



# Legislative Update

BRITTANY (WILLIAMS) BROMELL  
SEPTEMBER 2022

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**2022 Legislation Affecting Criminal Law and Procedure**  
Brittany Williams Bromell  
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Last updated August 26, 2022

Below are summaries of 2022 legislation affecting criminal law, criminal procedure, and motor vehicle law. To obtain the text of the legislation, click on the link provided below or go to the General Assembly's website, [www.legis.gov](https://legis.state.nc.us/). Be sure to note the effective date of each piece of legislation.

**21 S.L. 2022-01 2465 First appearance.** Effective July 1, 2022, section 8.4 of this act amends G.S. 15A-1012(a) to allow a magistrate to conduct a first appearance if a district court judge or clerk is not available.

**21 S.L. 2022-01 3152 Asset law revisions.** This act makes several changes to North Carolina's laws related to assets.

**Asset offenses.** Effective for offenses committed on or after December 1, 2022, section 1 of this act (1) increases the punishment for second-degree arson from a Class C felony to a Class F felony (2) adds new G.S. 14-151.1 which provides that a person cannot voluntarily and intelligently give his, her, or its property to himself, or to any relative, or to provide the burning of a personal residence, the use of which is prohibited by a Class D fire, and (3) amends G.S. 14-152.2 to address religious temples, shrines, monasteries, mosques, or any other building that is regularly used and clearly identifiable as a place for religious worship.

This section also adds new G.S. 14-153 to provide for the burning of commercial structures. Under this new statute, commercial structures are defined as any building or structure that is designed or suitable for the manufacture, distribution, or exchange of goods or services, or for any other business or trade purpose. Burning of an occupied commercial structure is punishable.

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**BACK AND FORTH,  
BACK AND FORTH**

## First appearances

S.L. 2022-6 (H 243)

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**More on first appearances**

S.L. 2022-47 (H 607)

“For the limited purpose of conducting a first appearance and notwithstanding any other provision of law, the clerk or magistrate shall proceed under this article as a district court judge would and shall have the same authority that a district court judge would have at a first appearance.”

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**More on first appearances**

Conforming change to G.S. 15A-604 to account for the inclusion of misdemeanor offenses

Conforming change to G.S. 15A-606(a) clarifies that the scheduling of a probable cause hearing only extends to defendants charged with criminal offenses within the original jurisdiction of the superior court.

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**Defendant’s signature on citations**

S.L. 2022-47 (H 607)

Removes provision under G.S. 15A-302(d) for a defendant to sign a citation issued by a law enforcement officer.

A copy of the citation must be delivered to the person cited.

A person’s failure to “accept delivery” of a citation does not constitute grounds for arrest or for requiring that the defendant post a bond.

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## Arson law revisions

S.L. 2022-8 (H 315)



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Increases the punishment for second degree arson from a Class G felony to a Class E felony

Adds new G.S. 14-59.1

- Burning of a penal institution → Class D felony

Adds new G.S. 14-62.3

- Burning of commercial structures
- Burning of an occupied commercial structure → Class D felony
- Burning of an unoccupied commercial structure → Class E felony

Expands G.S. 14-62.2

- Includes synagogues, temples, longhouses, mosques, or any other building that is regularly used and clearly identifiable as a place for religious worship

Expands G.S. 14-69.3

- First responder suffers serious injury while discharging official duties → Class F felony

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## Organized retail theft

S.L. 2022-30 (S 766)



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**Adds new G.S. 14-86.7**

- **Damage to property during organized retail theft**
  - Value of stolen goods must exceed one thousand dollars
  - \$1,000
  - Damage to property must exceed \$1,000
- **Assault during organized retail theft**
  - Value of stolen goods must exceed \$1,000
  - Assault must be against an employee or independent contractor of the retail establishment or a law enforcement officer

Both offenses are punished as a Class A1 misdemeanor

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**DNA for assault and DV offenses**  
S.L. 2022-50 (H 674)

Expands the list of offenses for which a person is required to provide a DNA sample upon conviction or a finding of NGRJ

- Assault on a female as proscribed by G.S. 14-33(c)(2)
- Assault on a child as proscribed by G.S. 14-33(c)(3)
- All offenses described in G.S. 50B-4.1
- Violations of a valid protective order



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**Controlled Substance Act amendments**  
S.L. 2022-32 (S 455)

Permanently authorizes hemp and hemp products in the state

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**Theft of catalytic converters**  
S.L. 2022-68 (S 201)

Repeals G.S. 14-72.8(b), as enacted by Section 1 of S.L. 2021-154

Enacts new G.S. 14-164.1 to proscribe the offense of possession of a catalytic converter removed from a motor vehicle  
Class I felony

**§ 14-72.8. Felony larceny of motor vehicle parts.**  
(a) **Offense; Punishment.** — Unless the conduct is covered under some other provision of law providing greater punishment, larceny of a motor vehicle part is a Class I felony if (i) the cost of repairing the motor vehicle is one thousand dollars (\$1,000) or more or (ii) the motor vehicle part is a catalytic converter.  
(b) **Presumption.** — 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 this section unless the person can prove, by a preponderance of the evidence, the following:  
(1) The person obtained the catalytic converter from a secondary metals recycler, or the person is a licensed dealer, or the person is a person licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency.  
(2) The person obtained the catalytic converter from a person who is licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency, or the person is a person licensed by the State law enforcement agency.  
(c) **Determining Cost.** — For purposes of this section, the cost of repairing a motor vehicle means the cost of any replacement part and any additional costs necessary to install the replacement part in the motor vehicle. (2009-379, s. 1; 2021-154, s. 1.)

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**Injuring or tampering with a vehicle**  
S.L. 2022-73 (H 252)

Recodifies G.S. 20-107 as G.S. 14-160.4

Injuring or tampering with a vehicle a Class 2 misdemeanor

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**QUESTIONS?**  
Up next...

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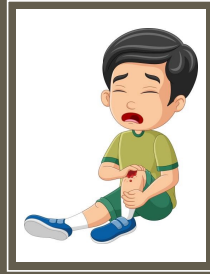
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## PHYSICAL INJURY

Includes cuts, scrapes, bruises, or other physical injury which does not constitute serious injury.

G.S. 14-34.7(c).



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## APPLICABLE OFFENSES

- G.S. 14-288.9 – Assault on emergency personnel inflicting physical injury
- G.S. 14-318.2 – Misdemeanor child abuse
- G.S. 14-32.4 – Strangulation
- G.S. 14-34.6(a) – Assault on a firefighter, EMT, medical responder, or hospital personnel inflicting physical injury
- G.S. 14-34.7(c) – Assault on law enforcement and other officers inflicting physical injury

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## EXAMPLE

- Upholding a conviction of misdemeanor child abuse inflicting physical injury where the child suffered a second-degree burn on his face, appearing that something had been placed or held against the child's face
- State v. Church, 99 N.C.App. 647 (1990).

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NOTES

- Generally, a parent is not criminally liable for inflicting physical injury on a child while lawfully administering corporal punishment.
- General rule does not apply where the parent
  - (1) administers punishment that causes or is calculated to cause an injury that is lasting or will continue indefinitely.
  - (2) administers punishment borne of malice or wickedness of purpose rather than a good faith or honest effort to discipline the child, or
  - (3) uses cruel or grossly inappropriate procedures.

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**SERIOUS PHYSICAL INJURY/SERIOUS INJURY**

Physical injury that causes great pain and suffering, including serious mental injury.

G.S. 14-318.4(d)(2)

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**APPLICABLE OFFENSES**

- G.S. 14-223(b) – Resisting officer causing serious injury
- G.S. 14-318.4(a) – Felony child abuse
- G.S. 14-32 – Assault with a deadly weapon inflicting serious injury
- G.S. 14-32.1 – Assault on a person with a disability inflicting serious injury
- G.S. 14-33(c)(1) – Assault inflicting serious injury

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EXAMPLE

- Upholding a conviction of felony child abuse inflicting serious physical injury where there were second-degree burns on a child's buttocks, left untreated for several days
- State v. Church, 99 N.C.App. 647 (1990)

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- Factors to consider:
  - Pain
  - Loss of blood
  - Hospitalization
  - Time lost from work
- A person need not be hospitalized for an injury to be considered "serious injury"
- For child abuse cases, there is not a requirement that a child be unable to attend school or engage in play

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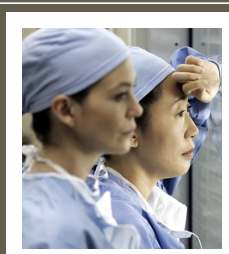
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SERIOUS BODILY INJURY

Bodily 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.



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### APPLICABLE OFFENSES

- G.S. 14-16.6(c) – Assault on a legislative, executive, or court officer inflicting serious bodily injury
- G.S. 14-222(c) – Resisting officers causing serious bodily injury
- G.S. 14-223.5 – Assault inflicting serious bodily injury on an unborn child
- G.S. 14-318.4(a) – Felony child abuse
- G.S. 14-32.4(a) – Assault inflicting serious bodily injury
- G.S. 14-34.1(c) – Discharging a firearm into occupied property
- G.S. 14-34.6(b) – Assault on a firefighter, EMT, medical responder, or hospital personnel inflicting serious bodily injury
- G.S. 14-34.7(a) – Assault on law enforcement and other officers inflicting serious bodily injury

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### EXAMPLE

- Upholding a conviction of assault on an officer inflicting serious bodily injury where an officer sustained:
  - puncture wounds on his left forearm and right bicep,
  - severe bruising and depressions,
  - permanent scarring, and
  - scabbing
- Given that the bites caused extreme pain, skin removal, permanent scarring, and hospitalization, the court held that a reasonable juror could find this evidence sufficient to conclude the officer's injuries caused serious permanent disfigurement, or a permanent or protracted condition that caused extreme pain, or injury that resulted in prolonged hospitalization.

• State v. Burwell, 256 N.C. App. 722 (2017)

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### NOTES

- "While each case must be considered on its own facts, the presence of a minor [permanent] scar or other mild disfigurement alone cannot be sufficient to support a finding of serious bodily injury."
- Bite-shaped discoloration on an officer's arm was not sufficient to support a finding that the defendant's bite resulted in "serious permanent disfigurement."
- The officer's ability to leave the hospital and return to the police station to complete paperwork that same night demonstrated that his pain was not protracted and thus did not rise to the level of serious bodily injury. State v. Williams, 255 N.C. App. 168 (2017).

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**Levels of injury**

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**During an arrest, the suspect bit the officer's finger and broke the skin, and the officer sustained cuts on her elbow and wrist during the encounter.**

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**During an arrest, the suspect bit the officer's finger and broke the skin, and the officer sustained cuts on her elbow and wrist during the encounter.**

Physical injury

Serious physical injury

Serious bodily injury

Total Results: 0

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Physical injury

Serious physical injury

Serious bodily injury

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Kelly got into a fight. As a result of the assault, she suffered a scar over her eye. Because of the scar, she also suffered a subsequent lingering infection.

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Kelly got into a fight. As a result of the assault, she suffered a scar over her eye. Because of the scar, she also suffered a subsequent lingering infection.



- Physical injury
- Serious physical injury
- Serious bodily injury

Total Results: 0

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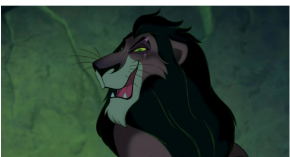
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Kelly got into a fight. As a result of the assault, she suffered a scar over her eye. Because of the scar, she also suffered a subsequent lingering infection.



- Physical injury
- Serious physical injury
- Serious bodily injury

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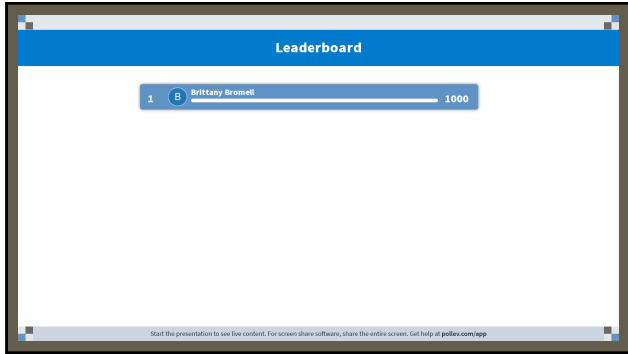
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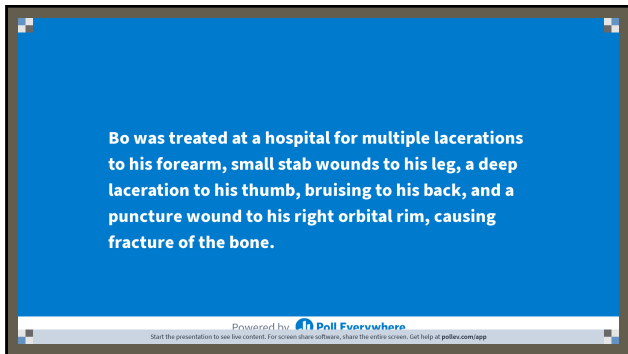
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**Bo was treated at a hospital for multiple lacerations to his forearm, small stab wounds to his leg, a deep laceration to his thumb, bruising to his back, and a puncture wound to his right orbital rim, causing fracture of the bone.**

Physical injury  
Serious physical injury  
Serious bodily injury

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**James and Victor get into a fight. Victor sustains a broken bone in the mouth, a damaged tooth, and a broken bone in the hand as a result of being struck by James's hands and fists.**

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**James and Victor get into a fight. Victor sustains a broken bone in the mouth, a damaged tooth, and a broken bone in the hand as a result of being struck by James's hands and fists.**



- Physical injury
- Serious physical injury
- Serious bodily injury

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Total Results: 0

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**James and Victor get into a fight. Victor sustains a broken bone in the mouth, a damaged tooth, and a broken bone in the hand as a result of being struck by James's hands and fists.**



- Physical injury
- Serious physical injury
- Serious bodily injury

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**16-year-old Alex was beaten with a belt for about an hour. As a result, she suffered bleeding, bruising on both arms, swelling and puffiness of the legs, black and blue buttocks, and was in pain for two weeks.**

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**16-year-old Alex was beaten with a belt for about an hour. As a result, she suffered bleeding, bruising on both arms, swelling and puffiness of the legs, black and blue buttocks, and was in pain for two weeks.**

- Physical injury
- Serious physical injury
- Serious bodily injury

Total Results: 0

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**16-year-old Alex was beaten with a belt for about an hour. As a result, she suffered bleeding, bruising on both arms, swelling and puffiness of the legs, black and blue buttocks, and was in pain for two weeks.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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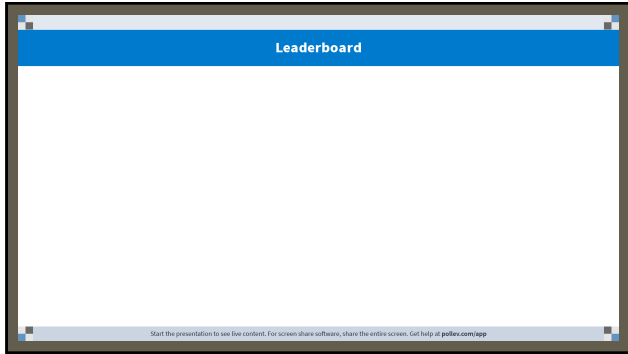
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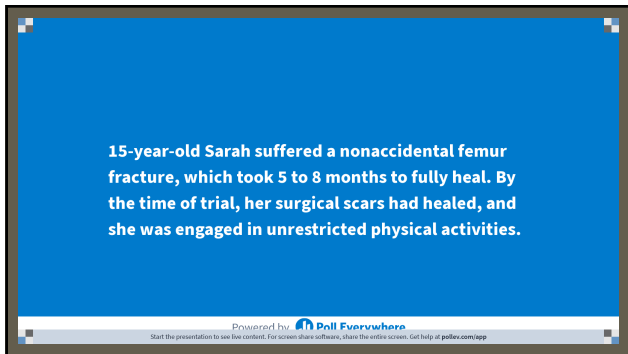
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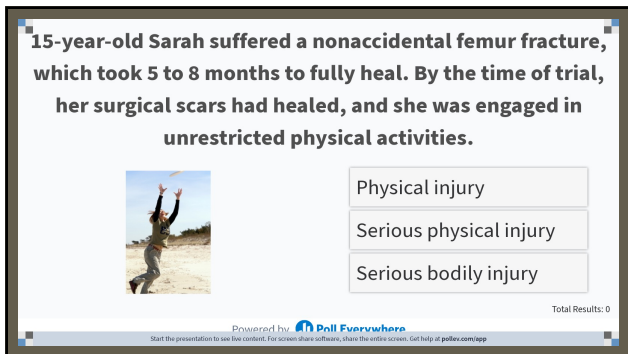
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**15-year-old Sarah suffered a nonaccidental femur fracture, which took 5 to 8 months to fully heal. By the time of trial, her surgical scars had healed, and she was engaged in unrestricted physical activities.**



- Physical injury
- Serious physical injury
- Serious bodily injury

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**The victim suffered a broken jaw which was wired shut for two months, \$6,000 worth of damage to his teeth, broken ribs, and spasms on two occasions that made it so difficult for him to breathe that he had to visit the emergency room.**

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**The victim suffered a broken jaw which was wired shut for two months, \$6,000 worth of damage to his teeth, broken ribs, and spasms on two occasions that made it so difficult for him to breathe that he had to visit the emergency room.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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Total Results: 0

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**The victim suffered a broken jaw which was wired shut for two months, \$6,000 worth of damage to his teeth, broken ribs, and spasms on two occasions that made it so difficult for him to breathe that he had to visit the emergency room.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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The victim testified that she was strangled twice. There was photographic evidence depicting bruising, abrasions, and bite marks on and around her neck.

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The victim testified that she was strangled twice. There was photographic evidence depicting bruising, abrasions, and bite marks on and around her neck.

- Physical injury
- Serious physical injury
- Serious bodily injury

Total Results: 0

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The victim testified that she was strangled twice. There was photographic evidence depicting bruising, abrasions, and bite marks on and around her neck.

- Physical injury
- Serious physical injury
- Serious bodily injury

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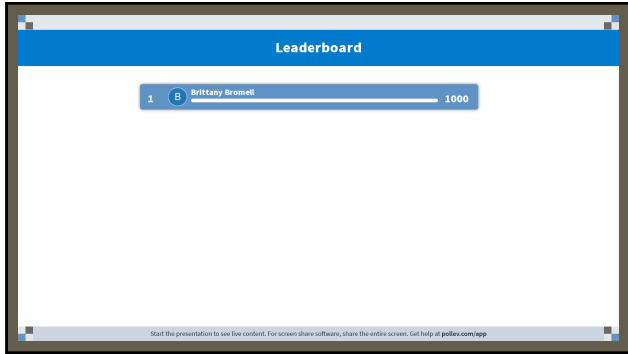
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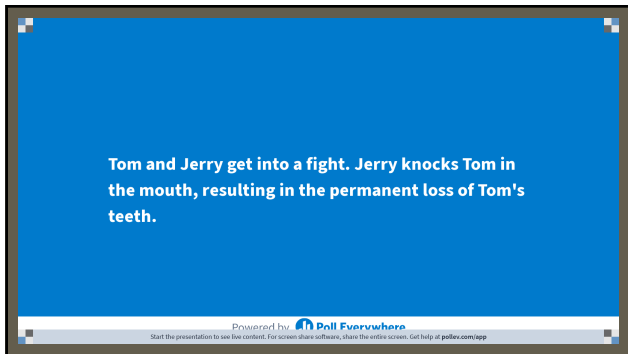
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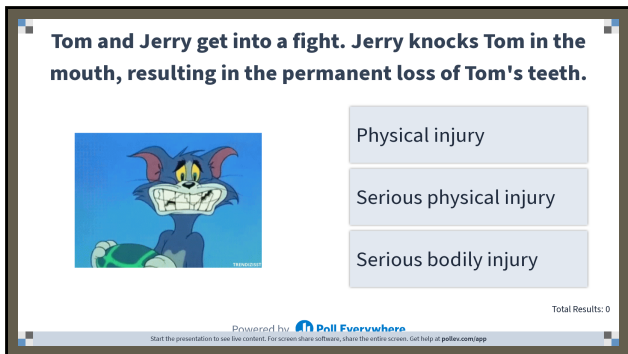
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**Tom and Jerry get into a fight. Jerry knocks Tom in the mouth, resulting in the permanent loss of Tom's teeth.**



- Physical injury
- Serious physical injury
- Serious bodily injury

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**Leaderboard**

1	B	Brittany Bromell	1000
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**Zion was beaten by means of stomping and punching, had the letter "Z" carved in his back, was hospitalized, received twenty-four staples in his head, and was emotionally traumatized by the encounter.**

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**Zion was beaten by means of stomping and punching, had the letter "Z" carved in his back, was hospitalized, received twenty-four staples in his head, and was emotionally traumatized by the encounter.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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Total Results: 0

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**Zion was beaten by means of stomping and punching, had the letter "Z" carved in his back, was hospitalized, received twenty-four staples in his head, and was emotionally traumatized by the encounter.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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**Leaderboard**

1	B	Brittany Bromell	1000
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Sam discloses that she was strangled. She notes that she had difficulty breathing, but did not suffer and bruising, redness, or other visible injury.

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**Sam discloses that she was strangled. She notes that she had difficulty breathing, but did not suffer and bruising, redness, or other visible injury.**

- Physical injury
- Serious physical injury
- Serious bodily injury

Total Results: 0

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**Sam discloses that she was strangled. She notes that she had difficulty breathing, but did not suffer and bruising, redness, or other visible injury.**

- Physical injury
- Serious physical injury
- Serious bodily injury

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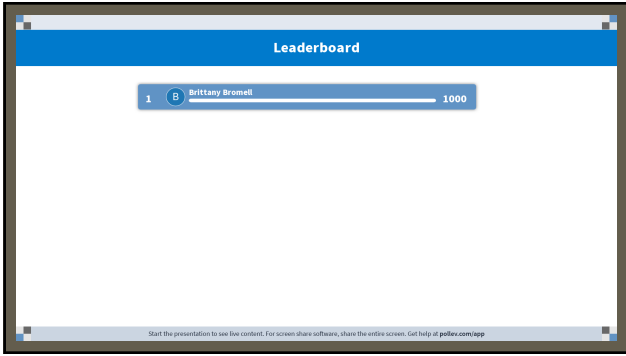
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