

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1549*

Short Title: Incr. Public Safety/Remove Cap.

(Public)

Sponsors: Representatives Wilson, Creech, Hege, Kimsey, Loflin, Pope; Balmer, Barbee, Brawley, Brown, Brubaker, Culp, Decker, Dickson, Dockham, Esposito, Flaherty, Gamble, Gardner, Grady, Gray, Green, Holmes, Howard, Huffman, Isenhower, Justus, Lewis, Ligon, Morgan, Privette, Rhodes, Robinson, Russell, Warner, and Wood.

Referred to: Rules, Appointments and Calendar.

June 3, 1992

A BILL TO BE ENTITLED

AN ACT TO INCREASE PUBLIC SAFETY BY REPEALING THE PRISON
POPULATION STABILIZATION ACT.

The General Assembly of North Carolina enacts:

Section 1. 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 ~~(e) and (e)~~, (c), 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~~ six months prior to the discharge date otherwise applicable, and ~~six~~ three months prior to the date of automatic 90-day parole authorized by ~~G.S. 15A-1380.2~~ G.S. 15A-1380.2; provided, however, when the Secretary of Correction certifies that in his opinion a person eligible for parole under Article 85A of Chapter 15A poses no threat to society, that person shall be eligible for early parole

1 under this section nine months prior to the discharge date otherwise applicable, and six
2 months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2.

3 (d) If the number of prisoners housed in facilities owned or operated by the State
4 of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of
5 20,394 for 15 consecutive days, the Secretary of Correction shall notify the Governor
6 and the Chairman of the Parole Commission of this fact. Upon receipt of this
7 notification, the Parole Commission shall within 90 days release on parole a number of
8 inmates sufficient to reduce the prison population to ninety-seven percent (97%) of
9 20,394.

10 From the date of the notification until the prison population has been reduced to
11 ninety-seven percent (97%) of 20,394, the Secretary may not accept any inmates
12 ordered transferred from local confinement facilities to the State prison system under
13 G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State
14 prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
15 confinement facility from which the inmate was transferred.

16 (e) In addition to those persons otherwise eligible for parole, from the date of
17 notification in subsection (d) until the prison population has been reduced to ninety-
18 seven percent (97%) of 20,394, any person imprisoned only for a misdemeanor also
19 shall be eligible for parole and immediate termination upon admission, notwithstanding
20 any other provision of law, except:

21 (1) Those persons convicted under G.S. 20-138.1 of driving while
22 impaired or any offense involving impaired driving, and

23 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
24 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
25 or of violating G.S. 130A-144(f) or G.S. 130A-145.

26 (f) In complying with the mandate of subsection (d), the Parole Commission may
27 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
28 be paroled under this section so long as the prison population does not exceed 20,394.

29 (g) In order to meet the requirements of this section, the Parole Commission shall
30 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under
31 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or
32 under G.S. 14-17. The Parole Commission may continue to consider the suitability for
33 release of such persons in accordance with the criteria set forth in Articles 85 and 85A
34 of Chapter 15A."

35 Sec. 2. G.S. 148-32.1(b) reads as rewritten:

36 "(b) In the event that the custodian of the local confinement facility certifies in
37 writing to the clerk of the superior court in the county in which said local confinement
38 facility is located that the local confinement facility is filled to capacity, or that the
39 facility cannot reasonably accommodate any more prisoners due to segregation
40 requirements for particular prisoners, or that the custodian anticipates, in light of local
41 experiences, an influx of temporary prisoners at that time, or if the local confinement
42 facility does not meet the minimum standards published pursuant to G.S. 153A-221, any
43 judge of the district court in the district court district as defined in G.S. 7A-133 where
44 the facility is located, or any superior court judge who has jurisdiction pursuant to G.S.

1 7A-47.1 or 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the
2 facility is located may order that the prisoner be transferred to any other qualified local
3 confinement facility within that district or within another such district where space is
4 available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the
5 prisoner is a non-violent ~~misdemeanant, which local facility shall accept the transferred~~
6 ~~prisoner, if the prison population has exceeded the limits established in G.S. 148-4.1(d).~~
7 misdemeanant. If no such local confinement facility is available, then any such judge
8 may order the prisoner transferred to such camp or facility as the proper authorities of
9 the Department of Correction shall designate, notwithstanding that the term of
10 imprisonment of the prisoner is 180 days or less. In no event, however, shall a prisoner
11 whose term of imprisonment is less than 30 days be assigned or ordered transferred to
12 any such camp or facility."

13 Sec. 3. Section 6 of Chapter 7 of the 1987 Session Laws is repealed.

14 Sec. 4. Section 14 of Chapter 933 of the 1991 Session Laws is repealed.

15 Sec. 5. Sections 10 and 11 of Chapter 437 of the 1991 Session Laws are
16 repealed.

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