

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1990

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SENATE BILL 1\*

Short Title: Raise Prison Cap.

(Public)

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Sponsors: Senators Parnell, Kincaid, and Royall.

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Referred to: Passed 1, 2, & 3 Readings; Sent to House.

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March 6, 1990

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PRISON POPULATION STABILIZATION ACT TO  
RAISE THE POPULATION CAP AND TO ADJOURN THE 1990 EXTRA  
SESSION OF THE GENERAL ASSEMBLY SINE DIE.

The General Assembly of North Carolina enacts:

Section 1. Effective March 28, 1990, G.S. 148-4.1 reads as rewritten:

**"§ 148-4.1. Release of inmates.**

(a) Whenever the Secretary of Correction determines from data compiled by the Department of Correction that it is necessary to reduce the prison population to a more manageable level, he shall direct the Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose.

(b) Except as provided in subsection (c) and (e), only inmates who are otherwise eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of this Chapter may be released under this section.

(c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible for early parole under this section nine months prior to the discharge date otherwise applicable, and six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2.

(d) If the number of prisoners ~~servng a sentence in the State prison system or otherwise housed in the State prison system~~ housed in facilities owned or operated by the State of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of ~~18,000-18,525~~ for 15 consecutive days, the Secretary of Correction shall notify the Governor and the Chairman of the Parole Commission of this fact. Upon receipt of this notification, the Parole Commission shall within 90 days release on parole a number of

1 inmates sufficient to reduce the ~~number of prisoners serving a sentence in the State prison~~  
2 ~~system or otherwise housed in the State prison system~~ prison population to ninety-seven  
3 percent (97%) of ~~18,000-18,525~~.

4 From the date of the notification until the ~~number of prisoners serving a sentence in the~~  
5 ~~State prison system or otherwise housed in the State prison system~~ prison population has  
6 been reduced to ninety-seven percent (97%) of ~~18,000-18,525~~, the Secretary may not  
7 accept any inmates ordered transferred from local confinement facilities to the State  
8 prison system under G.S. 148-32.1(b). Further, the Secretary may return any inmate  
9 housed in the State prison system under an order entered pursuant to G.S. 148-32.1(b) to  
10 the local confinement facility from which the inmate was transferred.

11 (e) In addition to those persons otherwise eligible for parole, from the date of  
12 notification in subsection (d) until the ~~number of prisoners serving a sentence in the State~~  
13 ~~prison system or otherwise housed in the State prison system~~ prison population has been  
14 reduced to ninety-seven percent (97%) of ~~18,000-18,525~~, any person imprisoned only  
15 for a misdemeanor also shall be eligible for parole and immediate termination upon  
16 admission, notwithstanding any other provision of law, except those persons convicted  
17 under G.S. 20-138.1 of driving while impaired or any offense involving impaired  
18 driving.

19 (f) In complying with the mandate of subsection (d), the Parole Commission may  
20 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to  
21 be paroled under this section so long as the prison population does not exceed ~~18,000-~~  
22 18,525.

23 (g) In order to meet the requirements of this section, the ~~The~~ Parole Commission  
24 shall not parole any person convicted under Article 7A of Chapter 14 of a sex offense,  
25 under G.S. 14-39, 14-41, or 14-43.3, ~~or~~ under G.S. 90-95(h) of a drug trafficking ~~offense~~  
26 offense, or under G.S. 14-17 where the victim was a law enforcement officer acting in  
27 the line of duty. in order to meet the requirements of this section. ~~The~~ Parole Commission  
28 may continue to consider the suitability for release of such persons in accordance with  
29 the criteria set forth in Articles 85 and 85A of Chapter 15A."

30 Sec. 2.1. Effective May 15, 1990, G.S. 148-4.1(d) as amended by Section 1 of  
31 this act reads as rewritten:

32 "(d) If the number of prisoners housed in facilities owned or operated by the State  
33 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of  
34 ~~18,525-18,650~~ for 15 consecutive days, the Secretary of Correction shall notify the  
35 Governor and the Chairman of the Parole Commission of this fact. Upon receipt of this  
36 notification, the Parole Commission shall within 90 days release on parole a number of  
37 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of  
38 ~~18,525-18,650~~.

39 From the date of the notification until the prison population has been reduced to  
40 ninety-seven percent (97%) of ~~18,525-18,650~~, the Secretary may not accept any inmates  
41 ordered transferred from local confinement facilities to the State prison system under  
42 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State  
43 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local  
44 confinement facility from which the inmate was transferred."

1           Sec. 2.2. Effective May 15, 1990, G.S. 148-4.1(e) as amended by Section 1 of  
2 this act reads as rewritten:

3           "(e) In addition to those persons otherwise eligible for parole, from the date of  
4 notification in subsection (d) until the prison population has been reduced to ninety-  
5 seven percent (97%) of ~~18,525~~, 18,650, any person imprisoned only for a misdemeanor  
6 also shall be eligible for parole and immediate termination upon admission,  
7 notwithstanding any other provision of law, except those persons convicted under G.S.  
8 20-138.1 of driving while impaired or any offense involving impaired driving."

9           Sec. 2.3. Effective May 15, 1990, G.S. 148-4.1(f) as amended by Section 1 of  
10 this act reads as rewritten:

11           "(f) In complying with the mandate of subsection (d), the Parole Commission may  
12 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to  
13 be paroled under this section so long as the prison population does not exceed ~~18,525~~.  
14 18,650."

15           Sec. 3.1. Effective June 15, 1990, G.S. 148-4.1(d) as amended by Sections 1  
16 and 2.1 of this act reads as rewritten:

17           "(d) If the number of prisoners housed in facilities owned or operated by the State  
18 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of  
19 ~~18,650~~ 18,715 for 15 consecutive days, the Secretary of Correction shall notify the  
20 Governor and the Chairman of the Parole Commission of this fact. Upon receipt of this  
21 notification, the Parole Commission shall within 90 days release on parole a number of  
22 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of  
23 ~~18,650~~ 18,715.

24           From the date of the notification until the prison population has been reduced to  
25 ninety-seven percent (97%) of ~~18,650~~ 18,715, the Secretary may not accept any inmates  
26 ordered transferred from local confinement facilities to the State prison system under  
27 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State  
28 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local  
29 confinement facility from which the inmate was transferred."

30           Sec. 3.2. Effective June 15, 1990, G.S. 148-4.1(e) as amended by Sections 1  
31 and 2.2 of this act reads as rewritten:

32           "(e) In addition to those persons otherwise eligible for parole, from the date of  
33 notification in subsection (d) until the prison population has been reduced to ninety-  
34 seven percent (97%) of ~~18,650~~ 18,715, any person imprisoned only for a misdemeanor  
35 also shall be eligible for parole and immediate termination upon admission,  
36 notwithstanding any other provision of law, except those persons convicted under G.S.  
37 20-138.1 of driving while impaired or any offense involving impaired driving."

38           Sec. 3.3. Effective June 15, 1990, G.S. 148-4.1(f) as amended by Sections 1  
39 and 2.3 of this act reads as rewritten:

40           "(f) In complying with the mandate of subsection (d), the Parole Commission may  
41 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to  
42 be paroled under this section so long as the prison population does not exceed ~~18,650~~.  
43 18,715."

1           Sec. 4. Funds to implement the provisions of this act shall come from funds  
2 already appropriated to the Department of Correction for the 1989-90 fiscal year.

3           Sec. 5. The House of Representatives and the Senate, constituting the 1990  
4 Extra Session of the General Assembly, do adjourn the 1990 Extra Session **sine die**  
5 upon ratification of this act.

6           Sec. 6. This act is effective upon ratification.