

From This Day Forward: Technical Corrections Act Amends Statute of Limitations

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While we wait to see what the North Carolina Supreme Court has to say in *State v. Turner* about the existing statute of limitations for misdemeanors, the General Assembly has amended G.S. 15-1 for future prosecutions.

The issue. Recall that in [State v. Turner](#), __ N.C. App. ___, 793 S.E.2d 287 (2016) (discussed [here](#) and [here](#)), the North Carolina Court of Appeals held that the issuance of a magistrate's order charging a defendant with driving while impaired did not toll the two-year statute of limitations for misdemeanors. Because the defendant was not tried within two years of the offense, the appellate court ruled that the trial court properly dismissed the charges. The court based its decision on the "explicit" language in [G.S. 15-1](#), which required that an indictment or presentment be issued within two years.

The State appealed *Turner* and an unpublished companion case, [State v. Curtis](#), __ N.C. App. ___, 794 S.E.2d 561 (2016), decided the same day and involving the same issues, to the state supreme court. Consolidated oral argument for both cases is scheduled for November 6.

The amendments. The current version of [G.S. 15-1](#) was enacted in 1943. Its provisions pre-date many modern developments in our court system, not least among them the creation of district court. The legislature decided it was time for an update, which it included in [S.L. 2017-212](#) (S 582), the so-called technical corrections act that became law on October 8.

G.S. 15-1, v. 2.0. The statutory amendments are depicted in the image below. Amended G.S. 15-1 specifies that misdemeanors must simply be **charged**—rather than presented or indicted—within two years of the commission of the offense. Thus, under the amended version of the statute, it is clear that issuance of a citation or a magistrate's order within two years of the offense would satisfy the statute of limitations.

"§ 15-1. Statute of limitations for misdemeanors.

The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious misdemeanors, shall be ~~presented or found by the grand jury~~ **charged** within two years after the commission of the same, and not afterwards: Provided, that if any ~~indictment found within that time~~ **pleading** shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State."

Beyond Turner. The amendments change G.S. 15-1 in another manner that was not at issue in *State v. Turner*. Current G.S. 15-1 provides that if a timely indictment for a misdemeanor is deemed defective, another prosecution may

be instituted within one year. Amended G.S. 15-1 provides that if **any pleading** is deemed defective, the state may reinstitute a prosecution within one year. As a result, the State will be able to file new misdemeanor charges more than two years after an offense occurred if the original charges were filed within two years and were dismissed due to a defect in the charging instrument.

The effective date. The amended version of G.S. 15-1 is effective for offenses committed on or after December 1, 2017.