



The New Terrorism Offense

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Concluding that current State criminal statutes “do not sufficiently recognize the increased danger to the public and do not sanction appropriately acts of terrorism,” [S.L. 2012-38](#), the General Assembly recently enacted a new terrorism offense. The new crime applies to offenses committed on after December 1, 2012. *Id.* Here’s what you need to know:

Statute: G.S. 14-10.1

Elements: A person guilty of this offense

- (1) commits an act of violence
- (2) with the intent to
 - (a) intimidate the civilian population at large, or an identifiable group of the civilian population, or
 - (b) influence, through intimidation, a government’s conduct or activities.

Punishment: As a felony that is one class higher than the offense which constitutes the underlying act of violence, except that a violation is a Class B1 felony if the underlying act of violence is a Class A or B1 felony. G.S. 14-10.1(c).

Notes:

Element (1). G.S. 14-10.1(a) defines the term “act of violence” to include:

- murder under G.S. 14-17;
- manslaughter punished under G.S. 14-18;
- any Chapter 14 felony that includes an assault or use of violence or force against a person;
- any felony that includes either the threat or use of any explosive or incendiary device; and
- any offense that includes the threat or use of a nuclear, biological, or chemical weapon of mass destruction.

The statute does not define the phrase “explosive or incendiary device.” That term is defined in other statutory provisions. However, it is not clear which of these definitions is meant to apply to this offense. Specifically, G.S. 14-50.1 defines an “explosive or incendiary device or material” as including “nitroglycerine, dynamite, gunpowder, other high explosive, incendiary bomb or grenade, other destructive incendiary device, or any other destructive incendiary or explosive device, compound, or formulation; any instrument or substance capable of being used for destructive explosive or incendiary purposes against persons or property, when the circumstances indicate some probability that such instrument or substance will be so used; or any explosive or incendiary part or ingredient in any instrument or substance included above, when the circumstances indicate some probability that such part or ingredient will be so used.” G.S. 14-72(b)(3) defines an “explosive or incendiary device or substance” as “any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by

explosive or incendiary action or lethal injury to persons by explosive or incendiary action.” That section further provides that the definition does not include “fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.” G.S. 14-72(b)(3).

Presumably the phrase “any offense that includes the threat or use of a nuclear, biological, or chemical weapon of mass destruction” refers to the nuclear, biological, or chemical weapon of mass destruction offenses in G.S. 14-288.21 to -288.24.

Element (2)(b). The governments covered include the federal government, any state government, and any unit of local government. G.S. 14-10.1(b)(2).

Multiple convictions and punishments. A defendant may be convicted and punished for both this offense and the underlying offense that constitutes the act of violence. G.S. 14-10.1(c).

Seizure and forfeiture of property. All real and personal property used or intended for use in the course of, derived from, or realized through this offense is subject to seizure and forfeiture pursuant to G.S. 14-2.3 and G.S. 14-7.20. G.S. 14-10.1(d). However, the forfeiture is subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law. G.S. 14-10.1(d). Also, no property may be forfeited against an owner who made a bona fide purchase of it, or a person with rightful possession of the property, without knowledge of the criminal violation. *Id.*

Related Offenses

Malicious Damage by Use of Explosives or Incendiaries

False Bomb Report Offenses

Perpetrating a Hoax by Use of a False Bomb or Other Device

Making a False Report Concerning Mass Violence on Educational Property

Nuclear, Biological, or Chemical Weapon of Mass Destruction Offenses

Manufacture, Possession, etc. of a Machine Gun, Sawed-Off Shotgun, or Weapon of Mass

Destruction

Gang-Related Crimes

Riot Offenses