chop Shop Activity. G.S. 14-72.7(a)(4). (6/2014)		H
216.77	Purchasing of Vehicles for the Purpose of Scrap Parts Only and Failing to Comply with Certain Requirements Mandated by Law. G.S. 20-62.1 (6/2019)		I
216.80	Purchase of Regulated Metals by Secondary Metals Recyclers from Other Than a Fixed Location. G.S. 66-11(d)(1). (6/2008)		Misd 1
216.81	[Purchasing] [Receiving] of Regulated Metals by Secondary Metals Recyclers from (a) Minor(s). G.S. 66-11(d)(1). (6/2008)		Misd 1
216.82	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] Less than \$1,000. G.S. 14-159.4(c)(1) (6/2013)		Misd 1
216.83	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$1,000 or More (But Less than \$10,000). G.S. 14-159.4(c)(1) (6/2013)		H
216.84	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Property [Injury] [Loss in Value] [Repairs] [Loss Including Fixtures or Improvements] \$10,000 or More. G.S. 14-159.4(c)(1) (6/2013)		F
216.85	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Injury. G.S. 14-159.4(c)(2) (6/2013)		Misd A1
216.86	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Serious Bodily Injury. G.S. 14-159.4(c)(3). (6/2013)		F
216.87	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Death. G.S. 14-159.4(c)(4) (6/2013)		D
216.88	[Cutting] [Mutilating] [Defacing] [Otherwise Injuring] Property to Obtain Nonferrous Metals—Critical Infrastructure. G.S. 14-159.4(c)(5) (6/2013)		Misd 1
216.90	Unauthorized Use of a Conveyance. G.S. 14-72.2. (5/2002)	I, Misd	I, Misd 7
216.93	Larceny of Pinestraw. G.S. 14-79.1. (11/1998)		H
216.95	Felonious Larceny of Ungathered Crops. G.S. 14-78. (5/2002)	H, Misd	H, Misd 1
216.96	Felonious Larceny of Horses, Mules, Swine, Cattle, or Dogs. G.S. 14-81. (2/2003)	H, J	H, I
216.97	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Deprive the Owner of the [Special] [Temporary] Use of Such Property. G.S. 14-82. (2/2003)	Misd	Misd 2
216.98	Unlawful Taking and Carrying Away of Any [Horse] [Mare] [Gelding] [Mule] [Dog] with the Intent to Use Such Property for a [Special] [Temporary] Purpose. G.S. 14-82. (2/2003)	Misd	Misd 2
	Robbery.		
217.10	Common Law Robbery. G.S. 4-1, 14-2, 14-87.1. (6/2022)	H	G
217.20	Robbery with a Firearm. G.S. 14-87. (6/2022)	D	D
217.25	Attempted Robbery with a Firearm. G.S. 14-87. (5/2003)	D	D

217.30	Robbery with a Dangerous Weapon—Other Than a Firearm Covering Common Law Robbery as a Lesser Included Offense. G.S. 14-87, 14-87.1, 14.1, 14.2. (6/2022)	D, H	D
217.50	Safecracking—By Explosives, Drills, or Tools. G.S. 14-89.1(a)(1). (6/2017)	H	I
217.51	Safecracking—By Stolen Combination, Key, Electronic Device or Fraudulently Acquired Implement or Means. G.S. 14-89.1(a)(2). (6/2017)	H	I
217.52	Safecracking—By Use of [[Master Key] [Duplicate Key] [Device] [[Made] [Obtained]] in an Unauthorized Manner] [Stethoscope] [Listening Device] [Surreptitious Means]. G.S. 14-89.1(a)(3). (6/2017)	H	I
217.53	Safecracking—All Other Means. G.S. 14-89.1(a)(3) and (4). (6/2017)	H	I
217.54	Safecracking—Removing Safe or Vault from Premises. G.S. 14-89.1(b). (5/2003)	H	I
	Embezzlement.		
218.10	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162. (6/2010)	H	H
218.10A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90; 58-2-162. (6/2010)		C, H (12/97)
218.15	Embezzlement of Property by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		H
218.15A	Embezzlement of Property Valued at \$100,000 or More by Virtue of Office or Employment. G.S. 14-90, 58-2-162, 45A-3. (6/2010)		C
218.20	Willful Misapplication of Corporate Money, Funds or Credits. G.S. 14-254. (5/2003)	G	H
218.21	Unauthorized Issuance of Corporate Instruments. G.S. 14-254. (5/2003)	G	H
218.22	False Entries by Corporate Officers or Agents. G.S. 14-254. (5/2003)	G	H
218.25	Embezzlement of State Property by Public Officers and Employees. G.S. 14-91. (6/2010)		F
218.25A	Embezzlement of State Property Valued at \$100,000 or More by Public Officers and Employees. G.S. 14-91. (6/2010)		C
218.30	[Misapplication] [Embezzlement] of Bank Funds (6/2013)		C, H
	False Pretenses and Cheats.		
219.10	Obtaining Property by False Pretenses. G.S. 14-100. (6/2021)	H	H
219.10A	Obtaining Property by False Pretenses (Value of Property \$100,000 or More). G.S. 14-100. (6/2020)		C, H (12/97)
219.11	Fraudulent Misrepresentation Involving Child Care Subsidies. G.S. 110-107. (4/2000)	-	Class 1; I
219.20	Obtaining Advances under Promise to Work. G.S. 14-104. (10/1998)	-	Misd 2
219.40	Obtaining Property in Return for Worthless Check, with Intent to Cheat and Defraud. G.S. 14-106. (3/2003)	Misd	Misd 2
219.50A	Worthless Check—Insufficient Funds (Less Than \$2,000). G.S. 14-107(a), (d)(1). (6/2014)	-	Misd 2

219.51A	Worthless Check—Insufficient Funds (More Than \$2,000). G.S. 14-107(a), (d). (6/2014)	J	I
219.52	Worthless Check—Drawn on Non-Existent Account. G.S. 14-107(d)(3). (5/2000)	Misd	Misd 1
219.53	Worthless Check—Drawn on Closed Account. G.S. 14-107(d)(4). (5/2000)	Misd	Misd 1
	Credit Card Crime Act.		
219B.10	Credit Card (Financial Transaction Card) Theft. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.11	Credit Card (Financial Transaction Card) Theft—Receiving Stolen Card. G.S. 14-113.9(a)(1). (4/2003)	J	I
219B.20	Credit Card (Financial Transaction Card) Theft—Use of Lost, Mislaid, or Mistakenly Delivered Card. G.S. 14-113.9(a)(2). (4/2003)	J	I
219B.25	Credit Card (Financial Transaction Card) Theft—Buying a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.26	Credit Card (Financial Transaction Card) Theft—Selling a Credit Card. G.S. 14-113.9(a)(3). (5/2003)	J	I
219B.30	Forgery of a Credit Card (Financial Transaction Card)—Making or Embossing Credit Card. G.S. 14-113.11(a)(1). (4/2003)	J	I
219B.31	Forgery or Uttering of a Forged Credit Card (Financial Transaction Card)—Falsely Encoded, Duplicated, Altered, or Uttered. G.S. 14-113.11(a)(2). (4/2003)	J	I
219B.35	Forgery of a Credit Card (Financial Transaction Card)— Unauthorized Signing of a Credit Card. G.S. 14-113.11(a)(3). (4/2003)	J	I
219B.40	Credit Card (Financial Transaction Card) Fraud—Credit Card Stolen, Forged, Falsely Represented, Expired, or Revoked. G.S. 14-113.13(a)(1)(2); (b). (4/2003)	J, Misd	I, Misd 2
219B.41	Credit Card Fraud—False Representation as to Holding or Issuance of Card. G.S. 14-113.13(a)(2). (5/2003)	J, Misd	I, Misd 2
219B.42	Credit Card Fraud—Where Defendant Held or Controlled Card as Security for Debt. G.S. 14-113.13(a)(3). (5/2003)	J, Misd	I, Misd 2
219B.43	Credit Card Fraud—By Furnisher of Goods and Services. G.S. 14-113.13(b)(1). (4/2003)	J, Misd	I, Misd 2
219B.44	Credit Card (Financial Transaction Card)—Fraud by Misrepresentation to Issuer. G.S. 14-113.13(b)(2). (4/2003)	J, Misd	I, Misd 2
219B.50	Criminal Possession of Incomplete Credit Cards (Financial Transaction Card). G.S. 14-113.14(a)(1). (4/2003)	J	I
219B.55	Criminal Possession of Credit Card (Financial Transaction Card)—Reproduction Device. G.S. 14-113.14(a)(2). (4/2003)	J	I
219B.60	Credit Card Fraud—Criminal Factoring of Transaction Card Records of Sale. G.S. 14-113.15A. (4/2003)	I	I
219B.65	[Possessing] [Selling] [Delivering] a Skimming Device. (6/2022)		I
219B.80	Identity Theft. G.S. 14-113.20, 14-113.22. (6/2020)		F, G
219B.80A	Identity Theft—Financial Fraud Resulting in Another Person’s [Arrest] [Detention] [Conviction of a Criminal Offense]. G.S. 14-113.20, -113.22. (6/2010)	-	F, G
219B.80B	Identity Theft—Possession of Identifying Information Pertaining to Three or More Persons. G.S. 14-113.20, - 113.22. (6/2010)		F, G

		Before	On or After
		10/1/94	10/1/94
219B.85	Identity Theft—Trafficking in Stolen Identities. G.S. 14-113.20A. (6/2010)		E
219C.05	Willfully Failing to Make North Carolina Income Tax Returns. G.S. 105-236(9). Deleted. (6/2013).	Misd	Misd 1
219D.10	Fraudulent Misrepresentation Involving a [License Application] [Other Document] Filed Pursuant to the North Carolina Money Transmitters Act. G.S. 53-208.58(b). (6/2017)		Misd 1
219D.15	Engaging in the Business of Money Transmission Without a License. G.S. 53-208.58(c). (6/2017)		Misd 1
219D.20	Unlawfully Engaging in the Business of Money Transmission—Any Reason. G.S. 53-208.58(a). (6/2017)		Misd 1
	Frauds.		
220.10	Fraudulent Disposal of Personal Property on Which There Is a Security Interest. G.S. 14-114. (5/2003)	Misd	Misd 2
220.20	Secreting Property to Hinder Enforcement of Lien or Security Interest. G.S. 14-115. (5/2003)	Misd	Misd 2
220.22	Filing False Security Agreements (6/2013)		I
220.24	Improper Filing of Lien on [Real Property] [Other Document]. G.S. 44A-12.1(c). (6/2013)		I
220.26	Filing [False Lien] [Encumbrance]. G.S. 14-118.6. (6/2020)		I
220.28	Simulation of Court Process in Connection with Collection of [a Claim] [a Demand] [an Account]. G.S. 14-118.1 (6/2013)		I
220.30	Residential Mortgage Fraud. G.S. 14-118.12(a)(1)–(2). (6/2013)		H
220.31	[Receiving] [Attempting to Receive] Proceeds from Residential Mortgage Fraud. G.S. 14-118.12(a)(3). (6/2008)		H
220.32	Conspiracy to Commit Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.33	Solicitation of Residential Mortgage Fraud. G.S. 14-118.12(a)(4). (6/2008)		H
220.34	Pattern of Residential Mortgage Fraud. G.S. 14-118.15. (6/2008)		H, E
220.35	False Statement of Sums Due for [Labor] [Materials] Furnished at Site of Improvements to Real Property (6/2013)		Misd 1
220.40	Fraudulent and Deceptive Advertising. G.S. 14-117. (5/2003)	Misd	Misd 2
220.50	[Improper] [Fraudulent] Receipt of Decedent’s [Retirement Allowance] [Disability Benefit]. G.S. 135-18.11. (6/2013)		Misd 1
220.53	Improper Receipt of a Decedent’s Disability Income Plan Allowance from the State of North Carolina. G.S. 135.111.1. (6/2014)		Misd 1
220.55	Fraudulently [Obtaining] [Increasing] Benefit Under Unemployment Insurance. G.S. 96-18.A. (6/2013)		I, Misd 1
220.60	Blackmail—Other Than by Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.65	Blackmail—By Accusation of Crime. G.S. 14-118. (5/2003)	Misd	Misd 1
220.70	Obtaining Academic Credit by Fraudulent Means. G.S. 14-118.2. (5/2003)	Misd	Misd 2
220.80	Extortion. G.S. 14-118.4. (5/2003)	H	F
220.85	Exploitation of [Disabled] [Older] Adult by a Person in a [Position of Trust] [Business Relationship with the Adult]. G.S. 14-112.2(b), (d). (6/2014)		F, G, H
220.90	Fraud in Connection with Rental of Motor Vehicle. G.S. 20-106.1. (3/2003)	J	I

220.91	Failing to Return Rented Property on Which There Is a Purchase Option (Rent to Own). G.S. 14-168.4. (5/2003)	Misd	Misd 2
220.95	Interfering with Gas, Electric, and Steam [Appliances] [Meters]. G.S. 14-151. (6/2014)		Misd 1
220.97	[Possession] [Transfer] [Use] of Automated Sale Suppression Device. G.S. 14-118.7. (6/2014)		H
	Forgery.		
221.10	Forgery of Notes, Checks, and Other Securities. G.S. 14-119(a). (6/2008)	I	I
221.12	Possession of Counterfeit Instrument(s). G.S. 14-119(a). (6/2008)		I
221.14	Possession of Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.16	Transporting Five or More Counterfeit Instruments. G.S. 14-119(b). (6/2008)		G
221.20	Uttering Forged Instrument or Instrument Containing a Forged Endorsement. G.S. 14-120. (4/2003)	I	I
221.40	Forgery of Deeds, Wills and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.41	Showing Forth in Evidence Forged Deeds, Wills, and Certain Other Instruments. G.S. 14-122. (5/2003)	I	H
221.80	Forgery of Writings (Common Law Misdemeanor). (5/2003)	Misd	Misd 1; H
	Trespasses to Land and Fixtures.		
222.15	Willful and Wanton Injury to Real Property. G.S. 14-127. (5/2003)	Misd	Misd 1
222.16	Felonious Injury to Houses or Other Buildings Including Lesser Offense (6/2009)		I
222.17	Misdemeanor Injury to Houses or Other Buildings. G.S. 14-144. (6/2009)		Misd 2
222.18	Felonious Injury to Fences or Walls Including Lesser Offense. G.S. 14-144. (6/2009)		I
222.19	Misdemeanor Injury to Fences or Walls. G.S. 14-144. (6/2009)		Misd 2
222.20	Forcible Trespass to Real Property (Common Law Misdemeanor). (5/2003)	Misd	Misd 1
222.22	Unlawfully [Stopping] [Impeding] [Delaying] [Detaining] a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.23	Refusing to Leave a Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.24	Trespassing on Public School Bus or Public School Activity Bus. G.S. 14-132.2. (5/2002)		Misd 1
222.26	Trespass—Electric Power Supplier—Basic Offense. G.S. 14-159.12(c). (6/2013)		Misd A1
222.28	Trespass—Electric Power Supplier—[Intent to Disrupt Normal Operation of Facility] [Act that Placed [Offender] [Another Person] at Risk of Serious Bodily Injury]. G.S. 14-159.12(d). (6/2013)		H
222.30	Domestic Criminal Trespass. G.S. 14-134.3(a). (5/2003)		Misd 1
222.31	Aggravated Domestic Criminal Trespass. G.S. 14-134.3(b). (5/2003)		G

222.32	Interfering with Emergency Communications. G.S. 14-286.2. (5/2002)		Misd A1
222.33	Trespassing by Person Subject to Valid Protective Order onto Property Operated as a Safe House or Haven for Victims of Domestic Violence. (6/2011)		H
222.40	Setting Fire to [Grassland] [Brushland] [Woodland] Property of Another. G.S. 14-136. (4/2003)	Misd	Misd 2
222.40A	Setting Fire to [Grassland] [Brushland] [Woodland] (Defendant's Property). G.S. 14-136. (4/2003)	Misd	Misd 2
222.41	Setting Fire to [Grassland] [Brushland] [Woodland] with Intent to Damage Property of Another. G.S. 14-136. (3/2003)	I	I
222.42	[Cutting] [Injuring] [Removing] Another's Timber. G.S. 14-135, 14-72.		Misd 1, H
222.45	Toxic Substances, Dumping. G.S. 14-284.2. (5/2003)		F
222.50	Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		Misd 1
222.51	Desecration of Human Remains. G.S. 14-149. (6/2008)		H
222.52	Felonious Desecration of a Gravesite. G.S. 14-148(a). (6/2008)		I
222.60	Injuring Telecommunication Wires. G.S. 14-154. (6/2008)		I
222.65	Trespassing for the Purpose of [Hunting] [Fishing] [Trapping] (6/2012)		Misd 1
222.66	Trespassing for the Purpose of [Raking] [Removing] Pine Straw (6/2012)		Misd 1
222.68	Improper Taking of [Menhaden] [Atlantic Thread] Herring. G.S. 113-187. (6/2013)		Misd A1
222.69	Unlawful Dealings with [Ginseng] [Galax] [Venus Flytrap]. G.S. 106-202.19(a). (6/2013)		Misd 2
222.70	Trespass to Land on a Motorized All Terrain Vehicle. G.S. 14-159.3. (6/2015)		Misd 2
222.75	Collection of [Seismic] [Geophysical] Data on Another's Property Without Written Consent. G.S. 113-395.4. (6/2015)		Misd 1
222.80	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		Misd
222.85	Graffiti Vandalism. G.S. 14-127.1. (6/2016)		
	Trespasses to Personal Property.		
223.15	Willful and Wanton Injury to Personal Property Causing Damage of More Than \$200. G.S. 14-160. (5/2003)	Misd	Misd 1, 2
223.20	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property. G.S. 14-160.1(a). (3/2022)	Misd	Misd 1
223.20A	[Alteration] [Destruction] [Removal] of Permanent Identification Marks from Personal Property Worth More Than \$1,000. (6/.2022)		H
223.21	[Buying] [Selling] [Possessing] Item of Personal Property on Which the Permanent Identification Mark Has Been [Altered] [Destroyed] [Defaced] [Removed]. G.S. 14-160.1(b). (3/2022)	Misd	Misd 1
223.21A	[Buying] [Selling] [Possessing] Item of Personal Property Worth More Than \$1,000 on Which the Permanent Identification Mark has Been [Altered] [Destroyed] [Defaced] [Removed]. (6/2022)		I
223.25	Felonious Computer Trespass. G.S. 14-453, -458. (4/2000)		Class 3; 1/I
223.30	Willfully Damaging [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455. (6/2009)		Misd 1

223.31	Willfully Damaging Government [Computers] [Computer Programs] [Computer Systems] [Computer Networks]. G.S. 14-455(b). (6/2009)		F
223.40	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		Misd 1
223.45	Unlawful Operation of an Audiovisual Recording Device. G.S. 14-440.1. (6/2006)		I, Misd 1
223.70	Injuring, Destroying, Removing, Vandalizing, or Tampering with Firefighting or Emergency Medical Services Machinery or Equipment. (6/2018)		
223.71	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System. (6/2020)		Misd 2
223.72	Interfering with a [Fire-Alarm] [Fire-Detection] [Fire-Extinguishing] System in a [Prison] [Local Confinement Facility]. (6/2020)		H
223.73	Giving False Alarms. (6/2020)		Misd 2
223.74	Willfully [Misusing] [Damaging] a Portable Fire Extinguisher. (6/2020)		Misd 2
	Vehicles and Draft Animals—Protection of Bailor against Acts of Bailee.		
224.10	[Willful] [Malicious] Injury to [Rented] [Hired] Personal Property. G.S. 14-165. (3/2003)	Misd	Misd 2
224.20	Failure to Return [Rented] [Hired] Property. G.S. 14-167. (3/2003)	Misd	Misd 2
224.25	Failure to Return [Rented] [Hired] [Leased] Motor Vehicle Valued in Excess of \$4,000. G.S. 14-167. (6/2006)		
224.30	Felonious Conversion by Bailee. G.S. 14-168.1 (4/2003)	H, Misd	H, Misd 1
	Offenses against Public Morality and Decency.		
225.10	[Knowingly] [Willingly] [Abusing] [Mutilating] a Dead Human Body in a Person’s Custody. 90-210.25(5)(2) (6/2019)		Misd 2
225.15	Unauthorized Practice of [Embalming] [Funeral Directing] [Funeral Service] [Operating Funeral Establishment]—Practicing Without a License (Including While Representing Oneself as Being Licensed. G.S. 90-210.25(f)(1) (6/2019)		Misd 2
226.10	Crime against Nature—Animals. G.S. 14-177. (6/2006)	H	I
226.10A	Crime against Nature—Persons. G.S. 14-177. (6/2019)		
226.20	Incest. G.S. 14-178. (3/2003)	G	F
226.20A	Incest with a Person under the Age of Thirteen Years. G.S. 14-178. (3/2003)	G	B1
226.20B	Incest with a Person [Thirteen] [Fourteen] [Fifteen] Years of Age. G.S. 14-178. (3/2003)		B1, C
226.45	Bigamy. G.S. 14-183. (3/2003)	H	I
226.46	Bigamous Cohabitation. G.S. 14-183. (4/2003)	H	I
226.50	Fornication and Adultery. G.S. 14-184. (1/2004)	Misd	Misd 2
226.55	Using Profane or Indecent Language over a Telephone. G.S. 14-196(a)(1). (3/2001)	Misd	Misd 2
226.56	Using Threatening Language by Way of Telephone. G.S. 14-196(a)(2). (3/2001)	Misd	Misd 2
226.57	Harassing by Repeated Telephone Calls. G.S. 14-196(a)(3). (3/2001)	Misd	Misd 2
226.58	Disrupting Telephone Service of Another. G.S. 14-196(a)(4). (3/2001)	Misd	Misd 2

		Before 10/1/94	On or After 10/1/94
226.59	Harassing by Imparting False Information by Telephone. G.S. 14-196(a)(5). (3/2001)	Misd	Misd 2
226.60	Cyberstalking—Threatening Language. G.S. 14-196.3(b)(1). (3/2001)		Misd 2
226.60A	Cyberstalking—Harassment. G.S. 14-196.3(b)(2). (1/2001)		Misd 2
226.60B	Cyberstalking—False Statement. G.S. 14-196.3(b)(3). (3/2001)		Misd 2
226.60C	Cyberstalking—Permitting Communication. G.S. 14-196.3(b)(4). (3/2001)		Misd 2
226.62	Cyberstalking Through Use of An Electronic Tracking Device. G.S. 14-196.3 (6/2016)		
226.65	Cyber-bullying with Intent to [Intimidate] [Torment] a Minor. G.S. 14-458.1(a)(1). (6/2017)		Misd 1, Misd 2
226.66	Cyber-bullying with Intent to [Intimidate] [Torment] [a Minor] [a Minor’s [Parent] or [Guardian]]. G.S. 14-458.1(a)(2). (6/2010)		Misd 1, Misd 2
226.67	Cyber-bullying—Using a [Computer] [Computer Network] to Plant any Statement to Provoke a Third Party to [Stalk] [Harass] a Minor. G.S. 14-458.1(a)(3). (6/2010)		Misd 1, Misd 2
226.68	Cyber-bullying—Using a [Computer] [Computer Network] to [Copy and Disseminate] [Cause to be Made] an Unauthorized Copy of Data Pertaining to a Minor for the Purpose of [Intimidating] [Tormenting] that Minor. G.S. 14-458.1(a)(4). (6/2010)		Misd 1, Misd 2
226.69	Cyber-bullying—Signing up a Minor for a Pornographic Internet Site. G.S. 14-458.1(a)(5). (6/2010)		Misd 1, Misd 2
226.70	Cyber-bullying—Using a [Computer] [Computer Network] to Sign up a Minor for [Electronic Mailing List] [Electronic Messages] Without Consent of the [Minor] [Minor’s [Parent] [Guardian]] Resulting in [Intimidation] [Torment] of the Minor. G.S. 14-458.1(a)(6). (6/2010)		Misd 1, Misd 2
226.71A	Cyber-bullying of School Employee by Student—[Computer] [Internet] Interference with Employee. G.S. 14-458.2(b)(1). (6/2013)		Misd 2
226.72B	Cyber-bullying of School Employee by Student—Statements Likely to Provoke Action. G.S. 14-458.2(b)(2). (6/2013)		Misd 2
226.72C	Cyber-bullying of School Employee by Student—Unauthorized Copying of Data. G.S. 14-458.2(b)(3). (6/2013)		Misd 2
226.72D	Cyber-bullying of School Employee by Student—Pornographic Internet Site. G.S. 14-458.2(b)(4). (6/2013)		Misd 2
226.72E	Cyber-bullying of School Employee by Student—Electronic Mailing Lists. G.S. 14-458.2(b)(5). (6/2013)		Misd 2
226.75	Secretly Peeping into Room Occupied by Another Person. G.S. 14-202(a). (12/2003)	Misd	Misd 1
226.75A	Secretly Peeping through the Use of a Mirror or Other Device. G.S. 14-202(a1). (2/2005)		Misd 1
226.76	Secretly Peeping into Room While in Possession of a Device Used to Create a Photographic Image. G.S. 14-202(c). (4/2004)		Misd A1
226.77	Felonious Secretly Peeping into Room Occupied by Another Person and Using a Device to Create a Photographic Image of a Person in That Room for the Purpose of Sexual Arousal or Gratification. G.S. 14-202(d). (4/2004)		

		Before 10/1/94	On or After 10/1/94
226.78	Secretly or Surreptitiously Using a Device to Create a Photographic Image of Another Person Underneath or through the Clothing. G.S. 14-202(e). (4/2004)		I
226.79	Secretly or Surreptitiously Installing a Device Used to Create a Photographic Image. G.S. 14-202(f). (4/2004)		I
226.80	Knowingly Possessing a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(g). (5/2004)		I
226.81	Knowingly Disseminating a Photographic Image Obtained by Secretly Peeping. G.S. 14-202(h). (5/2004)		H
226.85	Taking an Indecent Liberty with a Child. G.S. 14-202.1. (4/2003)	H	F
226.86A	Taking Indecent Liberties with a Student (by Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	I
226.86B	Taking Indecent Liberties with a Student (by Member of School Personnel Other Than Teacher, School Administrator, Student Teacher, School Safety Officer, Coach). G.S. 14-202.4. (6/2016)	-	Misd A1
226.90	Promoting Prostitution. G.S. 14-205.3. (6/2014)		E, F
226.91	Patronizing a Prostitute. G.S. 14-205.2. (6/2014)		E, F
226.92	Patronizing a Prostitute G.S. 14-205.2. (6/2014)		E, F
226.93	Patronizing a Prostitute who Had a [Severe] [Profound] Mental Disability. G.S. 14-205.2. (6/2019)		D
226.94	Promoting Prostitution of a Person Who Had a [Severe] [Profound] Mental Disability. G.S. 14-205/3(b) (6/2019)		Misd A1, G
226.96	Solicitation for Prostitution with a Person who Has a [Severe] [Profound] Mental Disability. G.S. 14-204(5), 14-205.1. (6/2019)		E
226.97	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)		G, H
226.98	Solicitation for Prostitution. G.S. 14-204(5), 14-205.1. (6/2014)	Misd	Misd 1
227.10	Massage and Bodywork Therapy Licensing Violation. (6/2018)		
227.15	[Sexual Activity] [Solicitation of Sexual Activity] in a Message and Bodywork Therapy Establishment. (6/2018)		
227.20	Owner of Massage and Bodywork Therapy Establishment Permitting or Engaging in Sexual Activity. (6/2018)		
	Perjury.		
228.10	Perjury. G.S. 14-209. (1/2001)	H	F
228.20	Subornation of Perjury. G.S. 14-210. (1/2001)	H	I
228.30	Presenting a False Statement to Procure Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.30A	Presenting a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(1). (2/1999)	I	I
228.35	Making (or Participating in) a False Statement to Procure Benefit of an Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
228.35A	Making (or Participating in) a False Statement to Deny Benefit of Insurance Policy. G.S. 58-2-161(b)(2). (2/1999)	I	I
	Bribery.		
229.05	Bribery of Officials. G.S. 14-217. (5/2005)	I	F
229.10	Offering a Bribe to Public Officials. G.S. 14-218. (4/2003)	I	F
229.15	[Buying] [Selling] Public Offices. G.S. 14-228. (6/2016)		

229.20	Commercial Bribery. G.S. 14-353. (6/2014)	Misd	Misd 2
229.21	Commercial Bribery (Making Bribe). G.S. 14-353. (6/2014)	Misd	Misd 2
	Obstructing Justice.		
230.20	Breaking or Entering with the Intent of Altering, Destroying, or Stealing Evidence. G.S. 14-221.1. (1/1999)	I	I
230.21	[Altering] [Destroying] [Stealing] Evidence of Criminal Conduct. G.S. 14-221.1. (6/2010)	I	I
230.25	[Destroying] [Altering] [Concealing] [Tampering With] Biological Evidence of Criminal Conduct. G.S. 15A-268. (6/2010)		H, I
230.26	Felonious Misrepresentation of Evidence (6/2012)		H
230.27	Non-Felonious Misrepresentation of Evidence (6/2012)		Misd 1
230.30	Resisting, Delaying, or Obstructing a Public Officer—All Situations Other Than Arrest. G.S. 14-223. (6/2022)	Misd	Misd 2
230.31	Resisting Arrest—Lawfulness of Arrest. G.S. 14-223. (1/1999)	Misd	Misd 2
230.32	Resisting, Delaying or Obstructing an Officer—Excessive Force by the Officer. G.S. 14-223. (6/2022)	Misd	Misd 2
230.34	Resisting, Delaying, or Obstructing a Public Officer—Serious Bodily Injury. (6/2022)		F, I, Misd 2
230.36	Resisting, Delaying, or Obstructing a Public Officer—Serious Injury. (6/2022)		I, Misd 2
230.40	Obstructing the Administration of Justice by [Picketing] [Parading] [Use of a Sound Truck or Similar Device]. G.S. 14-225.1. (12/1998)	Misd	Misd 1
230.60	Harassment or Intimidation of or Communication with Juror. G.S. 14-225.2. (12/1998)	I	H, I
230.60A	Harassment or Intimidation of or Communication with Juror’s Spouse. G.S. 14-225.2. (1/1999)	I	H, I
230.61A	Intimidating Witnesses by Threatening the Assertion or Denial of Parental Rights. G.S. 14-226. (2/2005)		H
230.62	Obstruction of Justice. Common Law Misdemeanor. (3/2003)	Misd	Misd 1, H
230.65	[Intimidating] [Interfering] With a Witness. G.S. 14-226(a). (Delete Sheet). (6/2022)		G
230.66	Intimidating a Witness. (6/2022)		G
230.67	Interfering with a Witness. (6/2022)		G
230.70	Impersonation of Law-Enforcement Officer by [Verbally Informing Another] [Displaying any Badge or Identification] [Unlawfully Operating a Vehicle with an Operating Red Light]. Misdemeanor. G.S. 14-277(a). (6/2011)	Misd	Misd 1
230.70A	Impersonating of Law-Enforcement Officer by Operating a Vehicle with an Operating Blue Light. Felony. (6/2011)		H, I
230.71	Impersonating a Law Enforcement Officer by Operating a Vehicle with an Operating Blue Light Causing a Person to [Stop] [Yield] (Blue Light Bandit). G.S. 14-277(a)(4), (b)(5). (12/1997)		H, I
230.73	Impersonation of [a Firefighter] [an Emergency Medical Services Personnel]. G.S. 14-276.1 (6/2016)		
230.75	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Misdemeanor. G.S. 14-277(b). (6/2011)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
230.75A	Impersonation of Law-Enforcement Officer (Carrying Out an Act in Accordance with the Authority Granted to a Law-Enforcement Officer). Felony. G.S. 14-277(b). (6/2011)		H, I
230.77	Driving with a Light Bar. (6/2018)		
230.80	Concealment of Death. G.S. 14-401.22. (6/2006)		Felony
230.81	Harassment of a Participant in a Neighborhood Crime Watch Program. G.S. 14-226.2. (6/2007)		Misd 1
230.91	Concealment of Death—Intent to Conceal Death by Dismembering or Destroying Human Remains (6/2012)		H
230.92	Concealment of Death—Intent to Conceal Unnatural Death by Dismembering or Destroying Human Remains (6/2012)		D
230.93	Concealment of Death—Aiding, Counseling, and Abetting (6/2012)		Misd 1
230.94	Disturbing Human Remains—Physical Alteration or Manipulation (6/2012)		I
230.95	Disturbing Human Remains—Acts of Sexual Penetration (6/2012)		I
	Prison Breach and Prisoners.		
233.45	Prison Breach and Escape from [County] [Municipal] Confinement [Facilities] [Officers]. G.S. 14-256. (6/2014)		Misd 1, H
233.47	Possession of Tools for Escape by a Prisoner G.S. 14-258(c) (6/2019)		H
233.50	Feloniously Harboring or Aiding an Escaped Prisoner. G.S. 14-259. (12/1998)	I	I
233.60	Injury to Prisoner by Jailer. G.S. 162-55. (12/1998)	Misd	Misd 1
233.70	Harboring a Fugitive. G.S. 14-267. (2/1999)	Misd	Misd 1
233.80	Furnishing a Controlled Substance to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.81	Furnishing a Deadly Weapon, Cartridge or Ammunition to an Inmate. G.S. 14-258.1(a). (6/2010)	H	H
233.82	Furnishing an Alcoholic Beverage to an Inmate. G.S. 14-258.1(b). (6/2010)	Misd	Misd 1
233.83	Furnishing a Tobacco Product (Including Vapor Products) to an Inmate. G.S. 14-258.1(c). (6/2015)	Misd	Misd 1
233.84	Furnishing a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]] to an Inmate. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
233.85	Providing [Forbidden Articles] [Tools to Escape] to a Prisoner. G.S. 14-258(a) (6/2019)		H
233.90	Possession of Tobacco Product (Including Vapor Products) by an Inmate. G.S. 14-258.1(e). (6/2015)	Misd	Misd 1
233.95	Possession of a [Mobile Telephone] [Wireless Communication Device] [Component of a [Mobile Telephone] [Wireless Communication Device]]. G.S. 14-258.1(d). (6/2016)	Misd	Misd 1
	Offenses against the Public Peace.		
235.10	Carrying a Concealed Weapon Other Than a Pistol or Handgun. G.S. 14-269(a). (6/2014)	Misd	Misd 2
235.12	Carrying a Concealed [Pistol] [Handgun]. G.S. 14-269(a1). (6/2015)		Misd 2, H
235.15	Carrying Weapons into Assemblies. G.S. 14-269.3. (6/2014)	Misd	Misd 1

		Before 10/1/94	On or After 10/1/94
235.16	Carrying Weapons into Establishments Where Alcoholic Beverages Are Sold and Consumed. G.S. 14-269.3. (6/2014)	Misd	Misd 1
235.17	[Carrying] [Possessing] Weapons [on Educational Property] [at School Sponsored Activity]. G.S. 14-269.2(b) and (b1). (6/2016)	I, Misd	I, Misd 1
235.17A	[Causing] [Encouraging] [Aiding] a Minor to [Carry] [Possess] Weapons on Educational Property. G.S. 14-269.2(c) and (c1). (6/2014)	I, Misd	I, Misd 1
235.17B	Willfully Discharging a Firearm on Educational Property or at School Sponsored Activity. G.S. 14-269.2(b) and (b1). (6/2014)		F
235.18	Communicating Threats. G.S. 14-277.1. (2/2000)	Misd	Misd 1
235.19	Stalking. G.S. 14-277.3A(c)(d). (6/2009)	I, Misd	F, H, Misd A1
235.19A	Stalking (Court Order in Effect). G.S. 14-277.3A(c)(d). (6/2009)		H
235.19B	Stalking (Previously Convicted). G.S. 14-277.3A(c)(d). (6/2009)		F
235.20	Going about Armed with Unusual and Dangerous Weapons to the Terror of the People (Common Law Misdemeanor). (4/1999)	Misd	Misd 1
235.30	Pointing a Laser Device towards an Aircraft. G.S. 14-280.2. (6/2006)		H
235.35	Interference with Manned Aircraft by Unmanned Aircraft Systems. G.S. 14-280.3. (6/2015)		H
235.37	Use of Unmanned Aircraft System Near a [Confinement] [Correctional] Facility. (6/2018)		
235.38	Use of an Unmanned Aircraft System Near a [Confinement] [Correctional] Facility to [[Deliver] [Attempt to Deliver]] [[a Weapon] [Contraband]]. (6/2018)		
235.50	Terrorism (Basic Offense). G.S. 14-10.1. (6/2013)		B1*
235.51	Terrorism—Continuing Criminal Enterprise. G.S. 14-7.20. (6/2013)		D
235.61	Unlawful Distribution Of Images Taken by Unmanned Aircraft. G.S. 14-401.25. (6/2015)		Misd A1
235.65	Disclosure of Private Images by Offender Under the Age of 18. G.S. 14-190.5A(c)(2). (6/2018)		Misd 1
235.65A	Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(2). (6/2018)		Misd
235.67	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(c)(1). (6/2018)		H
235.67A	Disclosure of Private Images by Offender 18 Years of Age Or Older. G.S. 14-190.5A(b), (c)(1). (6/2018)		F
235.69	Felonious Disclosure of Private Images by Offender Under the Age of 18 G.S. 14-190.5A(c)(3). (6/2018)		H
235.69A	Riots and Civil Disorders. Felonious Disclosure of Private Images by Offender Under 18 Years of Age. G.S. 14-190.5A(b), (c)(3). (6/2018)		

* If the underlying act of violence is a Class A or B1 felony offense. Otherwise, it is one class higher than felony for underlying act of violence.

236A.10	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—More Than \$1,500 Property Damage or Serious Injury. G.S. 14-288.2(c)(1). (5/1999)	I, Misd	H, Misd 1
236A.15	Feloniously Engaging in a Riot Where the Defendant Has Actually Participated in the Violence—Dangerous Weapon or Substance. G.S. 14-288.2(c)(2). (5/1999)	I, Misd	H, Misd 1
236A.20	Inciting to Riot—\$1,500 or Less in Damage—Misdemeanor. G.S. 14-288.2(d). (5/1999)	Misd	Misd 1
236A.25	Felonious Inciting to Riot—Damage in Excess of \$1,500 or Serious Bodily Injury (with Misdemeanor Inciting as a Lesser Included Offense). G.S. 14-288.2(e). (5/1999)	H, Misd	F, Misd 1
236A.27	Failure to Disperse. G.S. 14-288.5. (6/2013)		Misd 2
236A.28	[Standing] [Sitting] [Lying] Upon [Highways] [Streets]. G.S. 20-174.1. (6/2015)		Misd 2
236A.30	Disorderly Conduct (Fighting or Other Violent Conduct). G.S. 14-288.4(a)(1). (5/1999)	Misd	Misd 2
236A.31	Disorderly Conduct (Abusive Language or Gestures). G.S. 14-288.4(a)(2). (5/1999)	Misd	Misd 2
236A.33	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8). (6/2014)		Misd 1, H, I
236A.35	Disorderly Conduct at a Funeral. G.S. 14-288.4 (a)(8) (6/2014)		Misd 1, H, I
236A.40	Disorderly Conduct [In] [Near] a Public [Building] [Facility]. G.S. 14-132(a)(1). (6/2016)		
236A.60	Looting (Lesser Included Offense of Trespass during Emergency). G.S. 14-288.6. (5/1999)	I, Misd	H, Misd 1
	Lotteries and Gaming.		
237.20	Possession of Lottery Tickets Used in the Operation of a Lottery. G.S. 14-290. (6/2006)	Misd	Misd 2
237.25	Sale of Lottery Tickets. G.S. 14-291. (6/2006)	Misd	Misd 2
237.26	Sale of Tickets Used in a Numbers Lottery. G.S. 14-291.1. (6/2006)	Misd	Misd 2
237.30	Gambling. G.S. 14-292. (1/2000)	Misd	Misd 2
237.40	Unlicensed Operation of a Beach Bingo Game. G.S. 14-309.14(5). (6/2017)		Misd 2
237.45	Providing False Information in Order to Obtain a License to Operate a Beach Bingo Game. G.S. 14-309.14(5)(c). (6/2017)		Misd 2
237.60	Possession of Illegal Slot Machine. G.S. 14-301. (8/1999)	Misd	Misd 2
237.70	Unlawful [Operation] [Possession] of Video Gaming Machines. G.S. 14-306.1, -306.1A. (6/2007).		Misd 1, H, G
237.75	Operating Electronic Sweepstakes. G.S. 14-306.4(b). (6/2013)		Misd 1, H, G
237.80	Unlawful [Promotion] [Operation] [Conducting] of a Server-Based Electronic Game Promotion. G.S. 14-306.3(a). (6/2009)		Misd 1, H, G
237.90	Unlawful Possession of Game Terminal for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3(b). (6/2009)		Misd 1

237.91	Felonious Possession of Game Terminals for the Purpose of [Promoting] [Operating] [Conducting] a Server-Based Electronic Game Promotion. G.S. 14-306.3; 14-309(c). (6/2009)		G
238.10	Obscenity. Disseminating Obscenity Intentionally (Physical Transfers). G.S. 14-190.1(a)(1), (3). (11/1999)	J	I
238.10A	Disseminating Obscenity Intentionally (Live Performance). G.S. 14-190.1(a)(2). (12/1999)	J	I
238.10B	Disseminating Obscenity Intentionally (Transmissions or Deliveries of Actual Images—Not Drawings). G.S. 14-190.1(a)(4). (12/1999)	J	I
238.11	Creating, Buying, Procuring, or Possessing Obscene Material with the Intent to Disseminate. G.S. 14-190.1(e). (12/1999)	J	I
238.12	Advertising or Promoting Sale of Material as Obscene. G.S. 14-190.1(f). (12/1999)	J	I
238.13	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] of Himself or Another for the Purpose of Dissemination. G.S. 14-190.5(1). (12/1999)	Misd	Misd 1
238.13A	Preparing Obscene [Films] [Photographs] [Slides] [Negatives] [Motion Pictures] for the Purpose of Dissemination (Modeling or Assisting the Photographer). G.S. 14-190.5(2). (12/1999)	Misd	Misd 1
238.14	Intentionally [Employing] [Permitting] Minor to Assist in Obscenity Offense. G.S. 14-190.6. (12/1999)	I	I
238.15	Disseminating Obscene Material to Minors under the Age of Sixteen. G.S. 14-190.7. (12/1999)	I	I
238.16	Disseminating Obscene Material to Minors under the Age of Thirteen. G.S. 14-190.8. (12/1999)	H	I
238.17	Indecent Exposure. G.S. 14-190.9. (6/2006)	Misd	Misd 2
238.17A	Indecent Exposure to Minor for Purpose of Arousing or Gratifying Sexual Desire. G.S. 14-190.9. (6/2020)		
238.18	Displaying Material Harmful to Minors. G.S. 14-190.14. (12/1999)	Misd	Misd 2
238.19	Disseminating Harmful Material to Minors (Distribution). G.S. 14-190.15(a)(1). (12/1999)	Misd	Misd 1
238.19A	Disseminating Harmful Material to Minors (Allowing Minor to Review). G.S. 14-190.15(a)(2). (12/1999)	Misd	Misd 1
238.20	Exhibiting a Harmful Performance to Minors. G.S. 14-190.15(b). (12/1999)	Misd	Misd 1
238.21	First Degree Sexual Exploitation of a Minor (Using or Employing a Minor to Engage in or Assist Others in Engaging in Sexual Activity). G.S. 14-190.16(a)(1). (1/2000)	G	D
238.21A	First Degree Sexual Exploitation of a Minor (Permitting a Minor to Engage in Sexual Activity for Live Performance, etc.) G.S. 14-190.16(a)(2). (1/2000)	G	D
238.21B	First Degree Sexual Exploitation of a Minor by Transporting a Minor. G.S. 14-190.16(a)(3). (1/2000)	G	D
238.21C	First Degree Sexual Exploitation of a Minor by Photographing, etc. G.S. 14-190.16(a)(4). (1/2000)	G	D
238.22	Second Degree Sexual Exploitation of a Minor (Producing Material). G.S. 14-190.17(a)(1). (1/2000)	H	F
238.22A	Second Degree Sexual Exploitation of a Minor (Circulating Material). G.S. 14-190.17(a)(2). (1/2000)	H	F

		Before 10/1/94	On or After 10/1/94
238.22B	Third Degree Sexual Exploitation of a Minor. G.S. 14-190.17A. (6/2015)	J	I
238.23	Promoting Prostitution of a Minor (Enticing Prostitution). G.S. 14-190.18(a)(1). (6/2014)	G	D
238.23A	Promoting Prostitution of a Minor (Supervising Prostitution). G.S. 14-190.18(a)(2). (6/2014)	G	D
238.23C	Patronizing a Prostitute, a Minor. G.S. 14-205.2. (6/2014)		Misd 1, D, F, G
238.24	Participating in Prostitution of a Minor. G.S. 14-190.19(a). (6/2014)	H	F
238.26A	Solicitation for Prostitution with a Minor. G.S. 14-204(5), 14-205.1 (6/2014)		Misd 1, E, G, H
238.30	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act. G.S. 14-202.3. (6/2017)		H
238.35	Solicitation of a [Child] [Person Defendant Believed to Be a Child] by [Computer] [a Device Capable of Electronic Data [Storage] [Transmission] to Commit a Sex Act and Appearing at Location. G.S. 14-202.3(c)(2). (6/2017)		G
238.40	DELETE SHEET. Soliciting a Child by [Computer] [Electronic Device] to Commit an Unlawful Sex Act. (Offenses after December 1, 2009). G.S. 14-202.3 (6/2017)		H, G
	Protection of Minors.		
239.10	[Selling] [Giving] a Weapon to a Minor. G.S. 14-315. (11/1999)	-	H, Misd 1
239.11	Improper Storage of Firearms to Protect Minors. G.S. 14-315.1. (8/1999)	Misd	Misd 1
239.20	Permitting a Young Child Under the Age of Twelve to Use a Dangerous Firearm. G.S. 14-316. (6/2014)	Misd	Misd 2
239.21	Furnishing a Young Child a Dangerous Firearm—Nonparent. G.S. 14-316. (Delete Sheet) (6/2014)	Misd	Misd 2
239.23	Possession of Handguns by Minors (6/2012)		Misd 1
239.25	Contributing to the Delinquency and Neglect by Parents and Others. G.S. 14-316.1; 7B-101(1), (15); 7B-1501(7), (27). (6/2019)	Misd	Misd 1
239.30	Child Care Facility Report of Missing Child. G.S. 110-102.1(a). (6/2014)		
239.31	Concealment of Death—Failure to Notify Law Enforcement of Death of Child or Secretly Burying Child. G.S. 14-401.22(a1). (6/2014)		H
239.32	Failure to Report the Disappearance of a Child to Law Enforcement. G.S. 14-318.5. (6/2014)		I
239.33	False Reports to Law Enforcement [Agency] [Officer] Related to the Disappearance of a Child. G.S. 14-225(b). (6/2014)		Misd 2, H
239.34	False Reports to Law Enforcement [Agency] [Officer]. G.S. 14-225(a). (6/2014)		Misd 2
239.35	Failure to Report [Abuse] [Neglect] [Dependency] [Death] Due to Maltreatment of a Juvenile. G.S. 7B-301(a), (b). (6/2019)		Misd 1
239.36	Failure of Department of Social Services Director to Notify the State Bureau of Investigations of a Report of Sexual Abuse of a Juvenile in a Child Care Facility. G.S. 7B-301(a), (c) (6/2014)		Misd 1

		<u>Offense Classification</u>	
		Before	On or After
		10/1/94	10/1/94
239.37	Failure to Report Crimes Against Juveniles. Misdemeanor. (6/2020)		Misd 1
239.55	Felonious Child Abuse. G.S. 14-318.4(a); 14-318.2. (6/2009)	H, Misd	E, Misd 1
239.55A	Felonious Child Abuse by Prostitution. G.S. 14-318.4(a1). (5/2000)	H	E
239.55B	Felonious Child Abuse by a Sexual Act by a [Parent] [Legal Guardian]. G.S. 14-318.4(a2). (5/2020)	H	H
239.55C	Felonious Child Abuse (Reckless Disregard—Serious Bodily Injury). G.S. 14-318.4(a4); 2414-318.2. (6/2014)		E
239.55D	Felonious Child Abuse (Reckless Disregard—Serious Physical Injury). G.S. 14-318.4(a5); 14-318.2 (6/2014)		H
239.57	Felonious Child Abuse [Inflicting Serious Bodily Injury] [Resulting in Permanent or Protracted Loss or Impairment of any Mental or Emotional Function]. G.S. 14-318.4(a3). (6/2009)		C
239.60	Child Abuse. G.S. 14-318.2. (6/2009)	Misd	Misd 1
239.65	Permitting a Child under 16 Years of Age to [Operate] [Be a Passenger on] a Bicycle without a Protective Bicycle Helmet. G.S. 20-171.9. (2/2002)		Infraction
239.70	Failure to Secure a Child in a Restraint System. G.S. 20-137.1. (2/2005)		Infraction
239.80	[Transporting] [Keeping] Child Outside the State with Intent to Violate Custody Order. G.S. 14-320.1. (5/2000)	J	I
239.90	Felonious Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		F, Misd A1
239.91	Unauthorized Administration of Medication to a Child. G.S. 110-102.1A. (4/2004)		Misd A1
239.95	Distribution of Certain Food at Halloween and All Other Times Prohibited—Controlled Substance. G.S. 14-401.11. (6/2020)		F
239.96	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Greater Than Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		H
239.97	Distribution of Certain Food at Halloween and All Other Times Prohibited—Noxious Substances; Mild Physical Discomfort. G.S. 14-401.11. (6/2020)		I
239.98	Distribution of Certain Food at Halloween and All Other Times Prohibited—Poisonous Chemical, Compound, or Foreign Substance. G.S. 14-401.11. (6/2020)		C
	Protection of Family.		
240.05	Abandonment by Supporting Spouse. G.S. 14-322(b). (5/2000)	Misd	Misd 2
240.06	Failure to Support Child. G.S. 14-322(d). (5/2000)	Misd	Misd 2
240.07	Felonious Abandonment and Lesser Included Offense of Failure to Support by Parent. G.S. 14-322.1, -322(d). (6/2014)	I, Misd	I, Misd 2
240.10	Failure of Supporting Spouse to Provide Adequate Support for Dependent Spouse. G.S. 14-322(c). (5/2000)	Misd	Misd 2
240.40	Willful Neglect or Refusal to Adequately Support and Maintain a Born Out of Wedlock Child. G.S. 49-2. (6/2014)	Misd	Misd 2
240.50	Violation of Valid Protective Order. G.S. 50B.4.1(a). (6/2016)		Misd A1

240.51	Violation of a Protective Order While in Possession of a Deadly Weapon. G.S. 50B-4.1(g). (6/2016)		H
240.55	Felonious Violation of Valid Protective Order. G.S. 50B.4.1(f). (6/2009)		H
240.60	Violation of Permanent Civil No-Contact Order. G.S. 50D-10. (6/2016)		
240.70	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		II, H
240.71	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		I, H
240.75	Domestic Abuse of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3. (6/2015)		F
240.76	Domestic Neglect of a [Disabled] [Elder] Adult Inflicting Serious [Mental] [Physical] Injury. G.S. 14-32.3 (6/2015)		F
240.80	[Employee] [Volunteer] At a [Care] [Treatment] [Habilitation] [Rehabilitation] Facility of Individuals With [Mental Illness] [Developmental Disabilities] [Substance Abuse Disorders] Causes [Pain] [Injury] to a Client Other Than as Part of a Generally Accepted [Medical] [Therapeutic] Procedure. G.S. 122C-66(a). (6/2016)		Misd A1
240.82	[Employee] [Volunteer] at a Facility Who [Borrows] [Takes] Personal Property From a Client. G.S. 122C-66(a1). (6/2016)		Misd 1
240.84	[Employee] [Volunteer] at a Facility Failed to Report Violations of Client Abuse. G.S. 122C-66(b). (6/2016)		Misd 1
240.86	[Employee] [Volunteer] at a Facility Failed to Report Violations of [Borrowing] [Taking] Client Property. G.S. 122C-66(a1)-(b). (6/2016)		Misd 1
240.88	[Employee] [Volunteer] at a Facility Failed to Report Accidental Injury to a Client. G.S. 122C-66(b). (6/2016)		Misd A1
240.90	Furnishing False Information on an Employment Application to a Child Care Institution. Misdemeanor. (6/2021)		
	Intoxicating Liquors.		
241.05	Manufacturing Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(a). (8/2000)	H	H
241.10	Selling Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.11	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] of Spirituous Liquor for Use as a Beverage Knowing It to Be Poisonous. G.S. 14-329(b). (8/2000)	H	F
241.15	Selling Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.16	[Transporting for Other Than Personal Use] [Possessing for Purpose of Sale] Poisonous Spirituous Liquor. G.S. 14-329(c). (8/2000)	Misd	Misd 2
241.20	[Transportation] [Possession] of Poisonous Spirituous Liquor for Use as a Beverage. G.S. 14-329(d). (8/2000)	Misd	Misd 1
242.10	Intentional Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(1). (6/2008)		C
242.15	Culpably Negligent Patient Abuse Resulting in Death. G.S. 14-32.2(a)-(b)(2). (6/2008)		E
242.20	Patient Abuse Resulting in Serious Bodily Injury. G.S. 14-32.2(a)-(b)(3). (6/2008)		F

		Before	On or After
		10/1/94	10/1/94
242.25	Pattern of Patient Abuse Resulting in Bodily Injury. G.S. 14-32.2(a)-(b)(4). (6/2008)		H
247.10	Cruelty to Animals. Non-Felonious Cruelty to (an) Animal(s). G.S. 14-360(a). (6/2017)	Misd	Misd 1
247.10A	Felonious Cruelty to (an) Animal(s). G.S. 14-360(b). (6/2017)		H
247.10B	Misdemeanor Cruelty to Animals by Depriving of Necessary Sustenance. G.S. 14-360(a1). (6/2008)		Misd 1
247.15	Willful Killing of [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		H
247.15A	[Causing] [Attempting to Cause] Serious Harm to a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal. G.S. 14-163.1. (6/2010)		I
247.15B	Willfully [Taunting] [Teasing] [Harassing] [Delaying] [Obstructing] [Attempting to [Delay] [Obstruct]] a [Law Enforcement Agency] [Assistance] [Search and Rescue] Animal in the Performance of its Duties. G.S. 14-163.1. (6/2010)		Misd 2
247.20	Instigating or Promoting Cruelty to an Animal(s). G.S. 14-361. (6/2017)	Misd	Misd 1
247.30	Cockfighting. G.S. 14-362. (1/2001)	Misd	Misd 2
247.31	Dog Fighting and Baiting. G.S. 14-362.2. (6/2008)		H
247.40	Interference with Animal Research Involving Release of an Animal Having an Infectious Disease. G.S. 14-159.2(a)(1), (b), (c). (12/2000)	J, Misd	I, Misd 1
247.50	Interference with Animal Research—Willfully Damaging an Animal Research Facility. G.S. 14-159.2(a)(2). (8/2000)	Misd	Misd 1
247.60	Interference with Animal Research—Willful, Unauthorized Release of an Animal from an Enclosure or Restraining Device. G.S. 14-159.2(a)(3). (12/2000)	Misd	Misd 1
247.70	Interference with Animal Research—Willful Interference with the Care of an Animal Kept within an Animal Research Facility. G.S. 14-159.2(a)(4). (12/2000)	Misd	Misd 1
247.80	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Venomous Reptile not Housed in a Sturdy and Secure Enclosure. G.S. 14-417. (6/2020)		Misd 2, Misd A1
247.80A	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Crocodilian not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.2. (6/2020)		Misd 2, Misd A1
247.80B	[Owning] [Possessing] [Using] [Transporting] [Trafficking] of Constricting Snake not Housed in a Sturdy and Secure Enclosure. G.S. 14-417.1. (6/2020)		Misd 2, Misd A1
247.81	Failure to Immediately Notify Local Law Enforcement of Escape of [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-417. (6/2010)		Misd 2, Misd A1
247.82	Handling a [Venomous Reptile] [Large Constricting Snake] [Crocodilian] in a Manner That [Intentionally] [Negligently] Exposes Another to Unsafe Contact with the [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
247.83	Intentionally Releasing into the Wild a Nonnative [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-422. (6/2010)		Misd A1

247.84	[Intentionally] [Negligently] [[Suggesting] [Enticing] [Inviting] [Challenging] [Intimidating] [Exhorting] [Inducing] [Aiding]] Any Person to [Handle] [Be Exposed] in an Unsafe Manner to a [Venomous Reptile] [Large Constricting Snake] [Crocodilian]. G.S. 14-418. (6/2010)		Misd 2, Misd A1
252.65	Miscellaneous Police Regulations. Tattooing a Minor. G.S. 14-400. (8/2000)	Misd	Misd 2
254A.10	Felony Firearms. Possession of a Weapon of Mass Death and Destruction. (6/2021)		F
254A.11	Possession of a Firearm or Weapon of Mass Death and Destruction by a Felon. G.S. 14-415.1. (6/2020)		G
254A.15	[Altering] [Defacing] [Destroying] [Removing] the Serial Number of a Firearm. G.S. 14-160.2 (6/2010)		H
254A.17	[Selling] [Buying] [Possessing] Firearm with Serial Number [Altered] [Defaced] [Destroyed] [Removed]. G.S. 14-160.2 (6/2010)		H
254A.19	Purchase or Possession, or Attempted Purchase or Possession of Firearms by Person Subject to Domestic Violence Protective Order. (6/2022)		H
255.01	Miscellaneous. Felony Willful Failure to Appear. G.S. 15A-543. (12/2000)		I
255.02	Misdemeanor Willful Failure to Appear. G.S. 15A-543. (12/2000)	Misd	Misd 2
255.03	Failure to Appear (Alcohol-Related Offenses). G.S. 20-28(a2). (6/2007)		Misd 1
256.10	Intoxicated and Disruptive in Public. G.S. 14-444. (12/2000)	Misd	Misd 3
257.10	Willfully Violating Occupational Safety and Health Act of North Carolina Resulting in Death of an Employee. G.S. 95-139. (6/2010)		Misd 2
257.11	Knowingly Making a False [Statement] [Representation] [Certification] in a(n) [Application] [Record] [Report] [Plan] [Document] Required to be [Filed] [Maintained] Pursuant to the Occupational Safety and Health Act of North Carolina. G.S. 95-139. (6/2010)		Misd 2
257.12	Giving Advance Notice of OSHA Inspection Without Authorization. G.S. 95-139. (6/2010)		Misd 2
258.10	Failure of Secondary Metals Recycler to Issue Receipt for Purchase of Regulated Metals Property. G.S. 66-11(a1) (6/2010)		Misd 1, I
258.12	Failure of Secondary Metals Recycler to Maintain Records of Purchases of Regulated Metals. G.S. 66-11(b) (6/2010)		Misd 1, I
258.14	Failure to Hold and Retain Regulated Metals for Seven Days Before [Selling] [Dismantling] [Defacing] [Altering] [Disposing of] Regulated Metals. G.S. 66-11(d1) (6/2010)		Misd 1, I
258.16	Purchase of [Air Conditioning [Coils] [Condensers]] [Catalytic Converter] by Secondary Metals Recycler. G.S. 66-11(d)(3) (6/2010)		Misd 1, I

258.18	Purchase of Nonferrous Metal by Secondary Metals Recycler. G.S. 66-11(d)(4) (6/2010)	Misd 1, I
258.20	Purchase of Prohibited Material by Secondary Metals Recycler. G.S. 66-11(d)(5). G.S. 136-32(a). (6/2010)	Misd 1, I
258.30	Erecting or Maintaining Signs on Highways (6/2012)	Misd 3
258.31	Erecting or Maintaining Political Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (b), (c), (d). (6/2012)	Misd 1, 3
258.32	Erecting or Maintaining Commercial Advertising Signs in Highway Rights of Way. G.S. 136-32(a), (d). (6/2012)	Misd 1
258.33	[Stealing] [Defacing] [Vandalizing] [Unlawfully Removing] Political Signs That Are Lawfully Placed. G.S. 136-32(a), (b), (c), (d), (e). (6/2012)	Misd 3
258.35	Removal or Destruction of Warning Signs—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
258.36	Possession of Signs Posted by Department of Environment and Natural Resources—Water Quality in Coastal Recreation Waters. G.S. 113-221.3(b), (c), (d). (6/2012)	Misd 2
259.10	Unauthorized Practice of Medicine—Practicing Without a License. G.S. 90-18. (6/2012)	Misd 1
259.11	Unauthorized Practice of Medicine—Practicing Without a License While Representing Oneself as Being Licensed. G.S. 90-18. (6/2012)	I
259.12	Unauthorized Practice of Medicine—Practicing Without a License in North Carolina By an Out-of-State Practitioner. (G.S. 90-18). (6/2012)	I
259.13	Unauthorized Practice of Medicine—Practicing Without a License Due to Failure to Complete Timely Annual Registration or Practice While Licensed Under Another Article. G.S. 90-18. (6/2012)	Misd 1
259.20	Unauthorized Practice of Law—Non-Members of the State Bar. G.S. 84-4. (6/2017)	Misd 1
259.21	Unauthorized Practice of Law—Corporations. G.S. 84.5. (6/2012)	Misd 1
259.22	Unauthorized Practice of Law—Foreclosure Fees. G.S. 84.6. (6/2012)	Misd 1
259.23	Unauthorized Practice of Law—Appearing for Creditors in [Insolvency] [Bankruptcy] and Other Proceedings. G.S. 84.9. (6/2012)	Misd 1
259.30	Practice as a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(1). (6/2020)	Misd 1
259.31	Practice as a Clinical Addiction Specialist Without a License—Using [Letters] [Words] [Numerical Codes] [Insignia]. G.S. 90-113.43(a)(2). (6/2020)	Misd 1
259.32	[Practice] [Attempt to Practice] as a Clinical Addiction Specialist With a [Revoked] [Lapsed] [Suspended] Certification or License. G.S. 90-113.43(a)(3). (6/2020)	Misd 1
259.33	[Aiding] [Abetting] [Assisting] the Practice of a Clinical Addiction Specialist Without a License. G.S. 90-113.43(a)(4). (6/2020)	Misd 1
259.34	Knowingly Serving in a Position Required by Law to be Filled by a Clinical Addiction Specialist. G.S. 90-113.43(a)(5). (6/2020)	Misd 1
259.40	Bank Examiner Making False Report. G.S. 53C-8-7. (6/2013)	H

259.41	[Bank Examiner] [Other Employee] Disclosing Confidential Information. G.S. 53C-8-8. (6/2013)		Misd 1
259.42	Willfully and Maliciously Making [False] [Derogatory] Reports about the Financial Condition of a Bank. G.S. 53C-8-10. (6/2013)		Misd 1
259.43	[Bank] [Officer] [Director] [Employee] Making Extension of Credit to a Disqualified Individual. G.S. 53C-8-9. (6/2013)		Misd 1
259.50	Attempt to [Evade] [Defeat] Tax. G.S. 105-236(a)(7). (6/2016)		H
259.51	Willful Failure to [Collect] [Withhold] [Pay Over] Tax. G.S. 105-236(a)(8). (6/2016)		Misd 1
259.52	Willful Failure to [File Return] [Supply Information] [Pay Tax]. G.S. 105-236(a)(9). (6/2016)		Misd 1
259.53	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.53A	[Aiding] [Assisting] [Procuring] [Counseling] [Advising] in the [Preparation] [Presentation] [Filing] of a [Fraudulent] [False] Tax Document by Any Person Other Than a Tax Return Preparer. G.S. 105-236(a)(9a). (6/2016)		C, F, H
259.55	Identity Theft – Submission to the Department of Revenue. G.S. 105-236(a)(9b). (6/2018)		
259.57	Identity Theft – Submission to the Department of Revenue Resulting in Adverse Financial Impact. G.S. 105-236(a)(9b). (6/2018)		
259.60	Unlawful Handling of Waste Kitchen Grease. G.S. 14-79.2. (6/2013)		H, Misd 1
259.70	Medicaid Subrogation – Withholding Information. G.S. 108A-57(b). (6/2014)		Misd 1
259.80	Misuse of 911 System. G.S. 14-111.4. (6/2014)		Misd 1
259.85	Subsurface Injection of Waste. G.S. 113-395.2, 143-214.2 (6/2015)		Misd 1
259.90	Member of a [County] [City] Inspection Department Who Willfully [Fails to Perform Duties] [Improperly [Issues Permit] [Gives Certificate of Compliance]] [Improperly Gives a Certificate of Compliance Without First Making the Required Inspections by Law] [Improperly Gives a Certificate of Compliance]. G.S. 153A-356; 160A-416. (6/2016)		Misd 1
259.95	Illegal Operation of Amusement Devices Causing [Death] [Serious Injury]. G.S. 95-111.13. (6/2016)		E
259.97	[Counterfeiting] [Selling] [Lending] [Permitting Use of] Photo Identification for Voting. G.S. 163A-1389(19) (6/2019)		I
259.98	Voting More Than One Time in an Election—Verdict Form. G.S. 163-275(7). (6/2017)		I
	Dangerous Drugs.		
260.10	260 Series—Directory of Dangerous Drug Charges. (6/1996) Possession of a Controlled Substance. G.S. 90-95(a)(3)(d). (6/2014)	I, Misd	I, Misd 1, Misd 2, 3
260.11	Aggravated Possession of a Controlled Substance—Including Lesser Offenses. G.S. 90-95. (6/2014)	I, Misd	I, Misd 1, Misd 2, 3

		Before 10/1/94	On or After 10/1/94
260.12	Possession of a Controlled Substance on Premises of a [Penal Institution] [Local Confinement Facility]. G.S. 90-95(a)(3), (e)(9). (6/2021)	I	I*
260.15	Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offense. G.S. 90-95(a)(1), (3), (b), (d). (6/2014)	H, I, Misd	H, I, Misd 1, Misd 2, 3
260.15A	Possession of a Counterfeit Controlled Substance with Intent to [Sell] [Deliver]. G.S. 90-87(6) and 90-95(a)(2), (c). (6/2014)	I	I
260.15B	Possession of an Immediate Precursor Chemical. G.S. 90-95(d1), (d2). (12/2004)	H	H
260.16	Aggravated Possession of a Controlled Substance with Intent to [Manufacture] [Sell] [Deliver]—Lesser Included Offenses. G.S. 90-95(a)(1), (b)(2), (e)(1-4). (6/2014)	E, H, I, Misd	E, H, I, Misd 1,2,3
260.17	Drug Trafficking—Possession (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E F, G, H	D, D, E F, G, H
260.18	Forged Prescription—Acquiring or Obtaining Possession of a Controlled Substance by [Misrepresentation] [Fraud] [Forgery] [Deception] [Subterfuge]. G.S. 90-108(a)(10). (6/2014)	I	I
260.19	Manufacturing a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I
260.19A	Creating a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(b). (1/2001)	I	I
260.20	Aggravated Manufacture of Controlled Substance—Lesser Included Offense. G.S. 90-95(a)(1), (e)(1-4). (1/2001)	Misd	Misd 1, 2
260.20A	Drug Trafficking—Manufacturing (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2016)	C, D, E, F, G, H	C, D, E, F, G, H
260.21	[Selling] [Delivering] a Controlled Substance. G.S. 90-95(a)(1). (1/2001)	H, I	H, I*
260.21A	[Selling] [Delivering] a Counterfeit Controlled Substance. G.S. 90-95(a)(2) and 90-87(6). (1/2001)	I	I
260.22	Sale or Delivery of a Controlled Substance to a Minor or Pregnant Woman—Lesser Included Offense. G.S. 90-95(a)(1), (e)(5). (1/2001)	E, H, I	E, H
260.22A	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of School Property. G.S. 90-95(e)(8). (6/2012)		E
260.22B	Sale or Delivery of a Controlled Substance on or within 1,000 Feet of a Public Park G.S. 90-95(e)(10). (6/2008)		E
260.22C	Sale or Delivery of a Controlled Substance on Property Used for a Child Care Center. G.S. 90-95(e)(8). (6/2008)		E

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.
* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

260.23	Drug Trafficking—[Selling] [Delivering] (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones or Synthetic Cannabinoid) G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.30	Drug Trafficking—Transportation (Marijuana, Methaqualone, Cocaine, Amphetamine, Methamphetamine, Opium, Opiate, Opioid or Heroin, Lysergic Acid Diethylamide, Methylenedioxyamphetamine, Methylenedioxymethamphetamine, Substituted Cathinones, or Synthetic Cannabinoid). G.S. 90-95(h). (6/2019)	C, D, E, F, G, H	C, D, E, F, G, H
260.40	Employing a Minor to Commit a Drug Law Violation. G.S. 90-95.4. (1/2001)		
260.41	Promoting Drug Sales by a Minor. G.S. 90-95.6. (1/2001)		D
260.42	Participating in a Drug Violation by a Minor. G.S. 90-95.7. (3/2001)		G
260.45	General Aggravating Conditions Applicable to Drug Charges. G.S. 90-95(d), (e)(1-5). (12/2003)		
260.70	Continuing Criminal Enterprise—The Controlled Substances Act. G.S. 90-95.1. (3/2001)	C	C
260.80	Feloniously Dispensing a Controlled Substance (Practitioner or Registrant)—Lesser Included Offense. G.S. 90-108(a)(2) and (b); 90-106. (3/2001)	I, Misd	I, Misd 1
260.81	Feloniously [Diverting] [Embezzling] a Controlled Substance (Practitioner, Registrant, or Employee). G.S. 90-108(b) and 90-108(a)(14) (6/2019)		E
260.82	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (Practitioner, Registrant, or Employee). G.S. 90-108(b)(3) and 90-108(a)(14) (6/2019)		E
260.83	Feloniously [Diverting] [Embezzling] a Controlled Substance (by Virtue of Occupation). G.S. 90-108(b)(2) and 90-108(a)(15) (6/2019)		E
260.84	Feloniously [Diverting] [Embezzling] a Controlled Substance by [Dilution] (or) [Substitution] (by Virtue of Occupation). G.S. 90-108(b)(3) and 90-108(a)(15) (6/2019)		E
260.85	Felonious Use of Controlled Substances Reporting System—Unauthorized [Disclosure] [Dissemination] G.S. 90-113.74(k)(2) (6/2019)		I
280.86	Felonious Use of Controlled Substances Reporting System—[Commercial Advantage] [Personal Gain] [Maliciously Harm] G.S. 90-113.74(k)(3) (6/2019)		H
260.87	Felonious Use of Controlled Substances Reporting System for an Unauthorized Purpose. G.S. 90-113.74(k)(1) (6/2019)		I
260.90	[Intentionally] [Knowingly] [Keeping] [Maintaining] a Building or Vehicle for the [Use] [Keeping] [Selling] of Controlled Substances. G.S. 90-108(a)(7). (6/2009)	I, Misd	I, Misd 1
260.95	[Possession] [Use] of Drug Paraphernalia. G.S. 90-113.22. (6/2014)	Misd	Misd 1
260.96A	Willfully and Knowingly Offering a [Glass Tube] [Splitter] for Retail Sale by Self-Service. G.S. 90-113.82(a) (6/2010)		Misd 2

260.96B	Failure to Comply with Restrictions on Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(b) (6/2010)		Misd 1
260.96C	Failure to Maintain Records of Purchasers of [Glass Tubes] [Splitters]. G.S. 90-113.82(c) (6/2010)		Misd 2
260.96D	Failure to Train Agents and Employees on Requirements of Sales of [Glass Tubes] [Splitters]. G.S. 90-113.82(e) (6/2010)		Misd 2
261.10	Adulterating a [Urine] [Bodily Fluid] Sample with the Intent to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20(b). (4/2003)		Misd 1, I
261.20	Attempt to [Foil] [Defeat] a [Drug] [Alcohol] Screening Test by the [[Substitution] [Spiking] of a Urine Sample] [Advertisement of a [Sample Substitution] [Spiking Device or Measure]]. G.S. 14-401.20(a)(2). (4/2003)		Misd 1, I
261.30	Distributing or Transporting Urine to Defraud a [Drug] [Alcohol] Test. G.S. 14-401.20. (4/2003)		Misd 1, I
261.40	[Possessing] [Selling] Adulterants Intended to Be Used to Adulterate a [Urine] [Bodily Fluid] Sample for the Purpose of Defrauding a [Drug] [Alcohol] Screening Test. G.S. 14-401.20(b)(2), (3). (4/2003)		Misd 1, I
261.50	Pseudoephedrine Sales—Retailer. G.S. 90-113.56. (6/2013)		Misd A1, I
261.51	Pseudoephedrine Sales—Purchaser. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.52	Pseudoephedrine Sales—[Employee of Retailer] [Other Person]. G.S. 90-113.56. (6/2013)		Misd 1, A1, I
261.53	Pseudoephedrine Sales—Retailer Who Fails to Train Employees. G.S. 90-113.56. (6/2012)		Misd A1, I
261.55	Possession of a Pseudoephedrine Product with Prior Conviction for the [Possession] With Intent to [Sell] [Deliver]] [Trafficking] [Manufacture of] a [Methamphetamine] [Immediate Precursor Chemical]. G.S. 90-95(d1)(1)(c). (6/2016)		H
261.60	[Manufacturing] [Distributing] [Dispensing] [Delivering] [Purchasing] Marijuana on Property Lawfully Used for Industrial Hemp Production. G.S. 106-568.57(a). (6/2017)		I
261.65	Providing [False] [Misleading] Information to the Industrial Hemp Commission Related to a License [Application] [Renewal] [Inspection] [Investigation]. G.S. 106-568.57(b). (6/2017)		Misd 1
261.70	[Tampering With] [Adulterating] a Lawfully Planted Industrial Hemp Crop. G.S. 106-568.57(c). (6/2017)		Misd 1
Traffic Offenses.			
270.00	Model Jury Instruction. (6/2011)		
270.05	Punishment Levels For Impaired Driving. (1/1995)		
270.05A	Punishment Levels For Impaired Driving. (1/1999)		
270.15	Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.15A	Verdict Form—Aggravating Factors for Impaired Driving. G.S. 20-179. (6/2016)		
270.20	Impaired Driving. G.S. 20-138.1. (6/2010)	Misd	Misd
270.20A	Impaired Driving. G.S. 20-138.1. (6/2022)		Misd 1

		Before 10/1/94	On or After 10/1/94
270.21	Impaired Driving of a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2010)		Misd 1
270.21A	Impaired Driving in a Commercial Vehicle. G.S. 20-138.2 and -138.2A. (6/2022)		Misd 1
270.23	Operating a [School Bus] [School Activity Bus] [Child Care Vehicle] [Ambulance] [EMS Vehicle] [Firefighting Vehicle] [Law Enforcement Vehicle] After Consuming Alcohol. G.S. 20-138.2B(a). (6/2014)		Misd 3
270.25	Habitual Impaired Driving—Including Chemical Test.). G.S. 20-138.5. (6/2015)	J	F
270.25A	Habitual Impaired Driving—Including Chemical Test. G.S. 20-138.2A. (6/2022)	J	F
270.30	Driving by a person Less Than 21 Years Old [While] [After] Consuming Alcohol or Drugs. G.S. 20-138.3. (5/1999)	Misd	Misd 2
270.35	Possession of an Open Container of Alcoholic Beverage. G.S. 20-138.7(a1). (6/2014)		Infraction
270.40	Transporting an Open Container of Alcoholic Beverage. G.S. 20-138.7(a). (6/2010)		Misd 2, Misd 3
270.50	Speeding in Excess of [15 mph More Than Speed Limit] [80 mph]. G.S. 20-141(j1). (5/2001)	Misd, Infraction	Misd 2, Infraction
270.51	Driving Too Fast for Conditions. G.S. 20-141(a). (4/2001)	Infraction	Infraction
270.52	Speeding Inside Municipal Corporate Limits—No Limit Posted. G.S. 20-141(b). (3/2001)	Infraction	Infraction
270.53	Exceeding the Posted Speed Limit. G.S. 20-141(d), (e), (f). (4/2001)	Infraction	Infraction
270.54	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a). (6/2021)	Misd	Misd 1
270.54A	Operating a Motor Vehicle to Elude Arrest. G.S. 20-141.5(a) and (b). (6/2021)		H, Misd 1
270.54B	Operating a Motor Vehicle to Elude Arrest Resulting in Death. G.S. 20-141.5(b1). (6/2006)		H
270.54C	Operating a Motor Vehicle to Elude Arrest Accompanied by Aggravating Factors Resulting in Death. G.S. 20-141.5(b1). (6/2006)		E
270.55	Willfully Engaging in a Speed Competition on a Street or Highway. G.S. 20-141.3(b). (3/2001)	Misd	Misd 1
270.56	Willfully Engaging in a Prearranged Speed Competition on a Street or Highway. G.S. 20-141.3(a). (3/2001)	Misd	Misd 2
270.57	Failure to Slow Down. G.S. 20-141(m). (3/2020)		Infraction
270.58	Turning at Intersections. G.S. 20-153. (4/2001)	Infraction	Infraction
270.59	Turning at Intersections—Local Ordinance. G.S. 20-153(c). (4/2001)		
270.60	Unsafe Movement (Starting, Stopping, or Turning). G.S. 20-154. (6/2014)	Infraction	Infraction
270.60A	Unsafe Movement Causing [Property Damage] [Personal Injury] to Motorcycle Operator. G.S. 20-154(a1). (6/2014)		Infraction
270.60B	Unsafe Movement Causing [Property Damage in Excess of Five Thousand (\$5,000) Dollars] [Serious Bodily Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)		Infraction
270.61	Unsafe Movement (Backing). G.S. 20-154. (6/2012)	Infraction	Infraction
270.61A	Unsafe Movement (Backing) Causing [Property Damage]		

		<u>Offense Classification</u>	Before	On or After
			10/1/94	10/1/94
	[Personal Injury] to Motorcycle [Operator] [Passenger]. G.S. 20-154(a1). (6/2014)			Infraction
270.61B	Unsafe Backing Causing [Property Damage in Excess of Five Thousand Dollars (\$5,000)] [Serious Bodily Injury] to a Motorcycle [Operator] [Passenger]. G.S. 20-154(a1), (a2). (6/2014)			Infraction
270.62	Willfully Covering Registration Plate. G.S. 20-63(g). (2/2005)			Misd 2
270.65	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle). G.S. 20-157(a); 20-125. (6/2013)	Misd		Misd 2
270.66	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Serious Injury or Death to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (i); 20-125. (6/2006)			I
270.67	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Injury to a Law Enforcement Officer, Firefighter, or Other Rescue Worker. G.S. 20-157(a), (h); 20-125. (6/2006)			Misd 1
270.68	Failure to Stop for Blue Light and Siren (Approaching Law Enforcement Vehicle) Causing Damage to Property in Excess of \$500. G.S. 20-157(a), (h); 20-125. (6/2006)			Misd 1
270.70	Failure to Stop for a Traffic Control Signal. G.S. 20-158(b)(2). (12/2004)	Infraction		Infraction
270.71	Failure to Stop for Flashing Red Light. G.S. 20-158(b)(3). (4/2004)	Infraction		Infraction
270.72	Failure to Stop for Stop Sign. G.S. 20-158(b)(1). (4/2004)	Infraction		Infraction
270.73	Failure to Yield to a Pedestrian. G.S. 20-158(b). (3/2005)			
270.75	Passing Stopped School Bus. G.S. 20-217. (6/2006)	Misd		Misd 2
270.76	Passing Stopped School Bus—Striking a Person Causing Serious Bodily Injury. G.S. 20-217. (6/2010)			I
270.76A	Passing Stopped School Bus—Striking a Person Causing Death. G.S. 20-217. (6/2010)			H
270.77	Unlawful Use of Mobile Phone to [Manually Enter Multiple Letters or Text As a Means of Communicating with Another Person] [Read Any [Electronic Mail] [Text Message] [Transmitted to] [Stored Within] the Device] While Operating a School Bus. (Texting While Operating a School Bus) G.S. 20-137.4(b). (6/2010)			Misd 2
270.80	Reckless Driving—Carelessly and Heedlessly. G.S. 20-140(a). (5/2001)	Misd		Misd 2
270.81	Reckless Driving—Driving to Endanger. G.S. 20-140(b). (5/2001)	Misd		Misd 2
270.90	Failure to Maintain Lane Control. G.S. 20-146(d)(1) (6/2019)			Infraction
270A.10	Infliction of Serious Bodily Injury by Operation of Aircraft While Impaired (Flying High). G.S. 63-28. (6/2022)	H		F
270A.15	Operation of Aircraft While Impaired (Flying High). G.S. 63-27. (6/2022)	Misd		Misd 1
270A.20	Operating Vessel in Reckless Manner. G.S. 75A-10(a). (6/2008)			Misd 2
270A.25	Operating Vessel While under the Influence of an Impairing Substance. G.S. 75A-10(b1). (6/2022)			Misd 2

270A.27	[Recklessly] [Negligently] [Operating a [Motorboat] [Vessel]] [Manipulating [Water Skis] [A Surfboard.]]. G.S. 75A-10(a). (6/2017)		Misd 2
270A.27A	Manipulating [Water Skis] [A Surfboard] [Nonmotorized Vessel] [Similar Device] While Under the Influence of an Impairing Substance. G.S. 75A-10(b). (6/2022)		Misd 2
270A.27B	[Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(a),(b),(f). (6/2022)		D
270A.27C	Aggravated [Death] [Serious Injury] by Impaired Boating. G.S. 75A-10.3(c),(d),(f). (6/2022)		D, F
270A.27D	Repeat Death by Impaired Boating. G.S. 75A-10.3(e),(f). (6/2022)		B2
270A.30	Improper Vessel Registration. G.S. 75A-4. (6/2009)		Misd 3
Non-Traffic Automobile Offenses.			
271.10	Driving a Motor Vehicle on a Highway While License Has Been Suspended or Revoked. G.S. 20-28. (5/2001)	Misd	Misd 1
271.12	Driving a Motor Vehicle on a Highway while License Has Been Revoked for Impaired Driving. G.S. 20-28(a1). (6/2018)		
271.15	Operating a Motor Vehicle in Violation of License Limitation. G.S. 20-7(e). (5/2001)	Misd	Misd 1
271.16	Operating a Motor Vehicle in Violation of a Limited Driving Privilege. G.S. 20-179.3(j). (5/2001)	Misd	Misd 1
271.21	Knowingly Permitting Motor Vehicle to Be Driven by a Person Having No Legal Right to Do So. G.S. 20-34; 20-35. (5/2001)	Misd	Misd 2
271.22	[Driving] Knowingly Permitting Another to Drive] a Vehicle that [was Not Registered with the Division of Motor Vehicles] [Did Not Display a Current Registration Plate]. Misdemeanor. G.S. 20-111(1) (6/2011)		Misd 2
271.23	Sex Offender Driving [Commercial Passenger Vehicle] [School Bus]. G.S. 20-27.1. (6/2010)		F
271.25	[Receiving] [Transferring] a Stolen Vehicle with Intent to [Procure] [Pass] Title to That Vehicle. G.S. 20-106. (5/2001)	I	H
271.26	Possession of a Stolen Vehicle. G.S. 20-106. (6/2016)	I	H
271.28	Forging an Inspection [Sticker] [Receipt]. G.S. 20-183.8(c)(1). (6/2017)		I
271.28A	[Buying] [Selling] [Issuing] [Possessing] a Forged [Inspection Sticker] [An Electronic Inspection Authorization]. G.S. 20-183.8(c)(2). (6/2017)		I
271.28B	Unlawfully [Buying] [Selling] [Issuing] [Possessing] an [Inspection Sticker] [Electronic Inspection Authorization]. G.S. 20-183.8(c)(3). (6/2017)		I
271.28C	Failing the [Safety] [Emissions] Inspection of a Vehicle for an Unlawful Reason. G.S. 20-183.8(c)(5). (6/2017)		I
271.28D	[Soliciting] [Accepting] Something of Value in Order to Pass a Vehicle That Fails [Safety] [Emissions] Inspection. G.S. 20-183.8(c)(4). (6/2017)		I
271.30	Willfully Injuring or Tampering with or Removing Parts from a Vehicle without the Consent of the Owner. G.S. 20-107(a). (5/2001)	Misd	Misd 2

271.31	[Climbing Into] [Attempting to or Setting in Motion] a Vehicle with Intent to Steal, Commit Malicious Injury, etc. G.S. 20-107(b). (5/2001)	Misd	Misd 2
271.34	[Failure] [Refusing] to Surrender to the Division of Motor Vehicles, Upon Demand, Any [Title Certificate] [Registration Card] [Registration Number Plate] Which Has Been [Suspended] [Cancelled] [Revoked]. Misdemeanor. G.S. 20-111(4) (6/2011)		Misd. 2
271.35	Alteration or Change of Engine or Other Number on a Vehicle. G.S. 20-109(a)(1). (5/2001)	Misd	I
271.36	Permitting the Alteration or Change of Engine or Other Numbers on a Vehicle. G.S. 20-109(a)(2). (5/2001)	Misd	I
271.37	Unlawful Placing or Stamping of a Serial or Other Number upon a Vehicle, Where Such Number Has Not Been Assigned to the Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(3). (5/2001)	Misd	I
271.38	Knowingly Permitting the Placing or Stamping of a Serial or Motor Number upon a Motor Vehicle by Its Owner, Where the Number Has Not Been Assigned to Such Vehicle by the Division of Motor Vehicles. G.S. 20-109(a)(4). (5/2001)	Misd	I
271.39	Alteration of a Serial or Motor Number Assigned to a Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(1). (5/2001)	I	I
271.40	Permitting by Owner of a Vehicle the Alteration or Use of a Serial or Motor Number Assigned to That Vehicle by the Division of Motor Vehicles with the Intent to Conceal or Misrepresent Its True Identity. G.S. 20-109(b)(2). (5/2001)	I	I
271.41	Unlawful Use of a [Driver's License] [Learner's Permit] [Special Identification Card] Issued by the Division of Motor Vehicles. G.S. 20-30(a); 20-37.8(b). (2/2000)	-	I
271.42	Possession or Manufacture of Certain Fraudulent Forms of Identification. G.S. 14-100.1. (5/2002)		Misd 1
271.43	Willfully Displaying an Expired [License] [Registration Plate] on a Vehicle Knowing the Same to be Expired. G.S. 20-111(2). Misdemeanor. (6/2011)		Misd 2
271.44	[Displaying] [Causing to be Displayed] [Permitting to be Displayed] [Possessing] a [Registration Card] [Certificate of Title] [Registration Number Plate] That Is [Fictitious] [Has Been [Cancelled] [Revoked] [Suspended] [Altered]] Misdemeanor. G.S. 20-111(2). (6/2011)		Misd 2
271.45	Performing [Safety] [Emissions] Inspection on a Motor Vehicle Without a License. G.S. 20-183.8(b)(1). (6/2017)		Misd 3
271.46	[Giving] [Lending] [Borrowing] of a License Plate for the Purpose of Using Same on a Motor Vehicle Other Than That for Which It Was Issued. Misdemeanor. G.S. 20-111(3). (6/2011)		Misd 3
271.47	Knowingly [Making a False Statement] [Concealing a Material Fact] [Committing Fraud] in any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). Misdemeanor. (6/2011)		Misd 1

271.48	Using a [Name] [Address] That Is [False] [Fictitious] in Any Application for [the Registration of Any Vehicle] [Certificate of Title] [Renewal of Registration] [Duplicate [Registration] [Title]]. G.S. 20-111(5). (6/2011)		Misd 1
271.49	[Giving] [Lending] [Selling] [Obtaining] a Certificate of Title for the Purpose of Using the Certificate of Title for Any Purpose Other Than the [[Registration] [Sale] of a Vehicle] [Use in Connection with the Vehicle for which the Certificate was Issued]. G.S. 20-111(6). (6/2011)		Misd 2
271.50 Series—	Introduction to Hit and Run Instructions. (1/1997)		
271.50	Felonious Hit and Run with Serious Bodily Injury or Death (Failure to Stop), Including Lesser Offense. G.S. 20-166(a), (c)(2). (6/2018)		F, Misd 1
271.51	Hit and Run with Personal Injury or Death (Failure to Stop or Give Required Information). G.S. 20-166(c), (c1). (6/2009)		Misd 1
271.52	Hit and Run with Serious Bodily Injury or Death (Defendant Stopped but Failed to Give Required Information or Render Assistance). G.S. 20-166(b). (6/2009)		Misd 1
271.53	Hit and Run with Property Damage. G.S. 20-166(c), (c1). (6/2009)	Misd	Misd 1
271.54	Felonious Hit and Run with Injury (Failure to Stop) Including Lesser Offense. G.S. 20-166(a1), (c)(2). (6/2009)		H
271.61	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.62	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [[Injury] [Death] to Any Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.66	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Driver. G.S. 20-166(a). (6/2006)		F
271.67	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [[Injury] [Death] to Person of Which the Driver Was Unaware]—Driver. G.S. 20-166(c). (6/2006)		Misd 1
271.70	Leaving Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.71	Leaving Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.72	Failure to Render Assistance—Passenger. G.S. 20-166.2(b) (6/2006)		Misd 1
271.73	Failure to Stop or Give Required Information after Accident—Passenger. G.S. 20-166.2(b). (6/2006)		Misd 1
271.74	Removal of Vehicle from Scene after Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.75	Removal of Vehicle from Scene after Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger Was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1

271.76	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Injury] [Death] to Any Person—Passenger. G.S. 20-166.2(a). (6/2006)		H
271.77	Failure to Return with the Vehicle after Being Permitted to Remove It from the Scene after an Accident Resulting in [Damage to Property] [Injury or Death to Person of Which the Passenger was Unaware]—Passenger. G.S. 20-166.2(a). (6/2006)		Misd 1
271.80	Tampering with Ignition Interlock Device—Avoiding or Altering Testing in Operation of a Vehicle. G.S. 20-178A. (6/2012)		Misd 1
271.81	Tampering with Ignition Interlock Device—Altering Testing Results on Ignition Interlock Device. G.S. 20-178A. (6/2012)		Misd 1
271.91	Liability Insurance for Motor Vehicles. G.S. 20-279.21, 20-308, 20-309.—Deleted. See G.S. 20-311. (6/2019)		Misd 1
271.92	Operation of Motor Vehicles Without Financial Responsibility G.S. 20-309(b), 20-313 (6/2019)		Misd 1
271.94	Impersonation of a Transportation Network Company Driver. (6/2020)		Misd 2
271.95	Impersonation of a Transportation Network Company Driver While [Committing] [Attempting to Commit] a Felony. (6/2020)		H
271.97	[Import] [Manufacture] [Sale] [Offer of Sale] [Installation] [Reinstallation] of [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		Misd 1
271.98	Contributing to a Person’s [Physical Injury] [Death] By [Importing] [Manufacturing] [Selling] [Offering to Sale] [Installing] [Reinstalling] A [Counterfeit Supplemental Restraint System] [Nonfunctional Airbag]. (6/2020)		H
	Intoxicating Liquors.		
272.10	Possession of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.11	Transporting of Nontaxpaid Alcoholic Beverages. G.S. 18B-101(4), -102. (5/2001)	Misd	Misd 1
272.13	Possession of Nontaxpaid Alcoholic Beverages with the Intent to Sell. G.S. 18B-304(b)(3). (5/2002)		Misd 1
272.14	Knowingly Selling or Giving Cigarettes, Cut Tobacco, Cigarette Wrapping Papers, or Smokeless Tobacco, or Tobacco Product to a Person under the Age of 18 Years. G.S. 14-313. (6/2014)	Misd	Misd 2
272.15A	Selling or Giving Fortified Wine, Spirituous Liquor, or Mixed Beverages to a Person Less Than Twenty-One Years. G.S. 18B-302(a)(2). (5/2001)	Misd	Misd 1
272.18	Purchase or Possession of Fortified Wine, Spirituous Liquor or Mixed Beverages by a Person Less Than Twenty-One. G.S. 18B-302(b)(2). (6/2014)	Misd	Misd 1
272.18A	Attempt to Purchase Fortified Wine, Spirituous Liquor, or Mixed Beverages by a Person Less Than Twenty-One Years. G.S. 18B-302(b)(2). (5/2001)	Misd	Misd 2
272.19	Aiding and Abetting an Underage Person to Purchase or Possess Malt Beverages, Unfortified Wine, Fortified Wine, Spirituous Liquor or Mixed Beverages. G.S. 18B-302(c). (5/2001)	Misd	Misd 1,2

		Before 10/1/94	On or After 10/1/94
272.20	Transportation within Passenger Area of Motor Vehicle of Fortified Wine or Spirituous Liquor in Other Than Manufacturer's Unopened Original Container. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21	Consuming Malt Beverage or Unfortified Wine by the Driver of Motor Vehicle. G.S. 18B-401(a). (5/2001)	Misd	Misd 3
272.21A	Possession of Malt Beverages with the Intent to Sell without Obtaining Permit or License. G.S. 18B-304(a). (5/2002)		Misd 1
272.22	Fraudulent Use of Identification by an Underage Person in Obtaining or Attempting to Obtain Alcoholic Beverage. G.S. 18B-302(e); (b). (5/2001)	Misd	Misd 1 or Infraction
272.25	Consumption of Alcohol by a Person Less Than 19 Years of Age. G.S. 18B-302(b)(3). (6/2014)		Misd 1
272.26	Consumption of Alcohol by Person Greater Than 19 Years of Age but Less Than 21 Years of Age. G.S. 18B-302 (6/2014)		Misd 3
272.40	[Manufacturer] [Sale] [Transportation] [Importation] [Furnishing] [Consumption] [Possession] of Powdered Alcohol. G.S. 18B-102 (6/2016)		Misd 1
272.60	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container without Child-Resistant Packaging. G.S. 14-401.18A. (6/2016)		Misd A1
272.65	[Sale] [Offer for Sale] [Introduce Into Commerce in North Carolina] of an E-liquid Container for E-liquid Product Containing Nicotine without Labeling Nicotine Contents on Packaging. G.S. 14-401.18A (6/2016)		Misd A1
272.80	Knowingly Making a False Statement in an Application for Reissuance of a Special Occasion Permit. G.S. 18B-903.1(e) (6/2019)		Misd 1
	Game Laws.		
273.10	Firelighting or Spotlighting (Taking Deer by Artificial Light). G.S. 113-291.1(b)(2), -130(7), -294(e). (5/2001)	Misd	Misd 1
273.20	Taking a Deer from a Boat. G.S. 113-109(e). (9/2001)	Misd	Misd 1
273.30	Hunting, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.40	[Purchasing] [Possessing] License to Hunt, etc., While License Is Revoked. G.S. 113-300.8. (6/2009)		Misd 1
273.50	Unlawful Hunting with a Firearm on Sunday. G.S. 103-2(a), (a1). (6/2018)		
273.55	Unlawful Hunting of Migratory Birds on Sunday. (6/2018)		
	Welfare Fraud.		
274.10	Misdemeanor Misrepresentation in Obtaining Public Assistance. G.S. 108A-39(a). (9/2001)	Misd	Misd 1
274.15	Felonious Misrepresentation in Obtaining Public Assistance—More Than \$400. G.S. 108A-39(b). (9/2001)	I,Misd	I,Misd 1
274.20	Misdemeanor Obtaining Food Stamps by Misrepresentation. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.21	Feloniously Obtaining Food Stamps by Misrepresentation—More Than \$400 G.S. 108A-53(a). (10/2001)	I,Misd	I,Misd 1

Criminal Volume Table of Contents Replacement June 2022 Page 50 of 52		<u>Offense Classification</u>	
		Before 10/1/94	On or After 10/1/94
274.22	Misdemeanor Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	Misd	Misd 1
274.23	Feloniously Obtaining Food Stamps by Misrepresentation— Aiding and Abetting. G.S. 108A-53(a). (10/2001)	I,Misd	I,Misd 1
275.10	Unsupervised Use of Fully Autonomous Vehicle by a Person Under the Age of 12. G.S. 103-2(a2).(6/2018)		
Escape.			
280.20	Felonious Escape. G.S. 148-45(a), (b); 14-256(1), (2). *(On or after 12/97, Voluntary Manslaughter Is a Class D felony.) (6/2014)	J	I*
280.21	Escape from Private Correction Facility. G.S. 14-256.1. (5/2001)		H
280.40	Escape from Imprisonment by Use of a Dangerous Weapon. G.S. 14-258.2. (5/2001)	H	F
280.41	Assault with a Deadly Weapon Inflicting Bodily Injury While Assisting a Prisoner to Escape or Attempt to Escape. G.S. 14-258.2(b). (12/2001)	H	H
280.42	Using a Deadly Weapon in Assisting a Prisoner to Effect His Escape. G.S. 14-258.2. (5/2001)	H	H
280.43	Unauthorized Possession or Fabrication of Dangerous Weapon by Prisoner. G.S. 14-258.2(a). (11/2000)	Misd	H
280.44	Misdemeanor Jailbreak or Escape from Confinement Facility Officer. G.S. 14-256. (5/2001)	J, Misd	Misd 1
280.45	Escape of a Working Prisoner. G.S. 14-255. (5/2001)		Misd 1
Election/Voting Offenses.			
285.05	False Statement Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.10	False Statement Not Made Under Oath with Regard to Absentee Ballots. Misdemeanor. (6/2021)		Misd 1
285.15	Candidate Witnessing Absentee Ballot of Non-Relative. Misdemeanor. (6/2021)		Misd 1
285.20	Attempted Vote by Absentee Ballot—Forgery. Felony. (6/2021)		G
285.25	[Sale of] [Attempted Sale of] [Purchase of] [Agreement to Purchase] Absentee Voting Materials. Felony. (6/2021)		I
285.30	[Destruction of] [Failure to Deliver] Absentee Ballot. Felony. (6/2021)		G
285.35	[Copy] [Retention] of a [Request for] [Completed Application for] [Identifying Information Disclosed in] an Absentee Ballot. Felony. (6/2021)		G
285.40	Compensation Based on Requests for Absentee Ballots. Felony. (6/2021)		I
285.45	Intent to Unlawfully Influence a(n) [Primary] [Election]. Felony. (6/2021)		F
285.50	Disclosure of Register of Absentee Ballot Requests. Felony. (6/2021)		G
285.55	Sending of Unrequested Absentee Ballot. Felony. (6/2021)		I

* On or after 12/1/97, Voluntary Manslaughter is a Class D felony.

PART III. DEFENSES

- 301.10 Alibi. (3/2003)
- 302.10 Automatism.
Automatism or Unconsciousness. (6/2009)
- 304.10 Insanity.
Insanity Defense. (6/2009)
- 305.10 Intoxication.
Voluntary Intoxication, Liquor or Drugs—In General. (6/2020)
- 305.11 Voluntary Intoxication, Lack of Mental Capacity—Premeditated and Deliberate First-Degree Murder. (6/2009)
- 306.10 Accepted Medical Purpose (Defense to First and Second-Degree Sexual Offenses Involving Penetration). (6/2020)
- 307.10 Accident.
Accident (Defense to Homicide Charge, Except Homicide Committed during Perpetration of a Felony). (5/2003)
- 307.11 Accident (Defense in Cases Other Than Homicide). (5/2020)
- 308.10 Self-Defense.
Self-Defense, Retreat—Including Homicide (to Be Used Following Self-Defense Instructions Where Retreat Is in Issue). G.S. 14-51.2(1), .3(a). (6/2022)
- 308.40 Self-Defense—Assaults Not Involving Deadly Force. G.S. 14.15.2, .3, .4. (6/2022)
- 308.41 Detention of Offenders by Private Persons. G.S. 15A-404. (6/2009)
- 308.45 Self-Defense—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.45A Self-Defense Example with 208.10—All Assaults Involving Deadly Force. G.S. 14.51.2, .3, .4. (6/2022)
- 308.47 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to Assaults Not Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.50 Assault in Lawful Defense of a [Family Member] [Third Person]—(Defense to All Assaults Involving Deadly Force). G.S. 14.51.2, .3, .4. (6/2022)
- 308.60 Killing in Lawful Defense of a [Family Member] [Third Person]—(Defense to Homicide). G.S. 14.51.2, .3, .4. (6/2022)
- 308.70 Self-Defense to Sexual Assault—Homicide. G.S. 14.51.2, .3. (6/2022)
- 308.80 Defense of [Habitation] [Workplace] [Motor Vehicle]—Homicide and Assault. G.S. 14-51.1, .2, .3, .4. (6/2022)
- 308.90 Justification for Defensive Force Not Available—Defendant Attempting to Commit, Committing, or Escape After the Commission of a Felony. (6/2022)
- 309.10 Entrapment.
Entrapment. (6/2021)

	Coercion.		
310.10	Compulsion, Duress, or Coercion. (6/2022)		
310.11	Duress or Necessity Defense to Escape from Department of Correction. (5/2003)		
310.12	Necessity. (6/2022)		
310.14	Justification. (6/2022)		
	Jurisdiction.		
311.10	Lack of Jurisdiction (with Special Verdict Form). (5/2003)		

APPENDICES:

A. TABLE OF SECTIONS OF GENERAL STATUTES INVOLVED IN CRIMINAL INSTRUCTIONS.

B. CRIMINAL VOLUME INDEX.

254A.19 PURCHASE OR POSSESSION, OR ATTEMPTED PURCHASE OR POSSESSION OF FIREARMS BY PERSON SUBJECT TO DOMESTIC VIOLENCE PROTECTIVE ORDER. FELONY.

The defendant has been charged with [[purchasing] [attempting to purchase]] [[possessing] [attempting to possess]] [[receiving] [attempting to receive]] a [firearm]¹ [machine gun] [ammunition] [permit to purchase or carry concealed firearms] while being subject to a domestic violence protective order.

For you to find the defendant guilty of this offense the State must prove three things beyond a reasonable doubt:

First, that on (*name date*), a valid domestic violence protective order² had been issued [by a North Carolina court] [by the courts of another state] [by the court of an Indian tribe].

Second, that after (*name date from the first element as alleged in the indictment*), the defendant [[purchased] [attempted to purchase]] [[possessed] [attempted to possess]]³ [[received] [attempted to receive]] a [firearm] [machine gun] [ammunition] [permit to purchase or carry concealed firearms].⁴

And Third, the domestic violence [protective order] [successive protective order] was in effect against the defendant at the time the defendant [[purchased] [attempted to purchase]] [[possessed] [attempted to possess]] [[received] [attempted to receive]] a [firearm] [machine gun] [ammunition] [permit to purchase or carry concealed firearms].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date that the defendant was subject to a domestic violence protective order issued by (*name court from the first element*), and the defendant, after (*name date from the first element as alleged in the*

indictment) [[purchased] [attempted to purchase]] [[possessed] [attempted to possess]] [[received] [attempted to receive]] a [firearm] [machine gun] [ammunition] [permit to purchase or carry concealed firearms] while the protective order was in effect, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. A firearm for purposes of this statute is defined pursuant to N.C.G.S. § 14-409.39(2) as including a “handgun, shotgun, or rifle which expels a projectile by action of an explosion.”

2. *See State v. Poole*, 228 N.C. App. 248, 259, 745 S.E.2d 26, 34 (2013) (holding that “[i]n light of the 2009 amendments to Chapter 50B clarifying that a ‘valid protective order’ includes *ex parte* orders...we conclude that a ‘protective order’ includes an *ex parte* or emergency order for purposes of N.C. Gen Stat. §§ 14-269.8 and 50B-3.1.”); *see also* N.C.G.S. § 14-269.8 (including “any successive protective order” as a valid court order which would make it unlawful to possess, purchase, or receive, or attempt to possess, purchase, or receive a firearm, machine gun, ammunition, or permits to purchase or carry concealed firearms).

3. The meaning of “possession” is explained in N.C.P.I.—Crim 104.41. The trial judge should refer to this instruction for a definition of actual possession, and also when constructive possession is an issue.

4. The Supreme Court of North Carolina has recognized that in narrow and extraordinary circumstances, justification may be an available defense to a charge under N.C.G.S. § 14-415.1 (Possession of Firearm by Felon). *State v. Mercer*, 373 N.C. 459, 838 S.E.2d 359 (2020); *see also United States v. Deleveaux*, 205 F.3d 1292, 1297-98 (11th Cir. 2000) (providing factors which were adopted in *Mercer* to establish that the defendant is entitled to an instruction on justification); N.C.P.I.—Crim. 310.14. The Supreme Court of North Carolina has not yet applied the affirmative defense of justification to this statute.

270.20A IMPAIRED DRIVING. MISDEMEANOR.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2006. For offenses occurring before December 1, 2006, use N.C.P.I.—Crim. 270.20. This instruction is also to be used when the defendant is charged with habitual impaired driving and admits previous conviction(s) under N.C. Gen. Stat. § 20-138.1 (or an equivalent statute from another jurisdiction). See N.C. Gen. Stat. § 15A-928.

The defendant has been charged with impaired driving.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was driving¹ a vehicle.²

Second, that the defendant was driving that vehicle upon a [highway] [street] [public vehicular area] within the state.³

And Third, that at the time the defendant was driving that vehicle, the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A) (B) and (C), instructions on each alternative should be given.⁴

- a. [Was under the influence of an impairing substance. (*Name substance involved*) is an impairing substance.⁵ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁶ of either or both of these faculties.⁷]
- b. [Had consumed sufficient alcohol that at any relevant time after the driving the defendant had an alcohol concentration⁸ of 0.08 or

more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after the driving that the driver still has in the body alcohol consumed before or during the driving].⁹ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹⁰

- c. [Had any amount of [a Schedule I control substance] [metabolites of a Schedule I controlled substance] in the defendant's blood or urine]. (*Name substance*) is a Schedule I control substance or is a metabolite¹¹ of a Schedule I control substance.].¹²

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹³ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] (or) [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹⁴

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a vehicle on a [highway] [street] (or) [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after the driving the defendant had an alcohol concentration of 0.08 or more] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as one or more of these things, it would be your duty to return a verdict of not guilty.

1. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.
2. If there is any doubt, define "vehicle" under N.C. Gen. Stat. § 20-4.01(49), or "motor vehicle" under N.C. Gen. Stat. § 20-4.01(23). The Safe Roads Act of 1983 makes this offense applicable to drivers of vehicles owned or operated by the State or any political subdivision thereof while engaged in maintenance or construction work on the highways. N.C. Gen. Stat. § 20-168(b). Effective December 1, 2006, lawnmowers and bicycles are no longer exempt. Horses remain exempt.
3. If there is any doubt, define "highway" or "street" in accordance with N.C. Gen. Stat. § 20-4.01(13). "Public vehicular area" is defined in N.C. Gen. Stat. § 20-4.01(32).
4. See *State v. Godwin*, 247 N.C. App. 184, 786 S.E.2d 34 (2016) (concluded that the trial court did not err in denying defendant's request for jury instructions concerning Intoximeter results and rejecting defendant's argument that by instructing the jury using N.C.P.I.—Crim. 270.20A, the trial court impressed upon the jury that it could not consider evidence showing that the defendant was not impaired).
5. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).
6. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.
7. N.C. Gen. Stat. § 20-4.01(48b).
8. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."
9. N.C. Gen. Stat. § 20-4.01(33a).
10. The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.
11. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.
12. Driving with any Schedule I controlled substance, or its metabolites in one's [blood] [urine] [breath] is a per se violation of impaired driving offense.
13. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.
14. N.C. Gen. Stat. § 20-139.1(f).

270.21A IMPAIRED DRIVING IN A COMMERCIAL VEHICLE. MISDEMEANOR.

NOTE WELL: This instruction applies to offenses committed on or after December 1, 2006. For offenses committed before that date, use N.C.P.I.-Crim. 270.21

NOTE WELL: This offense is not a lesser included offense of impaired driving under N.C. Gen. Stat. § 20-138.1, but if a person is convicted under this section and of an offense involving impaired driving under N.C. Gen. Stat. § 20-138.1 arising out of the same transaction, the aggregate punishment imposed by the Court may not exceed the maximum punishment applicable to the offense involving impaired driving under N.C. Gen. Stat. § 20-138.1.

The defendant has been charged with impaired driving of a commercial vehicle.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was driving¹ a commercial motor vehicle.²

Second, that the defendant was driving that vehicle upon a [highway] [street] [public vehicular area] within the state.³

And Third, that at the time the defendant was driving that vehicle, the defendant:

NOTE WELL: If the evidence supports submission of the case under alternative (A), (B) and (C), instructions on each alternative should be given.

(A) [was under the influence of an impairing substance. (*Name substance involved*) is an impairing substance.⁴ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent

that there is an appreciable impairment⁵ of either or both of these faculties.⁶]

- (B) [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration⁷ of 0.04 or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after driving that the driver still has in the driver's body alcohol consumed before or during driving].⁸ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.⁹
- (C) [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] [breath]]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹⁰ of a Schedule I controlled substance.].¹¹

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹² was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹³

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a commercial vehicle on a [highway] [street] [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of 0.04 or more] [had any amount of [a Schedule I controlled substance] [metabolites of a Schedule I controlled

substance] in the defendant’s [blood] [urine] [breath]], it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as one or more of these things, you would not find the defendant guilty of impaired driving of a commercial vehicle, you must determine whether the defendant is guilty of operating a commercial vehicle after consuming alcohol.¹⁴ Operating a commercial vehicle after consuming alcohol differs from impaired driving of a commercial vehicle in that the State need prove only that the defendant had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration greater than 0.00 but less than 0.04.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant drove a commercial vehicle on a [highway] [street] [public vehicular area] in this state and that when the defendant did so the defendant had consumed sufficient alcohol that at any relevant time after driving the defendant had a blood alcohol concentration of greater than 0.00 and less than 0.04, it would be your duty to return a verdict of guilty of operating a commercial vehicle after consuming alcohol. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.

2. N.C. Gen. Stat. § 20-4.01(3d) a. and b. defines commercial vehicle. See also *State v. Jones*, 140 N.C. App. 691, 538 S.E. 2d 228 (2000).

3. If there is any doubt, define “highway” or “street” in accordance with N.C. Gen. Stat. § 20-4.01(13). “Public vehicular area” is defined in N.C. Gen. Stat. § 20-4.01(32).

4. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person’s physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

5. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

6. N.C. Gen. Stat. § 20-4.01(48b).

7. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

8. N.C. Gen. Stat. § 20-4.01(33a).

9. The term “deemed sufficient” is not defined in N.C. Gen. Stat. §§ 20-138.2 or 20-138.2A, N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

10. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

11. Driving with any Schedule I controlled substance, or its metabolites in one's [blood] [urine] [breath] is a *per se* violation of impaired driving offense.

12. Note that if the offense occurred between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

13. N.C. Gen. Stat. § 20-139.1(f).

14. N.C. Gen. Stat. § 20-138.2A became effective December 1, 1998.

270.25A HABITUAL IMPAIRED DRIVING—INCLUDING CHEMICAL TEST.
FELONY.

NOTE WELL: This instruction applies to offenses committed on or after December 1, 2006. For offenses committed before that date, use N.C.P.I.—Crim. 270.25.

The Court has several options on how to proceed, including adding the aggravating factor as an element of the offense, bifurcating the proceeding, or in the absence of the jury, arraigning the defendant upon the special indictment or information and advising the defendant that the defendant may admit the aggravating factor alleged, deny it, or remain silent. For procedural guidance, see, e.g., N.C. Gen. Stat. § 15A-928. In the event the defendant admits the aggravating factor(s), a record of the plea should be made and preserved. See N.C. Gen. Stat. § 15A-1026.

Use this instruction only if the defendant denies a previous conviction or remains silent. If the defendant admits the previous convictions, use N.C.P.I.—Crim. 270.20A. (And see N.C. Gen. Stat. § 15A-928).

If the defendant admits to having been convicted within the preceding 10 years of three or more offenses involving impaired driving, that element of the offense is established and no evidence in support thereof may be adduced by the State. If the defendant denies having been convicted within the past ten years of three or more offenses involving impaired driving or remains silent, the State must prove the fourth element of the offense charged before the jury as part of its case. (See N.C. Gen. Stat. § 15A-928).

The defendant has been charged with (habitual)¹ impaired driving.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant was driving² a vehicle.³

Second, that the defendant was driving that vehicle upon a [highway] [street] (or) [public vehicular area] within the state.⁴

Third, that at the time the defendant was driving that vehicle, the defendant:

NOTE WELL: If the evidence supports submission of the case under alternatives (A) (B) and (C), instructions on each alternative should be given.

- a. [Was under the influence of an impairing substance. (*Name substance involved*) is an impairing substance.⁵ The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁶ of either or both of these faculties.⁷]
- b. [Had consumed sufficient alcohol that at any relevant time after the driving the defendant had an alcohol concentration⁸ of 0.08 or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after the driving that the driver still has in the driver's body alcohol consumed before or during driving].⁹ The results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹⁰]
- c. [Had any amount of a [Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in his/her blood or urine]. (*Name substance*) is a Schedule I controlled substance or is a metabolite¹¹ of a Schedule I controlled substance.¹²]

(If the evidence tends to show that [a chemical test known as a(n) [intoxilizer] [breathalyzer] [blood test] [urine test]¹³ was offered to the defendant by a law enforcement officer and that the defendant refused to take the test] [the defendant refused to perform a field sobriety test at the request of an officer], you may consider this evidence together with all other evidence

in determining whether the defendant was under the influence of an impairing substance at the time the defendant (allegedly) drove a motor vehicle.)¹⁴

And Fourth, that at the time the defendant was driving while impaired, the defendant had been convicted of the following three (or more) offenses, which all involve impaired driving, within the past 10 years of the dates of this offense:

1. On *(name date)*, the defendant in *(name court)* [was convicted of] [plead guilty to] the offense of *(name offense involving impaired driving)*, that was committed on *(name date)*; and
2. On *(name date)*, the defendant in *(name court)* [was convicted of] [plead guilty to] the offense of *(name offense involving impaired driving)*, that was committed on *(name date)*; and
3. On *(name date)*, the defendant in *(name court)* [was convicted of] [plead guilty to] the offense of *(name offense involving impaired driving)*, that was committed on *(name date)*.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a vehicle on a [highway] [street] (or) [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of 0.08 or more] [had any amount of a [Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine] and that:

1. On *(name date)*, the defendant in *(name court)* [was convicted of] [plead guilty to] the offense of *(name offense involving impaired driving)*, that was committed on *(name date)*; and

2. On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of (name offense involving impaired driving), that was committed on (name date); and
3. On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of (name offense involving impaired driving), that was committed on (name date),

and that all of these convictions occurred within the past 10 years of this offense for which the defendant is currently charged, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, you will not return a verdict of guilty of habitual impaired driving, but would consider whether the defendant is guilty of impaired driving which differs from habitual impaired driving in that the State need not prove that the defendant [was convicted of] (or) [plead guilty to] an offense involving impaired driving at least three times.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant drove a vehicle on a [highway] [street] (or) [public vehicular area] in this state and that when doing so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that at any relevant time after driving the defendant had an alcohol concentration of 0.08 or more] [had any amount of a [Schedule I controlled substance] [metabolites of a Schedule I controlled substance] in the defendant's [blood] [urine], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as one or more of these things, it would be your duty to return a verdict of not guilty.

1. Only charge the defendant with a habitual impaired driving offense if the defendant did not admit to the prior convictions. In the absence of an inquiry by the trial court to establish a record of a guilty plea, a stipulation to a habitual felon status is not tantamount to a guilty plea. *State v. Gilmore*, 542 S.E.2d 694, 699 (N.C. Ct. App. 2001).

2. N.C. Gen. Stat. § 20-4.01 defines the driver as the operator of a vehicle.

3. If there is any doubt, define “vehicle” under N.C. Gen. Stat. § 20-4.01(49), or “motor vehicle” under N.C. Gen. Stat. § 20-4.01(23). The Safe Roads Act of 1983 makes this offense applicable to drivers of vehicles owned or operated by the State or any political subdivision thereof while engaged in maintenance or construction work on the highways. N.C. Gen. Stat. § 20-168(b). effective December 1, 2006, lawnmowers and bicycles are no longer exempt. Horses remain exempt.

4. If there is any doubt, define “highway” or “street” in accordance with N.C. Gen. Stat. § 20-4.01(13). “Public vehicular area” is defined in N.C. Gen. Stat. § 20-4.01(32).

5. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

6. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

7. N.C. Gen. Stat. § 20-4.01(48b).

8. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as |the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

9. N.C. Gen. Stat. § 20-4.01(33a).

10. The term “deemed sufficient” is not defined in N.C. Gen. Stat. § 20-138.5 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

11. A metabolite is any substance produced or used during metabolism (digestion). In drug use, the term usually refers to the end product that remains after metabolism.

12. Driving with any Schedule I controlled substance, or its metabolites in one's blood or urine is a *per se* violation of impaired driving offense.

13. Note that for offenses occurring between December 1, 2006 and June 27, 2007, there was no statutory provision during this time that required the defendant to take a urine test.

14. N.C. Gen. Stat. § 20-139.1(f).

270A.10 INFLICTION OF SERIOUS BODILY INJURY BY OPERATION OF
AIRCRAFT WHILE IMPAIRED (FLYING HIGH). FELONY.

The defendant has been charged with feloniously inflicting serious bodily injury by operating an aircraft while intoxicated.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant operated an aircraft.¹ A person operates an aircraft when *he* uses it for the purpose of air navigation, whether as pilot or navigator, and whether on the ground or in the air or on water.²

Second, that at the time the defendant was operating the aircraft, the defendant

[A. Was under the influence of an impairing substance.³ A person is under the influence of an impairing substance (within the meaning and intent of the statute), when *he* has taken (or consumed) a sufficient quantity of that impairing substance to cause *him* to lose the normal control of *his* bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁴ of either or both of these faculties.⁵] (or)

[B. Had consumed sufficient alcohol that at any relevant time after the operation of the aircraft the defendant had an alcohol concentration⁶ of 0.04 or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]. A relevant time is any time after operating the aircraft in which the operator still has in *his* body alcohol consumed before or during the operation of the aircraft.⁷]

And Third, that while the defendant was so operating the aircraft, the defendant did serious bodily injury⁸ to another person.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant operated an aircraft while under the influence of an impairing substance, and that while the defendant was so operating the aircraft, *he* did serious bodily injury to another person, it would be your duty to return a verdict guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. Aircraft means “...any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air.” N.C. Gen. Stat. § 63-1(a)(3).

2. N.C. Gen. Stat. §§ 63-1(a)(16); 63-28.

3. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

4. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury if requested.

5. N.C. Gen. Stat. § 20-4.01(48b).

6. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

7. N.C. Gen. Stat. § 20-4.01(33a).

8. “Serious bodily injury” may be defined as “such physical injury as causes great pain and suffering.” *State v. Jones*, 258 N.C. 89 (1962); *State v. Ferguson*, 261 N.C. 558 (1962). If there is evidence as to injuries which could not conceivably be considered anything but serious, the trial judge may instruct the jury as follows, “(*Describe injury*) would be a serious bodily injury.” *State v. Davis*, 33 N.C. App. 262 (1977); *State v. Springs*, 33 N.C. App. 61 (1977).

270A.15 OPERATION OF AIRCRAFT WHILE IMPAIRED. (FLYING HIGH).
MISDEMEANOR.¹

The defendant has been charged with operating an aircraft while impaired.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant operated an aircraft.² A person operates an aircraft when he/she uses it for the purpose of air navigation,³ whether as pilot or navigator, and whether on the ground or in the air or on water.

And Second, that at the time the defendant was operating the aircraft, the defendant

[A. Was under the influence of an impairing substance.⁴ A person is under the influence of an impairing substance (within the meaning and intent of the statute), when he/she has taken (or consumed) a sufficient quantity of that impairing substance to cause him/her to lose the normal control of his/her bodily or mental faculties, or both, to such an extent that there is an appreciable impairment⁵ of either or both of these faculties.⁶]

(or)

[B. Had consumed sufficient alcohol that at any relevant time after the operation of the aircraft the defendant had an alcohol concentration⁷ of 0.04 or more grams of alcohol [per 210 liters of breath] [per 100 millimeters of blood]. A relevant time is any time after operating the aircraft in which the operator still has in his/her body alcohol consumed before or during the operation of the aircraft].⁸

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant operated an aircraft while under the influence of an impairing substance, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt about one or more of these things, it would be your duty to return a verdict of not guilty.

1. A second conviction of this offense is punishable as a Class I Felony. See N.C. Gen. Stat. § 15A-928 and charge accordingly.

2. Aircraft means “.any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air.” N.C. Gen. Stat. § 63-1(a)(3).

3. See N.C. Gen. Stat. § 63-1(a)(6).

4. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

5. The phrase “appreciable impairment” is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance “must be...sufficient to be recognized and estimated.” *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

6. N.C. Gen. Stat. § 20-4.01(48b).

7. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as “the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath.”

8. N.C. Gen. Stat. § 20-4.01(33a).

270A.25 OPERATING VESSEL WHILE UNDER THE INFLUENCE OF AN IMPAIRING SUBSTANCE. MISDEMEANOR.

The defendant has been charged with [operating a [motorboat] [vessel]] [manipulating [water skis] [a surfboard] [nonmotorized vessel] [similar device (*describe device*)]] while under the influence of an impairing substance.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt:

First, that the defendant was [operating a [motorboat] [vessel]] [manipulating [water skis] [a surfboard] [nonmotorized vessel] [similar device (*describe device*)]].

Second, that the defendant was [operating that [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] on the waters of this State.¹

And Third, that at the time the defendant was [operating the [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]], the defendant:

- (a) [was under the influence of an impairing substance.² ((*Name substance involved*) is an impairing substance.) The defendant is under the influence of an impairing substance when the defendant has taken (or consumed) a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant’s bodily or mental faculties, or both, to such an extent that there is an appreciable impairment³ of either or both of these faculties.⁴]

(b) [had consumed sufficient alcohol that a chemical analysis made at any relevant time after [operating the [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]], the defendant had an alcohol concentration⁵ of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood].⁶ A relevant time is any time after the [operating the [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] that the driver still has in the body alcohol consumed [before] [during] the [operation] [manipulation].⁷ the results of a chemical analysis are deemed sufficient evidence to prove a person’s alcohol concentration.⁸

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was [operating a [motorboat] [vessel]] [manipulating [water skis] [a surfboard] [similar device (*describe device*)] on the waters of this State and that when the defendant did so the defendant [was under the influence of an impairing substance] [had consumed sufficient alcohol that a chemical analysis made at any relevant time after driving showed the defendant to have an alcohol concentration of 0.08 or more grams of alcohol [per 210 liters of breath] [per 100 milliliters of blood]] it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or both of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. § 75A-2(6). “Waters of this State” means any waters within the territorial limits of this State, and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State, but does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

2. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a

person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

3. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

4. N.C. Gen. Stat. § 20-4.01(48b).

5. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."

6. The fact that a person charged with this violation is or has been legally entitled to use alcohol or a drug is not a defense. See N.C. Gen. Stat. §75A-10(b1).

7. N.C. Gen. Stat. § 20-4.01(33a).

8. The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

270A.27A MANIPULATING [WATER SKIS] [A SURFBOARD] [NONMOTORIZED
VESSEL] [SIMILAR DEVICE] WHILE UNDER THE INFLUENCE OF AN
IMPAIRING SUBSTANCE. MISDEMEANOR.

The defendant has been charged with manipulating [water skis] [a surfboard] [nonmotorized vessel] [(*describe similar device*)] while under the influence of an impairing substance.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that the defendant was manipulating [water skis] [a surfboard] [nonmotorized vessel] [(*describe similar device*)].

Second, that the defendant was [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] on the waters of this State.¹

And Third, that the defendant was under the influence of an impairing substance. (*Name substance involved*) is an impairing substance.² The defendant is under the influence of an impairing substance when the defendant has [taken] [consumed] a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's [bodily] [mental] faculties, to such an extent that there is an appreciable impairment³ of these faculties.⁴

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant was manipulating [water skis] [a surfboard] [nonmotorized vessel] [(*describe similar device*)] on the waters of this State and that the defendant was under the influence of an impairing substance, then it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. § 75A-2(6). "Waters of this State" means any waters within the territorial limits of this State, and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State, but does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

2. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

3. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

4. N.C. Gen. Stat. § 20-4.01(48b).

270A.27B [DEATH] [SERIOUS INJURY] BY IMPAIRED BOATING. FELONY.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2016. See N.C. Gen. Stat. § 75A-10.3. Use N.C.P.I.—Crim 270A.25 if the defendant was operating a vessel while under the influence of an impairing substance and did not cause death or serious injury to another.

The defendant has been charged with [death] [serious injury] by impaired boating.

For you to find the defendant guilty of this offense, the State must prove five things beyond a reasonable doubt.

First, that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim.

Second, that the defendant was engaged in the offense of impaired boating¹, that is that the defendant was [operating a [motorboat] [vessel]] [manipulating [water skis] [a surfboard] [nonmotorized vessel] [(describe similar device)]]].

(a) [while under the influence of an impairing substance] (*Name substance involved*) is an impairing substance.² The defendant is under the influence of an impairing substance when the defendant has [taken] [consumed] a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's [bodily] [mental faculties] [both], to such an extent that there is an appreciable impairment³ of [either] [both of these faculties].⁴]

(b) [after having consumed sufficient alcohol that at any relevant time after the boating, the defendant had an alcohol concentration⁵ of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood].⁶ A relevant time is any time after the

boating that the driver still has in the body alcohol consumed [before] [during] the boating⁷ the results of a chemical analysis are deemed sufficient evidence to prove a person’s alcohol concentration.⁸

Third, that the defendant was [operating that [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] on the waters of this State.⁹

Fourth, that the defendant’s impaired boating was the proximate cause of [the death of] [serious injury to] the alleged victim.

And Fifth, that the defendant did so knowingly.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim, that the defendant was engaged in the offense of impaired boating, that is the defendant [operated a [motorboat] [vessel]] [manipulated [water skis] [a surfboard] [nonmotorized vessel] [similar device (*describe device*)]] while underway on the waters of this State,

- (a) [while under the influence of an impairing substance]
- (b) [after having consumed sufficient alcohol that at any relevant time after the boating, the defendant had an alcohol concentration of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood],

that defendant’s impaired boating was the proximate cause of [the death of] [serious injury to] to the alleged victim, and that the defendant did so knowingly, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. §75A-10(b1).

2. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

3. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

4. N.C. Gen. Stat. § 20-4.01(48b).

5. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."

6. The fact that a person charged with this violation is or has been legally entitled to use alcohol or a drug is not a defense. See N.C. Gen. Stat. §75A-10(b1).

7. N.C. Gen. Stat. § 20-4.01(33a).

8. The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

9. See N.C. Gen. Stat. § 75A-2(6). "Waters of this State" means any waters within the territorial limits of this State, and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State, but does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

270A.27C AGGRAVATED [DEATH] [SERIOUS INJURY] BY IMPAIRED
BOATING. FELONY.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2016. See N.C. Gen. Stat. § 75A-10.3. Use N.C.P.I.—Crim 270A.25 if defendant was operating a vessel while underway on the waters of this State while under the influence of an impairing substance, and did not cause death or serious injury to another.

If the defendant admits to a previous conviction of impaired boating¹ within seven (7) years of the current violation, those elements of the offense are established and no evidence in support thereof may be adduced by the State. In such case, a transcript of plea is required for the admission of the previous conviction.

If the defendant denies a previous conviction of impaired boating occurring within seven (7) years of the current violation or remains silent, the State must prove the previous conviction in the fourth and fifth elements of the offense below. See N.C. Gen. Stat. § 15A-928.

The defendant has been charged with aggravated [death] [serious injury] by impaired boating.

For you to find the defendant guilty of this offense, the State must prove six things beyond a reasonable doubt.

First, that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim.

Second, that the defendant was engaged in the offense of impaired boating; that is that the defendant was [operating a [motorboat] [vessel]] [manipulating [water skis] [a surfboard] [nonmotorized vessel] [(describe similar device)]]].

- (a) [was under the influence of an impairing substance.] (*name substance involved*) is an impairing substance.² The defendant is under the influence of an impairing substance when the defendant has [taken] [consumed] a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the

defendant's [bodily] [mental faculties] [both], to such an extent that there is an appreciable impairment³ of [either] [both of these faculties.⁴]]

- (b) [after having consumed sufficient alcohol that at any relevant time after the boating, the defendant had an alcohol concentration⁵ of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood].⁶ A relevant time is any time after the boating that the driver still has in the body alcohol consumed [before] [during] the boating]⁷ the results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.⁸

Third, that the defendant was [operating that [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] on the waters of this State.⁹

Fourth, that the defendant's impaired boating was the proximate cause of [the death of] [serious injury to] the alleged victim.

Fifth, that the defendant had a previous conviction of impaired boating; that is, the defendant on (*name date*) in (*name court*) [was convicted of] [pled guilty to] impaired boating, in violation of the law of the state of North Carolina.

And Sixth, that the previous conviction of impaired boating occurred within seven (7) years of the current offense (*name date of current offense*).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim, that the defendant was engaged in the offense of impaired boating, that is the defendant [operated a [motorboat] [vessel]] [manipulated [water skis] [a surfboard] [nonmotorized vessel]

[(*describe similar device*)] while underway on the waters of this State [while under the influence of an impairing substance] [after having consumed sufficient alcohol that the defendant has, at any relevant time after the boating, an alcohol concentration of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood]], that defendant's impaired boating was the proximate cause of [death] [serious injury] to the alleged victim, and that the defendant has a previous conviction of impaired boating occurring within seven (7) years of the current offense, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. §75A-10(b1).

2. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

3. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

4. N.C. Gen. Stat. § 20-4.01(48b).

5. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."

6. The fact that a person charged with this violation is or has been legally entitled to use alcohol or a drug is not a defense. See N.C. Gen. Stat. §75A-10(b1).

7. N.C. Gen. Stat. § 20-4.01(33a).

8. The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

9. See N.C. Gen. Stat. § 75A-2(6). "Waters of this State" means any waters within the territorial limits of this State, and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State, but does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

270A.27D REPEAT DEATH BY IMPAIRED BOATING. FELONY.

NOTE WELL: This instruction is to be used for offenses occurring on or after December 1, 2016. See N.C. Gen. Stat. § 75A-10.3. Use N.C.P.I 270A.25 where the defendant was operating a vessel while under the influence of an impairing substance and did not cause [death] [serious] injury to another.

Use N.C.P.I.—Crim 270A.27C where the defendant has a previous conviction of impaired boating that did not cause [death] [serious injury] to another occurring within seven (7) years of committing the offense of causing [death] [serious] injury by impaired boating¹.

If the defendant admits to a previous conviction of either [death] [serious injury] to another person by impaired boating² or [murder] [manslaughter] and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired boating, occurring within 7 years of the current violation, those elements of the offense are established and no evidence in support thereof may be adduced by the State. In such case, a transcript of plea is required for the admission of the previous conviction.

If the defendant denies a previous conviction of [death] [serious injury] to another person by impaired boating or [murder] [manslaughter] and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired boating occurring within seven (7) years of the current violation or remains silent, the State must prove the previous conviction in the fifth and sixth elements of the offense below. See N.C. Gen. Stat. § 15A-928.

The defendant has been charged with repeat [death] [serious injury] by impaired boating.

For you to find the defendant guilty of this offense, the State must prove seven things beyond a reasonable doubt.

First, that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim.

Second, that the defendant was engaged in the offense of impaired boating³; that is the defendant was [operating a [motorboat] [vessel]]

[manipulating [water skis] [a surfboard] [nonmotorized vessel] [(*describe similar device*)]].

- (a) [was under the influence of an impairing substance.] (*Name substance involved*) is an impairing substance.⁴ The defendant is under the influence of an impairing substance when the defendant has [taken] [consumed] a sufficient quantity of that impairing substance to cause the defendant to lose the normal control of the defendant's [bodily] [mental faculties] [both], to such an extent that there is an appreciable impairment⁵ of [either] [both of these faculties].⁶]
- (b) [after having consumed sufficient alcohol that at any relevant time after the boating, the defendant had an alcohol concentration⁷ of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood].⁸ A relevant time is any time after the boating that the driver still has in the body alcohol consumed [before] [during] the boating]⁹ the results of a chemical analysis are deemed sufficient evidence to prove a person's alcohol concentration.¹⁰

Third, that the defendant was [operating that [motorboat] [vessel]] [manipulating the [water skis] [surfboard] [nonmotorized vessel] [similar device (*describe device*)]] on the waters of this State.¹¹

Fourth, that the defendant's impaired boating was the proximate cause of the [death] [serious injury] to the alleged victim.

Fifth, that the defendant did so knowingly.

Sixth, that the defendant had previously been convicted of an impaired boating offense, in that:

- a) [On (name date) in (name court) the defendant [was convicted of] [pled guilty to] [death] [serious injury] to another person by impaired boating, that was committed on (name date) in violation of the law of the state of North Carolina]]
- b) [On (name date) in (name court) the defendant [was convicted of] [pled guilty to] [[murder] [manslaughter] and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired boating, that was committed on (name date) in violation of the law of the state of North Carolina]¹²

And Seventh, that the previous conviction was within seven (7) years of the current offense (name date of current offense).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unintentionally caused [the death of] [serious injury to] the alleged victim, that the defendant was engaged in the offense of impaired boating, that is the defendant [operated a [motorboat] [vessel]] [manipulated [water skis] [a surfboard] [nonmotorized vessel] [(describe similar device)]] while underway on the waters of this State [while under the influence of an impairing substance] [after having consumed sufficient alcohol that the defendant has, at any relevant time after the boating, an alcohol concentration of [0.08] [more than 0.08] of alcohol [per 210 liters of breath] [per 100 milliliters of blood]], that defendant's impaired boating was the proximate cause of [the death of] [serious injury to] the alleged victim, that the defendant did so knowingly, that the defendant had previously been convicted of [[death] [serious injury] to another person by impaired boating, that was committed on (name date)]] [[murder] [manslaughter] and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired boating, that was

committed on (name date)]], and that the previous conviction occurred within seven (7) years of the date of the current offense, it would be your duty to return a verdict of guilty. If you do not so find, or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See N.C. Gen. Stat. §§75A-10.3(c), 75A-10.3(d).

2. See N.C. Gen. Stat. §§75A-10.3(a), 75A-10.3(b).

3. See N.C. Gen. Stat. §75A-10(b1).

4. An impairing substance includes alcohol, controlled substance under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties, or any combination of these substances. N.C. Gen. Stat. § 20-4.01(14a).

5. The phrase "appreciable impairment" is not defined in N.C. Gen. Stat. § 20-4.01 or other subsequent statutes. However, appellate case law has defined appreciable to mean the effect of the impairing substance "must be...sufficient to be recognized and estimated." *State v. Harrington*, 78 N.C. App. 39, 45, 336 S.E.2d 852, 855 (1985). This additional language may be provided to the jury, if requested.

6. N.C. Gen. Stat. § 20-4.01(48b).

7. N.C. Gen. Stat. § 20-4.01(1b) defines alcohol concentration as "the concentration of alcohol in a person, expressed either as (a) grams of alcohol per 100 milliliters of blood; or (b) grams of alcohol per 210 liters of breath."

8. The fact that a person charged with this violation is or has been legally entitled to use alcohol or a drug is not a defense. See N.C. Gen. Stat. §75A-10(b1).

9. N.C. Gen. Stat. § 20-4.01(33a).

10. The term "deemed sufficient" is not defined in N.C. Gen. Stat. § 20.138.1 or N.C. Gen. Stat. § 20-141.4, other statutes or any appellate court decisions. Absent a specific definition, it can be presumed that the legislature intended the words to be given their ordinary meaning.

11. See N.C. Gen. Stat. § 75A-2(6). "Waters of this State" means any waters within the territorial limits of this State, and the marginal sea adjacent to this State and the high seas when navigated as a part of a journey or ride to or from the shore of this State, but does not include private ponds as defined in N.C. Gen. Stat. § 113-129.

12. See N.C. Gen. Stat. §14-17 and §14-18 for definitions of murder in the first and second degree, and voluntary manslaughter.

308.10 SELF-DEFENSE, RETREAT—INCLUDING HOMICIDE (TO BE USED FOLLOWING THE SELF-DEFENSE INSTRUCTIONS WHERE RETREAT IS IN ISSUE).

NOTE WELL: This instruction is to be used if the evidence shows that the defendant was at a place where the defendant had a lawful right to be, including the defendant's own home¹ or premises, the defendant's place of residence, the defendant's workplace, or in the defendant's motor vehicle, when the assault on the defendant occurred.²

NOTE WELL: In the absence of a concern that the jury would believe that the nature of the assault that the victim made upon the defendant had some bearing upon the extent to which the defendant attacked in the defendant's own home has a duty to retreat before exercising the right to self-defense, a trial court need not instruct that the defendant could stand the defendant's ground and repel with force "regardless of the character of the assault." See State v. Benner, 2022-NCSC-28, ¶ 29.³

If the defendant was not the aggressor⁴ and the defendant was [in the defendant's own home]⁵ [on the defendant's own premises] [in the defendant's place of residence] [at the defendant's workplace]⁶ [in the defendant's motor vehicle]⁷ [at a place the defendant had a lawful right to be], the defendant could stand the defendant's ground and repel force with force regardless of the character of the assault being made upon the defendant. However, the defendant would not be excused if the defendant used excessive force.

1. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a "building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence." Curtilage is the area "immediately surrounding and associated with the home," which may include "the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings." *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

2. "[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another." *State v.*

Bass, 371 N.C. 353, 342, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to any self-defense instruction is entitled to a complete self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

3. Instructing the jury that the defendant has “no duty to retreat” in a place where the defendant has the lawful right to be (*i.e.*, home, premises, residence, motor vehicle, workplace), pursuant to N.C.G.S. § 14-51.2(f), is sufficient, so long as the trial court makes no distinction between a simple and felonious assault in its instructions to the jury concerning the extent to which the defendant was entitled to exercise the right of self-defense without making an effort to retreat. *State v. Benner*, 2022-NCSC-28, ¶ 29. *See also* N.C.P.I.—Crim. 206.10 (First Degree Murder Where a Deadly Weapon Is Used, Covering All Lesser Included Homicide Offenses and Self-Defense). *But see State v. Francis*, 252 N.C. 57, 58-59 (1960) (holding the trial court’s instruction that “a person can’t fight somebody with a pistol who is making what is called a simple assault on him,” was erroneous by “virtually eliminating the defendant’s right to self-defense since he used a pistol in connection with defending himself against a simple assault.”).

4. *See State v. Holloman*, 369 N.C. 615 (2017), *reversing*, 247 N.C. App. 434 (2016). The Supreme Court in *Holloman* explained that G.S. 14-51.4(2)(a), allowing an aggressor to regain the right to utilize defensive force under certain circumstances, does not apply where the aggressor initially uses deadly force against the person provoked. Accordingly, the trial court did not err by instructing that a defendant who was the aggressor using deadly force had forfeited the right to use deadly force and that a person who displays a firearm to his opponent with the intent to use deadly force against him or her and provokes the use of deadly force in response is an aggressor.

5. *See State v. Pearson*, 288 N.C. 34 (1975); *State v. Kelly*, 24 N.C. App. 673 (1975).

6. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

7. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

308.40 SELF-DEFENSE—ASSAULTS NOT INVOLVING DEADLY FORCE.

NOTE WELL: Use only with N.C.P.I.—Crim. 208.40, 208.40A, 208.70, 208.75, and 208.60 when no evidence of deadly force.¹

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of self-defense set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for self-defense as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the State has satisfied you beyond a reasonable doubt that the defendant assaulted the victim then you would consider whether the defendant's actions are excused and the defendant is not guilty because the defendant acted in self-defense. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant's action was not in self-defense.

Even if you find beyond a reasonable doubt that the defendant assaulted the victim, the assault would be justified by self-defense under the following circumstances:

1. If the circumstances, at the time the defendant acted, would cause a person of ordinary firmness to reasonably believe that such action was necessary or apparently necessary to protect that person from bodily injury or offensive physical contact, and
2. The circumstances created such belief in the defendant's mind. You determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time.²

Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.³ (The defendant would have a lawful right to be in the defendant's [home]⁴ [own premises] [place of residence] [workplace]⁵ [motor vehicle]⁶.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].⁷

Additionally, even if the defendant believed there was a right to use force, the amount of force would be limited to reasonable force—not excessive force. The right to use force extends only to such force reasonably appearing to the defendant under the circumstances, necessary to protect the defendant from bodily injury or offensive physical contact. In so determining, you should consider the circumstances you find to have existed from the evidence. You should consider (the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether the victim possessed a weapon), (the reputation, if any, of the victim for danger and violence) (and) (*describe other circumstances supported by the evidence*). Again, you determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time.

(Furthermore, self-defense is justified only if the defendant was not the aggressor.⁸ Justification for defensive force is not present if the person who

used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force against [himself] [herself]. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily. However, if the defendant was the aggressor, the defendant would be justified in using defensive force if the defendant thereafter attempted to abandon the fight and gave notice to the defendant's opponent that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force.⁹⁾

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

*NOTE WELL: The following self-defense mandate must be given after the mandate on each substantive offense instructed upon. **INCLUDING THE SELF-DEFENSE MANDATE IS REQUIRED BY STATE V. WOODSON, 31 N.C. APP. 400 (1976). Cf. State v. Dooley, 285 N.C. 158 (1974).***

SELF-DEFENSE MANDATE

Even if you are satisfied beyond a reasonable doubt that the defendant committed (*name offense*) you may return a verdict of guilty only if the State has also satisfied you beyond a reasonable doubt that the defendant did not

act in self-defense. Therefore, if the defendant did not reasonably believe that the defendant's action was necessary or appeared to be necessary to protect the defendant from bodily injury or offensive physical contact, or the defendant used excessive force, or the defendant was the aggressor, the defendant's acts would not be excused or justified in defense of the defendant.

If you do not so find or have a reasonable doubt that the State has proved any of these things, then the defendant's action would be justified by self-defense and it would be your duty to return a verdict of not guilty.

1. Deadly force is force likely to cause death or great bodily harm. *S. v. Clay*, 297 N.C. 555, 563 (1979). For any assault involving deadly force, use N.C.P.I.—Crim. 308.45 to charge on self-defense. Such assaults include all felonious assaults, misdemeanor assaults such as assault with a deadly weapon, assault by pointing a gun, and may include assault inflicting serious injury. *See also State v. Pender*, 830 S.E.2d 686 (2019).

2. In self-defense, action need only be apparently necessary, not actually. *See, e.g., State v. Jennings*, 276 N.C. 157 (1970).

3. *See* N.C.P.I.—Crim. 308.10.

4. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a "building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence." Curtilage is the area "immediately surrounding and associated with the home," which may include "the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings." *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

5. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a "building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes."

6. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines "motor vehicle" as "Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1."

7. "[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another." *State v. Bass*, 371 N.C. 456, 541, 819 S.E.2d 322, 326 (2018). "[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision." *Id.*

8. N.C. Gen. Stat. § 14-51.4(2). *See also* N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such

force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

9. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was [attempting to commit] [committing] [escaping after the commission of] a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

308.45 SELF-DEFENSE—ALL ASSAULTS INVOLVING DEADLY FORCE.

NOTE WELL: This charge is intended for use with N.C.P.I.—Crim. 208.09, 208.10, 208.15, 208.16, 208.25, 208.50, 208.55, 208.85, and 208.60 where the evidence shows that the defendant used deadly force.¹

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of self-defense set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for self-defense as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the State has satisfied you beyond a reasonable doubt that the defendant assaulted the victim with deadly force (*insert other lesser-included assault offenses*), then you would consider whether the defendant's actions are excused and the defendant is not guilty because the defendant acted in self-defense. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant's action was not in self-defense.

If the circumstances would have created a reasonable belief in the mind of a person of ordinary firmness that the assault was necessary or appeared to be necessary to protect that person from imminent death or great bodily harm, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, such assault would be justified by self-defense.² You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time. Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.³ (The defendant would have a lawful right to be in the defendant's [home]⁴ [own premises] [place of residence] [workplace]⁵ [motor vehicle]⁶.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

A defendant does not have the right to use excessive force. The defendant had the right to use only such force as reasonably appeared necessary to the defendant under the circumstances to protect the defendant from death or great bodily harm. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether the victim possessed a weapon), (and the reputation, if any, of the victim for danger and violence) (*describe other circumstances as appropriate from the evidence*). Again, you, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time.

(Furthermore, self-defense is justified only if the defendant was not the aggressor.⁷ Justification for defensive force is not present if the person who used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force against [himself] [herself]. If one uses

abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily. However, if defendant was the aggressor, the defendant would be justified in using defensive force if the defendant thereafter attempted to abandon the fight and gave notice to the defendant's opponent that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger.⁸⁾

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

See State v. Holloman, 369 N.C. 615 (2017), reversing, 247 N.C. App. 434, 786 S.E.2d 328 (2016). The Supreme Court in Holloman explained that G.S. 14-51.4(2)(a), allowing an aggressor to regain the right to utilize defensive force under certain circumstances, does not apply where the aggressor initially uses deadly force against the person provoked. Accordingly, the trial court did not err by instructing that a defendant who was the

aggressor using deadly force had forfeited the right to use deadly force and that a person who displays a firearm to his opponent with the intent to use deadly force against him or her and provokes the use of deadly force in response is an aggressor. See also State v. Corbett, 839 S.E. 2d 361 (N.C. Ct. App. 2020).

NOTE WELL: If the defendant used a weapon which is a deadly weapon "per se," do not give the following paragraph, or the paragraph on page 5. If the weapon is not a deadly weapon per se, give the following paragraph and the paragraph on p. 5. State v. Clay, 297 N.C. 555, 566 (1979).

(If you find from the evidence beyond a reasonable doubt that the defendant assaulted the victim, but not with a deadly weapon or other deadly force, that the circumstances would create a reasonable belief in the mind of a person of ordinary firmness that the action was necessary or appeared to be necessary to protect that person from bodily injury or offensive physical contact, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, the assault would be justified by self-defense—even though the defendant was not thereby put in actual danger of death or great bodily harm. However, the force used must not have been excessive. Furthermore, self-defense is an excuse only if the defendant was not the aggressor.)

*NOTE WELL: The following self-defense mandate must be given on each substantive offense instructed upon. **INCLUDING THE SELF-DEFENSE MANDATE IS REQUIRED BY STATE V. WOODSON**, 31 N.C. APP. 400 (1976). Cf. State v. Dooley, 285 N.C. 158 (1974).*

SELF-DEFENSE MANDATE

Therefore I instruct you, if you are satisfied beyond a reasonable doubt that the defendant committed (*name offense, including appropriate lesser included offenses*),⁹ you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant's action was not in self-defense; that is, that the defendant did not reasonably believe that the

assault was necessary or appeared to be necessary to protect the defendant from death or serious bodily injury, or that the defendant used excessive force, or that the defendant was the aggressor. If you do not so find or have a reasonable doubt that the State has proved any of these things, then the defendant's action would be justified by self-defense and it would be your duty to return a verdict of not guilty.

NOTE WELL: Do not give the following paragraph if the defendant used a weapon, which is a deadly weapon "per se."

(Therefore, I instruct you, if you are satisfied beyond a reasonable doubt that the defendant committed (*name offense, including appropriate lesser included offenses*),¹⁰ you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant did not reasonably believe that the assault was necessary or appeared to be necessary to protect the defendant from bodily injury or offensive physical contact, or that the defendant used excessive force, or was the aggressor. If you do not so find or have a reasonable doubt that the State has proved one or more of these things, then the defendant's action would be justified by self-defense and it would be your duty to return a verdict of not guilty.)

1. Deadly force is any force likely to cause death or great bodily harm. *S. v. Clay*, 297 N.C. 555, 563 (1979). For any assault not involving deadly force, use N.C.P.I.—Crim. 308.40 to charge on self-defense. *See also State v. Pender*, 830 S.E.2d 686 (2019).

2. This instruction is intended to cover the rule of law that action in self-defense need only be apparently, not actually, necessary. *See, e.g., State v. Jennings*, 276 N.C. 157 (1970).

3. *See* N.C.P.I.—Crim. 308.10; “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 456, 541, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

4. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and

associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

5. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

6. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

7. See *State v. Juarez*, 794 S.E.2d 293,299 (N.C. 2016) (holding when there is no evidence that a defendant was the initial aggressor, it is reversible error for the trial court to instruct on the aggressor doctrine, and concluding that it was unnecessary to decide whether an instruction on the aggressor doctrine was improper because the defendant failed to show that the alleged error was so fundamentally prejudicial as to constitute plain error.)

See also N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

8. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

9. Name all offenses that involve the use of deadly force.

10. Name only those lesser included offenses which do not involve the use of a deadly weapon force, e.g., those covered in N.C.P.I.—208.40, 208.60, 208.70, and 208.75.

308.45A SELF-DEFENSE EXAMPLE WITH 208.10—ALL ASSAULTS INVOLVING DEADLY FORCE.

NOTE WELL: This charge is intended for use with N.C.P.I.—Crim. 208.09, 208.10, 208.15, 208.16, 208.25, 208.50, 208.55, 208.85, and 208.60 where the evidence shows that the defendant used deadly force.¹

*NOTE WELL: This example instruction combines the assault instruction with the self-defense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of self-defense set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for self-defense as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: If the assault occurred in defendant’s home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

The defendant has been charged with assault with a deadly weapon with intent to kill inflicting serious injury.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant assaulted the victim by intentionally² (and without justification or excuse)³ (*describe assault*).

Second, that the defendant used a deadly weapon. A deadly weapon is a weapon which is likely to cause death or serious bodily injury. [(*Name object*) is a deadly weapon]. [In determining whether (*name object*) was a deadly weapon, you should consider the nature of (*name object*), the manner in which it was used, and the size and strength of the defendant as compared to the victim.]⁴

Third, the State must prove that the defendant had the specific intent to kill the victim.

And Fourth, that the defendant inflicted serious injury.⁵

If the State has satisfied you beyond a reasonable doubt that the defendant assaulted the victim with a deadly weapon with intent to cause death or serious bodily injury, then you would consider whether the defendant's actions are excused and the defendant is not guilty because the defendant acted in self-defense. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant's action was not in self-defense.

If the circumstances would have created a reasonable belief in the mind of a person of ordinary firmness that the assault was necessary or appeared to be necessary to protect that person from imminent death or great bodily harm, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, such assault would be justified by self-defense.⁶ You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time. Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁷ (The defendant would have a lawful right to be in the defendant's [home]⁸ [own premises] [place of residence] [workplace]⁹ [motor vehicle]¹⁰.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

A defendant does not have the right to use excessive force. The defendant had the right to use only such force as reasonably appeared necessary to the defendant under the circumstances to protect the defendant from death or great bodily harm. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether the victim possessed a weapon), (and the reputation, if any, of the victim for danger and violence) (*describe other circumstances as appropriate from the evidence*). Again, you, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time.

(Furthermore, self-defense is justified only if the defendant was not the aggressor.¹¹ Justification for defensive force is not present if the person who used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force against [himself] [herself]. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily. However, if the defendant was the aggressor, the defendant is justified in using defensive force if the defendant thereafter attempted to abandon the fight and gave notice to the defendant's opponent that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using

defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger.¹²⁾

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

NOTE WELL: If the defendant used a weapon which is a deadly weapon "per se," do not give the following paragraph, or the paragraph on page 6-7. If the weapon is not a deadly weapon per se, give the following paragraph and the paragraph on p. 6-7. State v. Clay, 297 N.C. 555, 566 (1979).

(If you find from the evidence beyond a reasonable doubt that the defendant assaulted the victim, but not with a deadly weapon or other deadly force, that the circumstances would create a reasonable belief in the mind of a person of ordinary firmness that the action was necessary or appeared to be necessary to protect that person from bodily injury or offensive physical contact, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, the assault would be justified by self-defense—even though the defendant was not thereby put in actual danger of death or great bodily harm; however, the force used must not have been excessive.

Furthermore, self-defense is an excuse only if the defendant was not the aggressor.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant intentionally (*describe assault*) the victim with a (*name object*) (and that (*name weapon*) was a deadly weapon)¹³ and that the defendant intended to kill the victim and did seriously injure *him*, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.¹⁴

*NOTE WELL: The following self-defense mandate must be given after the mandate on each substantive offense instructed upon. **INCLUDING THE SELF-DEFENSE MANDATE IS REQUIRED BY STATE V. WOODSON, 31 N.C. APP. 400 (1976).** Cf. State v. Dooley, 285 N.C. 158 (1974).*

SELF-DEFENSE MANDATE

Therefore I instruct you, if you are satisfied beyond a reasonable doubt that the defendant committed (*name offense, including appropriate lesser included offenses*),¹⁵ you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant's action was not in self-defense; that is, that the defendant did not reasonably believe that the assault was necessary or appeared to be necessary to protect the defendant from death or serious bodily injury, or that the defendant used excessive force, or that the defendant was the aggressor.

If you do not so find or have a reasonable doubt that the State has proved any one or more of these things, then the defendant's action would be justified by self-defense and, it would be your duty to return a verdict of not guilty.

NOTE WELL: Do not give the following paragraph if the defendant used a weapon which is a deadly weapon "per se."

(Therefore I instruct you, if you are satisfied beyond a reasonable doubt that the defendant committed (*name offense, including appropriate lesser included offenses*)¹⁶ you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant did not reasonably believe that the assault was necessary or appeared to be necessary to protect the defendant from bodily injury or offensive physical contact, or that the defendant used excessive force, or was the aggressor. If you do not so find or have a reasonable doubt that the State has proved one or more of these things, then the defendant's action would be justified by self-defense and, it would be your duty to return a verdict of not guilty.)

1. Deadly force is any force likely to cause death or great bodily harm. *S. v. Clay*, 297 N.C. 555, 563 (1979).

2. If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

3. The parenthetical phrase should be used only where there is evidence of justification or excuse, such as self-defense.

4. Use appropriate bracketed statement. In the event that there is a dispute as to which weapon was used and one of the weapons is non-deadly as a matter of law, *e.g.*, a real pistol and a toy pistol, state what would not be a deadly weapon.

5. Serious injury may be defined as “such physical injury as causes great pain and suffering.” See *S. v. Jones*, 258 N.C. 89 (1962), or *S. v. Ferguson*, 261, N.C. 558 (1964). If there is evidence as to injuries which could not conceivably be considered anything but serious, the trial judge may instruct the jury as follows: “(*Describe injury*) would be a serious injury.” *S. v. Davis*, 33 N.C. App. 262 (1977).

6. This instruction is intended to cover the rule of law that action in self-defense need only be apparently, not actually, necessary. See, *e.g.*, *State v. Jennings*, 276 N.C. 157 (1970).

7. See N.C.P.I.—Crim. 308.10. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

8. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as

the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

9. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

10. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

11. N.C. Gen. Stat. § 14-51.4(2). *See also* N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

12. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

13. This parenthetical phrase should be used only where the weapon is not deadly *per se*.

14. If there is to be instruction on lesser included offenses, the last phrase should be: “...you will not return a verdict of guilty of assault with a deadly weapon with intent to kill inflicting serious injury.” *See State v. Hannah*, 149 N.C. App. 713, 563 S.E.2d 1 (2002) (holding that assault inflicting serious bodily injury pursuant to N.C. Gen. Stat. § 14-32.4 is not a lesser-included offense of assault with a deadly weapon with intent to kill inflicting serious injury).

15. Name all offenses which involve the use of deadly force.

16. Name only those lesser included offenses which do not involve the use of a deadly weapon force, *e.g.*, those covered in N.C.P.I.—208.40, 208.60, 208.70, and 208.75.

308.47 ASSAULT IN LAWFUL DEFENSE OF A [FAMILY MEMBER] [THIRD PERSON]—(DEFENSE TO ASSAULTS NOT INVOLVING DEADLY FORCE).

NOTE WELL: Use only with N.C.P.I.—Crim. 208.40, 208.40A, 208.70, 208.75, and 208.60 when there is no evidence of deadly force.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of defense of a family member or third person set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for defense of a family member or third person as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: Defense of a [family member] [third person] is only justified if the [family member] [third person] would have been justified in using self-defense. If this is an issue, modify accordingly.¹

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the defendant assaulted the victim in lawful defense of another person, the defendant's actions would be excused, and the defendant would be not guilty. The State has the burden of proving from the evidence beyond

a reasonable doubt that the defendant did not act in the lawful defense of another person.

If from the evidence you find beyond a reasonable doubt that the defendant assaulted the victim and that the circumstances would have created a reasonable belief in the mind of a person of ordinary firmness that the assault was necessary or apparently necessary to protect a [family member] [third person] from bodily injury or offensive physical contact, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, such assault would be justified by defense of a [family member] [third person]. You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time. Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.² (The defendant would have a lawful right to be in the defendant's [home]³ [own premises] [place of residence] [workplace]⁴ [motor vehicle]⁵.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

A defendant may only do in defense of a [family member] [third person] what that other person might do in that person's own defense. Further, a defendant does not have the right to use excessive force. This means that the defendant had the right to use only such force as reasonably appeared to the defendant to be necessary under the circumstances to protect that [family member] [third person] from bodily injury or offensive physical contact. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including) (the size, age and strength of the defendant and the [family member] [third person] as compared to the victim), (the fierceness of the assault, if any, upon the [family

member] [third person], (whether the victim had a weapon in the victim's possession), (and) (the reputation, if any, of the victim for danger and violence). Again, it is for you, the jury, to determine whether the defendant's belief was reasonable from the circumstances as they appeared to the defendant at the time.

(Furthermore, defense of a [family member] [third person] is justified only if the [defendant] [family member] [third person] was not the aggressor.⁶ Justification for defensive force is not present if a person voluntarily enters into the fight or, in other words, initially provokes the use of force against [himself] [herself]. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily. However, if the [defendant] [family member] [third person] was the aggressor, the defendant is justified in using defensive force only if the [defendant] [family member] [third person] thereafter attempted to abandon the fight and gave notice to the opponent that the [defendant] [family member] [third person] was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force.⁷)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant***

was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.

NOTE WELL: Add the following to the final mandate:

Although you are satisfied beyond a reasonable doubt that the defendant assaulted the victim, you may return a verdict of guilty only if the State has satisfied to you beyond a reasonable doubt that the defendant did not act in the lawful defense of a [family member] [third person]; that is, that the defendant did not reasonably believe that the assault of the victim was necessary or apparently necessary to protect [the defendant's family member] [the third person] from bodily injury or offensive physical contact, or that the defendant used excessive force, or was the aggressor. If you do not so find or have a reasonable doubt that the State has proved one or more of these things, then the defendant would be justified by defense of a [family member] [third person]; therefore, your duty would be to return a verdict of not guilty.

1. See *State v. McLawhorn*, 270 N.C. 622, 629 (1967).

2. See N.C.P.I.—Crim. 308.10. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

3. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

4. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

5. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle

designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

6. N.C. Gen. Stat. § 14-51.4(2). *See also* N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

7. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

308.50 ASSAULT IN LAWFUL DEFENSE OF A [FAMILY MEMBER] [THIRD PERSON]—(DEFENSE TO ALL ASSAULTS INVOLVING DEADLY FORCE).

NOTE WELL: This charge is intended for use with N.C.P.I.—Crim. 208.09, 208.10, 208.15, 208.16, 208.25, 208.50, 208.55, 208.85, and 208.60 where the evidence shows that defendant used deadly force.¹

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of defense of a family member or third person as set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for defense of a family member or third person as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: Defense of a [family member] [third person] is only justified if the [family member] [third person] would have been justified in using self-defense. If this is an issue, modify accordingly.²

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the State has satisfied you beyond a reasonable doubt that the defendant assaulted the victim (with deadly force), then you would consider

whether the defendant's actions are excused and the defendant is not guilty because the defendant acted in defense of a [family member] [third person]. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant's action was not in defense of a [family member] [third person].

If the circumstances would have created a reasonable belief in the mind of a person of ordinary firmness that the assault was necessary or appeared to be necessary to protect a [family member] [third person] from imminent death or great bodily harm, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, such assault would be justified by defense of a [family member] [third person].³ You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time. Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.⁴ (The defendant would have a lawful right to be in the defendant's [home]⁵ [own premises] [place of residence] [workplace]⁶ [motor vehicle]⁷.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

A defendant does not have the right to use excessive force. The defendant had the right to use only such force as reasonably appeared necessary to the defendant under the circumstances to protect a [family member] [third person] from death or great bodily harm. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including) (the size, age and strength of the defendant and the [family member] [third person] as compared to the victim), (the fierceness of the assault, if any, upon the [family member] [third person], (whether the victim had a weapon in the victim's possession), (and) (the

reputation, if any, of the victim for danger and violence). You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time.

(Furthermore, defense of a [family member] [third person] is justified only if the [defendant] [family member] [third person] was not the aggressor.⁸ Justification for defensive force is not present if the person who used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force. However, if the [defendant] [family member] [third person] was the aggressor, the defendant would be justified in using defensive force only if the [defendant] [family member] [third person] thereafter attempted to abandon the fight and gave notice to the opponent that the [defendant] [family member] [third person] was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily.⁹)

NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not

*be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.***

NOTE WELL: If the defendant used a weapon which is a deadly weapon "per se," do not give the following paragraph, or the paragraph on page 5-6. If the weapon is not a deadly weapon per se, give the following paragraph and the paragraph on p. 5-6. State v. Clay, 297 N.C. 555, 566 (1979).

(If you find from the evidence beyond a reasonable doubt that the defendant assaulted the victim, but not with a deadly weapon or other deadly force, that the circumstances would create a reasonable belief in the mind of a person of ordinary firmness that the action was necessary or appeared to be necessary to protect that person from bodily injury or offensive physical contact, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, the assault would be justified by defense of [family member] [third person] even though the defendant was not thereby put in actual danger of death or great bodily harm. However, the force used must not have been excessive. Furthermore, defense of a [family member] [third person] is an excuse only if neither the defendant nor the [family member] [third person] was the aggressor.)

DEFENSE OF [FAMILY MEMBER] [THIRD PERSON] MANDATE

Therefore, I instruct you, if you are satisfied beyond a reasonable doubt that the defendant committed (name offense, including appropriate lesser included offenses),¹⁰ you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant's action was not in defense of a [family member] [third person]; that is, that the defendant did

not reasonably believe that the assault was necessary or appeared to be necessary to protect a [family member] [third person] from death or serious bodily injury, or that the defendant used excessive force, or that the defendant was the aggressor.

If you do not so find or have a reasonable doubt that the State has proved any of these things, then the defendant's action would be justified by self-defense and it would be your duty to return a verdict of not guilty.

NOTE WELL: Do not give the following paragraph if the defendant used a weapon which is a deadly weapon "per se."

(Therefore, I instruct you, if you are satisfied beyond a reasonable doubt that the defendant assaulted the victim, you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant did not reasonably believe that the assault was necessary or appeared to be necessary to protect a [family member] [third person] from bodily injury or offensive physical contact, or that the defendant used excessive force, or was the aggressor. If you do not so find or have a reasonable doubt that the State has proved one or more of these things, then the defendant's action would be justified by defense of a [family member] [third person] and it would be your duty to return a verdict of not guilty.)

1. Deadly force is any force likely to cause death or great bodily harm. *S. v. Clay*, 297 N.C. 555, 563 (1979).

2. See *State v. McLawhorn*, 270 N.C. 622, 629 (1967).

3. This instruction is intended to cover the rule of law that action in self-defense need only be apparently, not actually, necessary. See, e.g., *State v. Jennings*, 276 N.C. 157 (1970).

4. See N.C.P.I.—Crim. 308.10. "[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another." *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). "[A] defendant entitled to any self-defense instruction is entitled to a complete self-defense instruction, which includes the relevant stand-your-ground provision." *Id.*

5. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

6. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

7. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

8. N.C. Gen. Stat. § 14-51.4(2). See also N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

9. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

10. Name all offenses which involve the use of deadly force.

308.60 KILLING IN LAWFUL DEFENSE OF A [FAMILY MEMBER] [THIRD PERSON]—(DEFENSE TO HOMICIDE).

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of defense of a family member or third person set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for defense of a family member or third person as set out below in the instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: Defense of a [family member] [third person] is only justified if the [family member] [third person] would have been justified in using self-defense. If this is an issue, modify accordingly.¹

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the defendant killed the victim in lawful defense of another person, the defendant's actions would be excused, and the defendant would be not guilty. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant did not act in the lawful defense of another person.

If you find that the defendant killed the victim and that the circumstances would have created a reasonable belief in the mind of a person of ordinary firmness that the killing was necessary or apparently necessary to protect a [family member] [third person] from imminent death or great bodily harm, and the circumstances did create such belief in the defendant's mind at the time the defendant acted, the killing would be justified by defense of a [family member] [third person]. You, the jury, determine the reasonableness of the defendant's belief from the circumstances appearing to the defendant at the time. Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.² (The defendant would have a lawful right to be in the defendant's [home]³ [own premises] [place of residence] [workplace]⁴ [motor vehicle]⁵.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

A defendant may only do in defense of a [family member] [third person] what that other person might do in that person's own defense. Further, a defendant does not have the right to use excessive force. The defendant had the right to use only such force as reasonably appeared to the defendant to be necessary under the circumstances to protect that [family member] [third person] from death or great bodily harm. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including) (the size, age and strength of the defendant and the [family member] [third person] as compared to the victim), (the fierceness of the assault, if any, upon the [family member] [third person]), (whether the victim had a weapon in the victim's possession), (and) (the reputation, if any, of the victim for danger and violence). You, the jury, determine whether the

defendant's belief was reasonable from the circumstances as they appeared to the defendant at the time.

(Furthermore, defense of a [family member] [third person] is justified only if the [defendant] [family member] [third person] was not the aggressor.⁶ Justification for defensive force is not present if the person who used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force. However, if the [defendant] [family member] [third person] was the aggressor, the defendant would be justified in using defensive force only if the [defendant] [family member] [third person] thereafter attempted to abandon the fight and gave notice to the opponent that the [defendant] [family member] [third person] was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily.⁷)

NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove

references to the aggressor. It is reversible error to instruct the jury on the aggressor doctrine if the record lacks evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.

NOTE WELL: Add the following to the final mandate:

If you are satisfied beyond a reasonable doubt that the defendant killed the victim, you may return a verdict of guilty only if the State also has satisfied you beyond a reasonable doubt that the defendant did not act in the lawful defense of a [family member] [third person]. The State must satisfy you beyond a reasonable doubt that the defendant did not reasonably believe that the killing of the victim was necessary or apparently necessary to protect [the defendant's family member] [the third person] from death or great bodily harm, or the State must satisfy you beyond a reasonable doubt that the defendant used excessive force, or was the aggressor. If you do not so find or have a reasonable doubt as to one or more of these things, then the defendant would be justified by defense of a [family member] [third person], and it would be your duty to return a verdict of not guilty.

1. See *State v. McLawhorn*, 270 N.C. 622, 629 (1967).

2. See N.C.P.I.—Crim. 308.10. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535, 542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

3. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

4. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

5. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

6. N.C. Gen. Stat. § 14-51.4(2). *See also* N.C. Gen. Stat. § 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

7. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

308.70 SELF-DEFENSE TO SEXUAL ASSAULT—HOMICIDE.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of self-defense set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for self-defense as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

NOTE WELL: If the assault occurred in defendant's home, place of residence, workplace or motor vehicle, use N.C.P.I.—Crim. 308.80, Defense of Habitation.

NOTE WELL: If the State contends that the defendant is not entitled to the use of defensive force because the defendant was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the use of such defensive force, the jury should be instructed pursuant to N.C.P.I.—Crim. 308.90. If the felony offense alleged was immediately causally connected to the circumstances giving rise to the defensive forced use, the defendant would be disqualified from the benefit of using such defensive force.

If the defendant acted in self-defense defending against a sexual assault,¹ the defendant's actions are excused and the defendant would be not guilty. The State has the burden to prove beyond a reasonable doubt that the defendant did not act in self-defense.

A killing would be excused if:

First, it appeared to the defendant and the defendant reasonably believed it to be necessary to use deadly force against the victim in order to save the defendant from death, great bodily harm or sexual assault. (*Define appropriate sexual assault involved.*)

Second, the circumstances as they appeared to the defendant at the time were sufficient to create such a belief in the mind of a person of ordinary firmness. It is for you the jury to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time. In making this determination, you should consider the circumstances as you find them to have existed from the evidence including (the size, age and strength of the defendant as compared with that of the victim) (the fierceness of the assault, if any, upon the defendant), (whether or not the victim possessed a weapon in his possession) (the reputation, if any, of the victim for danger, violence and/or sexual attacks (and) (*describe any other circumstances supported by the evidence*). Furthermore, the defendant has no duty to retreat in a place where the defendant has a lawful right to be.² (The defendant would have a lawful right to be in the defendant's [home]³ [own premises] [place of residence] [workplace]⁴ [motor vehicle]⁵.)

NOTE WELL: The preceding parenthetical should only be given where the place involved was the defendant's [home] [own premises] [place of residence] [workplace] [motor vehicle].

And Third, the defendant did not use excessive force; that is, more force than reasonably appeared to be necessary to the defendant at the time. The defendant had the right to use only such force as reasonably appeared necessary to the defendant under the circumstances to protect the defendant from death or great bodily harm. In making this determination, you should consider the circumstances as you find them to have existed from the evidence, (including) (the size, age and strength of the defendant as compared to the victim), (the fierceness of the assault, if any, upon the defendant), (whether the victim had a weapon in the victim's possession), (and) (the reputation, if any, of the victim for danger and violence) (*describe other circumstances as appropriate from the evidence*). Again, it is for you,

the jury, to determine the reasonableness of the force used by the defendant under all of the circumstances as they appeared to the defendant at the time.⁶

(Furthermore, self-defense is justified only if the defendant was not the aggressor.⁶ Justification for defensive force is not present if the person who used defensive force voluntarily entered into the fight or, in other words, initially provoked the use of force against [himself] [herself]. If one uses abusive language toward one's opponent which, considering all of the circumstances, is calculated and intended to bring on a fight, one enters a fight voluntarily. However, if defendant was the aggressor, the defendant would be justified in using defensive force if the defendant thereafter attempted to abandon the fight and gave notice to the defendant's opponent that the defendant was doing so. In other words, a person who uses defensive force is justified if the person withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that [he] [she] desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force. A person is also justified in using defensive force when the force used by the person who was provoked is so serious that the person using defensive force reasonably believes that [he] [she] was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force likely to cause death or serious bodily harm was the only way to escape the danger.⁷)

*NOTE WELL: Instructions on aggressors and provocation should only be used if there is some evidence presented that defendant provoked the confrontation. See N.C. Gen. Stat. § 14-51.4(2). If no such evidence is presented, the preceding parenthetical and reference to the aggressor throughout this instruction would not be given. In addition, the remainder of the instruction, including the mandate, would need to be edited accordingly to remove references to the aggressor. **It is reversible error to instruct the jury on the aggressor doctrine if the record lacks***

evidence from which the jury could infer that the defendant was an aggressor at the time the defendant allegedly acted in self-defense. State v. Hicks, 2022-NCCOA-263.

See *State v. Holloman*, 369 N.C. 615 (2017), reversing, 247 N.C. App. 434, 786 S.E.2d 328 (2016). The Supreme Court in *Holloman* explained that G.S. 14-51.4(2)(a), allowing an aggressor to regain the right to utilize defensive force under certain circumstances, does not apply where the aggressor initially uses deadly force against the person provoked. Accordingly, the trial court did not err by instructing that a defendant who was the aggressor using deadly force had forfeited the right to use deadly force and that a person who displays a firearm to his opponent with the intent to use deadly force against him or her and provokes the use of deadly force in response is an aggressor. See also *State v. Corbett*, 839 S.E. 2d 361 (N.C. Ct. App. 2020).

NOTE WELL: The following self-defense mandate must be given after the mandate on each substantive offense instructed upon. **INCLUDING THE SELF-DEFENSE MANDATE IS REQUIRED BY STATE V. WOODSON**, 31 N.C. APP. 400 (1976). Cf. *State v. Dooley*, 285 N.C. 158 (1974).

SELF-DEFENSE MANDATE

Although you are satisfied beyond a reasonable doubt that the defendant killed the victim, you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant did not act in self-defense; that is, that the defendant did not reasonably believe that the killing of the victim was necessary to save the defendant from death, great bodily harm or sexual assault, or that the defendant used excessive force. If you do not so find or have a reasonable doubt that the State has proved any of these things, then the defendant would be justified by self-defense to sexual assault and it would be your duty to return a verdict of not guilty.

1. Sexual assault would include rape, sexual offense, or forcible crime against nature or attempts thereof. This charge would be applicable to either sex. *S v. Hunter*, 305 N.C. 106 (1982).

2. See N.C.P.I.—Crim. 308.10. “[W]herever an individual is lawfully located—whether it is his home, motor vehicle, workplace, or any other place where he has the lawful right to

be—the individual may stand his ground and defend himself from attack when he reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or another.” *State v. Bass*, 371 N.C. 535,542, 819 S.E.2d 322, 326 (2018). “[A] defendant entitled to *any* self-defense instruction is entitled to a *complete* self-defense instruction, which includes the relevant stand-your-ground provision.” *Id.*

3. N.C. Gen. Stat. § 14-51.2 (a) (1) states that a home is a “building or conveyance of any kind, to include its curtilage, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed as a temporary or permanent residence.” Curtilage is the area “immediately surrounding and associated with the home,” which may include “the yard around the dwelling house as well as the area occupied by barns, cribs, and other outbuildings.” *State v. Grice*, 367 N.C. 753, 759 (2015) (citations and quotations omitted) (defining curtilage in a Fourth Amendment case).

4. N.C. Gen. Stat. § 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

5. N.C. Gen. Stat. § 14-51.2 (a) (3); which incorporates N.C. Gen. Stat. § 20-4.01 (23), defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in N.C. Gen. Stat. § 20-4.01(27)d1.”

6. N.C. Gen. Stat. § 14-51.4(2).

7. Pursuant to N.C. Gen. Stat. § 14-51.4(1), self-defense is also not available to a person who used defensive force and who was attempting to commit, committing, or escaping after the commission of a felony. If evidence is presented on this point, then the instruction should be modified accordingly pursuant to N.C.P.I.—Crim. 308.90 to add this provision at this point in the substantive instruction.

308.80 DEFENSE OF [HABITATION] [WORKPLACE] [MOTOR VEHICLE]—
HOMICIDE AND ASSAULT.

NOTE WELL: The use of force, including deadly force, is justified when the defendant is acting to prevent a forcible entry into the defendant's home, other place of residence, workplace, or motor vehicle, or to terminate an intruder's unlawful entry. See G.S. 14-51.1. This instruction is designed to be used instead of, or together with, the self-defense instructions which are incorporated in the murder charges (N.C.P.I.—Crim. 206.10, 206.11, 206.30), and those in N.C.P.I.—Crim. 308.40 or 308.45.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of defense of habitation set out in this instruction below; (3) the jury should then be instructed on the mandate of the charged offense; and (4) the jury should be instructed on the mandate for self-defense as set out below in this instruction. **THE FAILURE TO CHARGE ON ALL OF THESE MATTERS CONSTITUTES REVERSIBLE ERROR.***

If the defendant [killed] [assaulted] the victim to prevent a forcible entry into the defendant's [home]¹ [place of residence]² [workplace]³ [motor vehicle]⁴, or to terminate the intruder's unlawful entry, the defendant's actions are excused and the defendant is not guilty. The State has the burden of proving from the evidence beyond a reasonable doubt that the defendant did not act in the lawful defense of the defendant's [home] [place of residence] [workplace] [motor vehicle].

The defendant was justified in using (deadly) force⁵ ⁶ if:

- (1) such force was being used to [prevent a forcible entry] [terminate the intruder's unlawful entry] into the defendant's [home] [place of residence] [workplace] [motor vehicle];

- (2) the defendant reasonably believed that the intruder [would kill or inflict serious bodily harm to the defendant or others in the [home] [place of residence] [workplace] [motor vehicle]]⁷ [intended to commit a felony in the [home] [place of residence] [workplace] [motor vehicle]]; and
- (3) the defendant reasonably believed that the degree of force the defendant used was necessary to [prevent a forcible entry] [terminate the intruder's unlawful entry] into the defendant's [home] [place of residence] [workplace] [motor vehicle].⁸

A lawful occupant within a [home] [place of residence] [workplace] [motor vehicle] does not have a duty to retreat from an intruder in these circumstances.⁹ Furthermore, a "person who unlawfully and by force enters or attempts to enter a person's [home] [place of residence] [workplace] [motor vehicle] is presumed to be doing so with the intent to commit an unlawful act involving force or violence."¹⁰ In addition, (absent evidence to the contrary)¹¹, the lawful occupant of a [home] [place of residence] [workplace] [motor vehicle] is presumed to have held a reasonable fear of imminent death or serious bodily harm to [himself] [herself] or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

- (1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a [home] [place of residence] [workplace] [motor vehicle], or if that person had removed or was attempting to remove another against that person's will from the [home] [place of residence] [workplace] [motor vehicle]; and

- (2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.¹²

It is for you, the jury, to determine the reasonableness of the defendant's belief from the circumstances as they appeared to the defendant at the time.

*NOTE WELL: The following self-defense mandate must be given after the mandate on each substantive offense instructed upon. **INCLUDING THE SELF-DEFENSE MANDATE IS REQUIRED BY STATE V. WOODSON, 31 N.C. APP. 400 (1976).** Cf. State v. Dooley, 285 N.C. 158 (1974).*

DEFENSE OF HABITATION MANDATE

If you find beyond a reasonable doubt that the defendant [killed] [assaulted] the victim you may return a verdict of guilty only if the State has satisfied you beyond a reasonable doubt that the defendant did not act in the lawful defense of the defendant's [home] [place of residence] [workplace] [motor vehicle], that is,

- (1) that the defendant did not use such force to [prevent a forcible entry] [terminate the intruder's unlawful entry] into the defendant's [home] [place of residence] [workplace] [motor vehicle];
- (2) that the defendant did not reasonably believe that the intruder [would kill or inflict serious bodily harm to the defendant or others in the [home] [place of residence] [workplace] [motor vehicle]] [intended to commit a felony in the [home] [place of residence] [workplace] [motor vehicle]]; and
- (3) that the defendant did not reasonably believe that the degree of force the defendant used was necessary to [prevent a forcible

entry] [terminate the intruder's unlawful entry] into the defendant's [home] [place of residence] [workplace] [motor vehicle].¹³

If you do not so find, or have a reasonable doubt that the State has proved any one or more of these things, then the defendant would be justified in defending the [home] [place of residence] [workplace] [motor vehicle], and it would be your duty to return a verdict of not guilty.

1. G.S. 14-51.2(b), (defense of habitation applies when the person against whom defensive force is used is “in the process of unlawfully and forcefully entering a home”); G.S. 14-51.2(a)(1) (“home” is defined to “include its curtilage”). *See also State v. Dilworth*, 274 N.C. App. 57, 851 S.E.2d 406 (2020) (holding that a defendant is entitled to a defense of habitation instruction where the person against whom defensive force is used is in the process of entering the home through its curtilage).

2. *See State v. Blue*, 356 N.C. 79, 565 S.E.2d 133 (2002) (concluding that defense of habitation can be applicable to the porch of a dwelling under certain circumstances and that the question of whether a porch, garage, or other appurtenance attached to a dwelling is within the home or residence for purposes of G.S. 14-51.1 is a question best left to the jury).

3. G.S. 14-51.2 (a) (4) states that a workplace is a “building or conveyance of any kind, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, which is being used for commercial purposes.”

4. G.S. 14-51.2 (a) (3); G.S. 20-4.01 (23) defines “motor vehicle” as “Every vehicle which is self-propelled and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. This shall not include mopeds as defined in G.S. 20-4.01(27)d1.”

5. *See* G.S. 14-51.4. The justification described in G.S. 14-51.2 and 14-51.3 is not available to a person who used defensive force and who: “(1) Was attempting to commit, committing, or escaping after the commission of a felony, and that felony offense was immediately causally connected to the circumstances giving rise to the defensive force used, *See State v. McLymore*, 2022-NCSC-12, *see also* N.C.P.I. Crim. 308.90; or (2) Initially provokes the use of force against himself or herself. However, the person who initially provokes the use of force against himself or herself will be justified in using defensive force if either of the following occur: a. The force used by the person who was provoked is so serious that the person using defensive force reasonably believes that he or she was in imminent danger of death or serious bodily harm, the person using defensive force had no reasonable means to retreat, and the use of force which is likely to cause death or serious bodily harm to the person who was provoked was the only way to escape the danger. b. The person who used defensive force withdraws, in good faith, from physical contact with the person who was provoked, and indicates clearly that he or she desires to withdraw and terminate the use of force, but the person who was provoked continues or resumes the use of force.” If evidence is presented to show the preceding, then this instruction should be modified accordingly.

6. The Supreme Court of North Carolina has recognized the affirmative defense of justification may be available “in narrow and extraordinary circumstances” to the charge of possession of a firearm by a convicted felon pursuant to N.C.G.S. § 14-415.1. *State v. Mercer*, 373 N.C. 459, 463, 838 S.E.2d 359, 363 (2020). The Court has also noted that failing to properly instruct the jury on the causal nexus requirement of N.C.G.S. § 14-51.4 denies a defendant the opportunity to assert such an affirmative defense to dispute the existence of a causal nexus between their violation of N.C.G.S. § 14-415.1 and the use of force. See *State v. McLymore*, 2022-NCSC-12, ¶ 2 (stating that the Court “does not interpret N.C.G.S. § 14-51.4(1) to categorically prohibit individuals with a prior felony conviction from ever using a firearm in self-defense[.]”). See also N.C.P.I.—Crim. 310.14 (Justification).

7. G.S. 14-51.3 (a) (1).

8. G.S. 14-51.2 (e) states that a person is not justified in using (deadly) force where the “person against whom force was used is a law enforcement officer or bail bondsman who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.” If the defendant instigated or provoked an intrusion, [he] [she] cannot rely on the defense that the degree of force used by [him] [her] was reasonably necessary.

9. G.S. 14-51.2 (f) states “a lawful occupant within his or her home, motor vehicle, or workplace does not have a duty to retreat from an intruder in the circumstances described in this section.” The defendant can stand the defendant’s ground and repel force with force regardless of the character of the assault being made upon the defendant. (N.C.P.I. Crim. 308.10).

10. G.S. 14-51.2 (d).

11. This parenthetical should be used where there is evidence presented to rebut the presumption.

12. G.S. 14-51.2 (b). Pursuant to G.S. 14-51.2(c), the presumption in (b) does not apply in any of the following circumstances: “(1) The person against whom the defensive force is used has the right to be in or is a lawful resident of the home, motor vehicle, or workplace, such as an owner or lessee, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person. (2) The person sought to be removed from the home, motor vehicle, or workplace is a child or grandchild or is otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used. (3) The person who uses defensive force is engaged in, attempting to escape from, or suing the home, motor vehicle, or workplace to further any criminal offense that involves the use or threat of physical force or violence against any individual. (4) The person against whom the defensive force is used is a law enforcement officer or bail bondsman who enters or attempts to enter a home, motor vehicle, or workplace in the lawful performance of his or her official duties, and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties. (5) The person against whom the defensive force is used (i) has discontinued all efforts to unlawfully and forcefully enter the home, motor vehicle, or workplace and (ii) has exited the home, motor vehicle, or workplace.” If the State presents evidence to rebut this presumption, then this instruction should be edited accordingly. For instance, language like the following could be added: If you find that the defendant was (describe rebuttal evidence presented by State), then this presumption would not apply.

13. *See also* G.S. 14-51.3 (b), which provides that a person who uses force as permitted by the statute is justified in using such force and is immune from civil or criminal liability, unless the person against whom force was used is a law enforcement officer or bail bondsman “who was lawfully acting in the performance of his or her official duties and the officer or bail bondsman identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer or bail bondsman in the lawful performance of his or her official duties.”

308.90 JUSTIFICATION FOR DEFENSIVE FORCE NOT AVAILABLE—
DEFENDANT ATTEMPTING TO COMMIT, COMMITTING, OR ESCAPING AFTER
THE COMMISSION OF A FELONY.

NOTE WELL: Instructing the jury on the following causal nexus requirement should only be used if there is some evidence presented that the defendant acted in self-defense while attempting to commit, committing, or escaping after the commission of a felony. See N.C.G.S. § 14-51.4(1). See also State v. McLymore, 2022-NCSC-12. If no such evidence is presented, this instruction would not be given. In addition, the remainder of the substantive instruction, including the mandate, would need to be edited accordingly.

The defendant would not be justified, and is therefore not entitled to the benefit of using defensive force, if [he] [she] was [attempting to commit] [committing] [escaping after the commission of] the felony of (*name felony offense alleged*), and that felony offense was immediately causally connected to the circumstances giving rise to the defensive force used.¹ As such, for the defendant to be disqualified from the benefit of using defensive force, the State must prove beyond a reasonable doubt, among other things, that the defendant, while acting in self-defense, was [attempting to commit] [committing] [escaping after the commission of] the felony of (*name felony offense alleged*), and there was an immediate causal connection between the defendant's use of such defensive force and [his] [her] felonious conduct. In other words, the State must prove that but for the defendant [attempting to commit] [committing] [escaping after the commission of] the felony of (*name felony offense alleged*),² the confrontation resulting in [injury to] [the death of] the victim would not have occurred.³

1. The Supreme Court of North Carolina has held that N.C.G.S. § 14-51.4(1) requires the State to prove "the existence of an immediate causal nexus between the defendant's disqualifying conduct and the confrontation during which the defendant used force," overruling *State v. Crump*, 259 N.C. App. 144 (2018) and subsequent decisions relying on *Crump's* holding. *State v. McLymore*, 2022-NCSC-12, ¶ 30. The trial judge is reminded that

this instruction must be inserted within the applicable substantive instruction when the evidence presented supports the use of this additional language. *Id.* at ¶ 35.

2. The Supreme Court of North Carolina has recognized the affirmative defense of justification may be available “in narrow and extraordinary circumstances” to the charge of possession of a firearm by a convicted felon pursuant to N.C.G.S. § 14-415.1. *State v. Mercer*, 373 N.C. 459, 463, 838 S.E.2d 359, 363 (2020). The Court has also noted that failing to properly instruct the jury on the causal nexus requirement of N.C.G.S. § 14-51.4 denies a defendant the opportunity to assert such an affirmative defense to dispute the existence of a causal nexus between their violation of N.C.G.S. § 14-415.1 and the use of force. *See State v. McLymore*, 2022-NCSC-12, ¶ 2 (stating that the Court “does not interpret N.C.G.S. § 14-51.4(1) to categorically prohibit individuals with a prior felony conviction from ever using a firearm in self-defense[.]”). *See also* N.C.P.I.—Crim. 310.14 (Justification).

3. *See State v. McLymore*, 2022-NCSC-12, ¶ 30.

310.10 COMPULSION, DURESS¹, OR COERCION.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of compulsion, duress, or coercion set out in this instruction below; (3) the jury should be instructed on the mandate for compulsion, duress, or coercion as set out below in this instruction; and (4) the jury should then be instructed on the mandate of the charged offense. **The failure to charge on all of these matters constitutes reversible error.***

There is evidence in this case tending to show that the defendant acted only because of [compulsion] [duress] [coercion]. The burden of proving [compulsion] [duress] [coercion] is on the defendant². It need not be proved beyond a reasonable doubt, but only to your satisfaction.

COMPULSION

[Compulsion is the act of compelling; the quality, state, or condition of being compelled.³]

DURESS

[Duress is where the unlawful act of another induces the defendant to perform some act under circumstances which deprive defendant of the exercise of free will.⁴]

The defendant would not be guilty of [name crime] because of duress if the defendant proves to your satisfaction the following two things:

First, the defendant's reasonable fear that the defendant would suffer immediate death or serious bodily injury if the defendant did not so act.

And Second, the defendant did not have a reasonable opportunity to avoid doing the act without undue exposure to death or serious bodily harm.⁵]

COERCION⁶

[Coercion is compulsion of a free agent by physical, moral, or economic force or threat of physical force.⁷]

The defendant's assertion of [compulsion] [duress] [coercion] is a denial that the defendant committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.⁸

If the defendant has proven to your satisfaction that the defendant (describe action of the defendant) at the time of the alleged offense because of [compulsion] [duress] [coercion] you will not consider this case further and it would be your duty to return a verdict of not guilty.

However, if you do not so find then you must decide if the defendant is guilty of (name offense). If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (give final mandate for offense charged).

1. The defense of duress is not available to a defendant charged with murder.
2. *State v. Strickland*, 307 N.C. at 297 (1983).
3. Compulsion, *Black's Law Dictionary* (10th Ed. 2014).
4. *Stegall v. Stegall*, 100 N.C. App. 398, 401, 397 S.E.2d 306, 307 (1990).
5. *State v. Smarr*, 146 N.C. App. 44, 54–55, 551 S.E.2d 881, 888 (2001).
6. The distinction between duress and coercion has blurred. See *State v. Smarr*, 146 N.C. App. 44, 54 n.1, 551 S.E.2d 881, 887 n.1 (2001) ("North Carolina case law uses the terms duress and coercion interchangeably").
7. Coercion, *Black's Law Dictionary* (10th Ed. 2014).
8. *State v. Sherian*, 234 N.C. 30 (1951).

310.12 NECESSITY¹

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of necessity set out in this instruction below; (3) the jury should be instructed on the mandate for necessity as set out below in this instruction; and (4) the jury should then be instructed on the mandate of the charged offense. **The failure to charge on all of these matters constitutes reversible error.***

There is evidence in this case tending to show that the defendant acted only because of necessity. The burden of proving necessity is on the defendant.² It need not be proved beyond a reasonable doubt, but only to your satisfaction. The defendant would not be guilty of [crime charged] if the defendant proves to your satisfaction the following three things:

First, the action of the defendant was reasonable.

Second, the action was taken to protect the life, limb, or health of the defendant (or of some other person).

And Third, there were no other acceptable choices available to the defendant.³

The defendant's assertion of necessity is a denial that the defendant has committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.⁴

NECESSITY MANDATE

If the defendant has proven to your satisfaction that the defendant (describe action of the defendant) at the time of the alleged offense because of necessity, you will not consider this case further and it would be your duty to return a verdict of not guilty.

However, if you do not so find, then you must decide if the defendant is guilty of (name offense). If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (give final mandate for offense charged).

1. *State v. Miller*, 258 N.C. App. 325, 327, 812 S.E.2d 692, 694 (2018), (explaining that “the affirmative defense of necessity is available to defendants charged with driving while under the influence”).

2. *State v. Caddell*, 287 N.C. 266, 289 (1975).

3. *State v. Miller*, 258 N.C. App. 325, 327, 812 S.E.2d 692, 694 (2018).

4. *State v. Sherian*, 234 N.C. 30 (1951).

310.14 JUSTIFICATION

NOTE WELL: The Supreme Court of North Carolina in State v. Mercer, 373 N.C. 459, 463, 838 S.E.2d 359, 363 (2020) has recognized justification may be available as an affirmative defense "in narrow and extraordinary circumstances" to the charge of possession of a firearm by a convicted felon pursuant to N.C.G.S. § 14-415.1. The North Carolina appellate courts have not yet applied this defense to other charges.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of justification set out in this instruction below; (3) the jury should be instructed on the mandate for justification as set out below in this instruction; and (4) the jury should then be instructed on the mandate of the charged offense. **The failure to charge on all of these matters constitutes reversible error.***

The defendant claims that the defendant was justified in committing the crime of [crime charged]. Justification is a defense to that charge. Here, unlike the other matters I have discussed with you, the burden of proving justification is on the defendant.¹ It need not be proved beyond a reasonable doubt, but only to your satisfaction. The defendant would not be guilty of [crime charged] if the defendant proves to your satisfaction the following four things:

First, that the defendant was under unlawful and present, imminent, and impending threat² of death or serious bodily injury.³

Second, that the defendant did not negligently or recklessly place [himself][herself] in a situation where the defendant would be forced to engage in criminal conduct.

Third, that the defendant had no reasonable legal alternative to violating the law.

And Fourth, that there was a direct causal relationship between the criminal action and the avoidance of the threatened harm.⁴

The defendant's assertion of justification serves only as a legal excuse⁵ for the criminal act of [crime charged]. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.

JUSTIFICATION MANDATE

If the defendant has proven to your satisfaction that the defendant was justified in committing [crime charged], then you will not consider this charge further and it would be your duty to return a verdict of not guilty.

However, if you do not so find that the defendant was justified in committing [crime charged], then you must decide if the defendant is guilty of that offense. If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (*give final mandate for offense charged*).

1. *State v. Sanders*, 280 N.C. 81, 85, 185 S.E.2d 158, 161 (1971).

2. *State v. Swindell*, 2021-NCCOA-408, ¶ 12 (noting that precedent cases have emphasized "the timing of a defendant's possession of the firearm"). *See, e.g., State v. Napier*, 149 N.C. App. 462, 560 S.E.2d 867 (2002) (holding justification defense was inapplicable to a defendant who voluntarily armed himself several hours before the threat occurred).

3. Use N.C.P.I.—Crim. 120.11 to define "serious bodily injury" if necessary.

4. *United States v. Deleveaux*, 205 F.3d 1292, 1297-98 (11th Cir. 2000); *see also Mercer*, 373 N.C. 459, 463-64, 838 S.E.2d 359, 363 (2020) (finding that the *Deleveaux* factors are "helpful and appropriate as a rubric for defendants to establish that they are entitled to an instruction on justification as a defense to a charge under N.C.G.S. § 14-415.1 [possession of firearm by felon]").

5. *State v. Mercer*, 373 N.C. 459, 463, 838 S.E.2d 359, 363 (2020) (noting "justification is an affirmative defense and does not negate any element of N.C.G.S. § 14-415.1 [possession of firearm by felon]. The justification defense 'serves only as a legal excuse for the criminal act and is based on additional facts and circumstances that are distinct from the conduct constituting the underlying offense.'" (internal citations omitted)).

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