

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 1034
HOUSE BILL 379

AN ACT TO INCREASE THE FINE FOR PERSONS CONVICTED OF DRIVING MORE THAN FIFTEEN MILES PER HOUR OVER THE SPEED LIMIT, TO CHANGE THE STANDARD OF PROOF IN HEARINGS AND REHEARINGS FOR INVOLUNTARY COMMITMENT OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141(j1) reads as rewritten:

"(j1) ~~It is a misdemeanor punishable as provided in G.S. 20-176 for a person to drive. A person who drives~~ a vehicle on a highway at a speed that is more than 15 miles per hour more than the speed limit established by law for the highway where the offense occurred ~~is guilty of a misdemeanor punishable by imprisonment for up to 60 days, a fine up to two hundred dollars (\$200.00), or both.~~"

Sec. 2. G.S. 122C-268.1(b) reads as rewritten:

"(b) The district attorney in the county in which the respondent was found not guilty by reason of insanity may represent the State's interest at the ~~hearing, hearing, rehearings, and supplemental hearings~~. If the district attorney declines to represent the State's interest, then the representation shall be determined as follows. An attorney, who is a member of the staff of the Attorney General assigned to one of the State's facilities for the mentally ill or the psychiatric service of the University of North Carolina Hospitals at Chapel Hill, may represent the State's interest at commitment hearings, rehearings, and supplemental hearings. Alternatively, the Attorney General may, in his discretion, designate an attorney who is a member of his staff to represent the State's interest at any commitment hearing, rehearing, or supplemental hearing."

Sec. 3. G.S. 122C-268.1(i) reads as rewritten:

"(i) The respondent shall bear the burden to prove by a preponderance of the evidence that he is ~~(i) no longer dangerous to others. If the court is so satisfied, then the respondent shall bear the burden to prove by a preponderance of the evidence (i) that he does not have a mental illness, or (ii) that confinement is not necessary to ensure his own survival or safety and that confinement is not necessary to alleviate or cure his illness. has a mental illness as defined in G.S. 122C-3(21), or (ii) is no longer dangerous to others as defined in G.S. 122C-3(11)b.~~ If the court is so satisfied, then the court shall order the respondent discharged and released. If the court finds that the respondent has not met his ~~burdens~~ ~~burden~~ of proof, then the court shall order that inpatient commitment continue at a 24-hour facility designated pursuant to G.S. 122C-252 for a

period not to exceed 90 days. The court shall make a written record of the facts that support its findings."

Sec. 4. G.S. 122C-276.1(c) reads as rewritten:

"(c) The respondent shall bear the burden to prove by a preponderance of the evidence that he is (i) no longer dangerous to others. If the court is so satisfied, then the respondent shall bear the burden to prove by a preponderance of the evidence (i) that he does not have a mental illness, or (ii) that confinement is not necessary to ensure his own survival or safety and that confinement is not necessary to alleviate or cure his illness. has a mental illness as defined in G.S. 122C-3(21), or (ii) is no longer dangerous to others as defined in G.S. 122C-3(11)b. If the court is so satisfied, then the court shall order the respondent discharged and released. If the court finds that the respondent has not met his burdens burden of proof, then the court shall order inpatient commitment be continued for a period not to exceed 180 days. The court shall make a written record of the facts that support its findings."

Sec. 5. G.S. 122C-271 is amended by adding a new subsection to read:

"(c) If the respondent was found not guilty by reason of insanity and has been held in a 24-hour facility pending the court hearing held pursuant to G.S. 122C-268.1, the court may make one of the following dispositions:

- (1) If the court finds that the respondent has not proved by a preponderance of the evidence that he no longer has a mental illness or that he is no longer dangerous to others, it shall order inpatient treatment at a 24-hour facility for a period not to exceed 90 days.
- (2) If the court finds that the respondent has proven by a preponderance of the evidence that he no longer has a mental illness or that he is no longer dangerous to others, the court shall order the respondent discharged and released."

Sec. 6. Section 1 of this act becomes effective October 1, 1992, and applies to offenses committed on or after that date. The remainder of this act is effective upon ratification and applies to all hearings and rehearings on discharge and conditional release occurring on or after the date of ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1992.

Henson P. Barnes
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives