

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 684

Short Title: Post-Release Supervision/Sex Offenders. (Public)

Sponsors: Senator Apodaca.

Referred to: Judiciary I.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND AMEND THE LAW PROVIDING FOR A FIVE-YEAR PERIOD OF POST-RELEASE SUPERVISION FOR SEX OFFENDERS BY INCREASING THE MAXIMUM SENTENCE FOR SEX OFFENDERS AND PROVIDING FOR THEIR RELEASE ON POST-RELEASE SUPERVISION WITH FIVE YEARS REMAINING ON THEIR SENTENCES, AND TO PROVIDE THAT WILLFUL REFUSAL TO ACCEPT OR COMPLY WITH THE TERMS OF POST-RELEASE SUPERVISION IS PUNISHABLE AS CONTEMPT OF COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1340.17 is amended by adding a new subsection to read:

"(f) Maximum Sentences Specified for Class B1 through Class E Sex Offenses. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felonies who are subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months."

SECTION 2. G.S. 15A-1368.2(a) reads as rewritten:

"(a) A Except as otherwise provided in this subsection, a prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less nine months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under G.S. 15A-1340.13(d). A prisoner subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes shall be released from prison for post-release supervision on the date equivalent to his or her maximum imposed prison term less 60 months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under the G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less nine months."

SECTION 3. G.S. 15A-1354(b) reads as rewritten:

"(b) Effect of Consecutive Terms. – In determining the effect of consecutive sentences imposed under authority of this Article and the manner in which they will be served, the Department of Correction must treat the defendant as though he has been committed for a single term with the following incidents:

- (1) The maximum prison sentence consists of the total of the maximum terms of the consecutive sentences, less nine months for each of the second and subsequent sentences imposed for Class B through Class E felonies;



1 felonies, and less 60 months for each second or subsequent Class B1 through
2 E felony for which registration is required under Article 27A of Chapter 14
3 of the General Statutes; and

- 4 (2) The minimum term consists of the total of the minimum terms of the
5 consecutive sentences."

6 **SECTION 4.** G.S. 15A-1368(a)(5) reads as rewritten:

7 "(5) Maximum imposed term. – The maximum term of imprisonment imposed on
8 an individual prisoner by a court judgment, as described in
9 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms,
10 the maximum imposed term, for purposes of this Article, is the sum of all
11 maximum terms imposed in the court judgment or judgments, less nine
12 months for each of the second and subsequent sentences imposed for Class B
13 through Class E ~~felonies~~. felonies, and less 60 months for each second or
14 subsequent Class B1 through E felony for which registration is required
15 under Article 27A of Chapter 14 of the General Statutes."

16 **SECTION 5.** G.S. 15A-1368.2(b) reads as rewritten:

17 "(b) A prisoner shall not refuse post-release supervision. Willful refusal to accept
18 post-release supervision or to comply with the terms of post-release supervision is punishable
19 as contempt of court under G.S. 5A-11 and may result in imprisonment under G.S. 5A-12.
20 Furthermore, any period of time during which a prisoner subject to the registration requirement
21 of Article 27A of Chapter 14 of the General Statutes is not in fact released pursuant to
22 subsection (a) of this section due to the prisoner's resistance to that release shall toll the running
23 of the additional period of supervised release imposed by subsection (c) of this section. For
24 purposes of this subsection and the provisions of G.S. 5A-11, "willful refusal to accept
25 post-release supervision or to comply with the terms of post-release supervision" includes
26 knowingly violating the terms of post-release supervision in order to be returned to prison to
27 serve out the remainder of the prisoner's sentence. Notwithstanding any other provision of law,
28 a prisoner punished for the offense of contempt of court under this subsection is not eligible for
29 credit for time served against the sentence for which the prisoner is subject to post-release
30 supervision."

31 **SECTION 6.** G.S. 5A-11(a) reads as rewritten:

32 "(a) Except as provided in subsection (b), each of the following is criminal contempt:

- 33 (1) Willful behavior committed during the sitting of a court and directly tending
34 to interrupt its proceedings.
- 35 (2) Willful behavior committed during the sitting of a court in its immediate
36 view and presence and directly tending to impair the respect due its
37 authority.
- 38 (3) Willful disobedience of, resistance to, or interference with a court's lawful
39 process, order, directive, or instruction or its execution.
- 40 (4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or
41 affirmed, willful refusal to answer any legal and proper question when the
42 refusal is not legally justified.
- 43 (5) Willful publication of a report of the proceedings in a court that is grossly
44 inaccurate and presents a clear and present danger of imminent and serious
45 threat to the administration of justice, made with knowledge that it was false
46 or with reckless disregard of whether it was false. No person, however, may
47 be punished for publishing a truthful report of proceedings in a court.
- 48 (6) Willful or grossly negligent failure by an officer of the court to perform his
49 duties in an official transaction.

- 1 (7) Willful or grossly negligent failure to comply with schedules and practices
- 2 of the court resulting in substantial interference with the business of the
- 3 court.
- 4 (8) Willful refusal to testify or produce other information upon the order of a
- 5 judge acting pursuant to Article 61 of Chapter 15A, Granting of Immunity to
- 6 Witnesses.
- 7 (9) Willful communication with a juror in an improper attempt to influence his
- 8 deliberations.
- 9 (9a) Willful refusal by a defendant to comply with a condition of probation.
- 10 (9b) Willful refusal to accept post-release supervision or to comply with the
- 11 terms of post-release supervision. For purposes of this subdivision, "willful
- 12 refusal to accept post-release supervision or to comply with the terms of
- 13 post-release supervision" includes knowingly violating the terms of
- 14 post-release supervision in order to be returned to prison to serve out the
- 15 remainder of the supervisee's sentence.
- 16 (10) Any other act or omission specified elsewhere in the General Statutes of
- 17 North Carolina as grounds for criminal contempt.

18 The grounds for criminal contempt specified here are exclusive, regardless of any other
19 grounds for criminal contempt which existed at common law."

20 **SECTION 7.** Sections 5 and 6 of this act are effective when they become law. The
21 remainder of this act becomes effective December 1, 2011, and applies to offenses committed
22 on or after that date.