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HOUSE BILL 560
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Short Title: Public Safety Reform.

(Public)

Sponsors:

Referred to:

April 15, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE LAWS OF THE STATE RELATING TO PUBLIC SAFETY.
3 The General Assembly of North Carolina enacts:

4 **SECTION 2.(a)** G.S. 14-258.4 reads as rewritten:

5 "**§ 14-258.4. Malicious conduct by prisoner.**

6 ...

7 (b) Any prisoner who knowingly and willfully exposes genitalia to an employee while
8 the employee is in the performance of the employee's duties is guilty of a Class I felony.
9 Notwithstanding G.S. 15A-1340.17, a person convicted of a violation of this subsection shall be
10 sentenced to an active punishment with a minimum term of six months.

11 ...

12 (d) Sentences imposed under this ~~Article~~ section shall run consecutively to and shall
13 commence at the expiration of any sentence being ~~served~~ served, for any offense, by the person
14 ~~sentenced under this section.~~ sentenced."

15 **SECTION 2.(b)** This section becomes effective December 1, 2021, and applies to
16 offenses committed on or after that date.

17 **SECTION 3.(a)** G.S. 14-258(c) reads as rewritten:

18 "(c) Possessing Tools for Escape. – Any prisoner who possesses a letter, weapon, tool,
19 good, article of clothing, device, or instrument to ~~do any of the following~~ effect an escape or aid
20 in an assault or insurrection is guilty of a Class H ~~felony~~ felony. Notwithstanding
21 G.S. 15A-1340.17, a person convicted of a violation of this subsection shall be sentenced to an
22 active punishment with a minimum term of 12 months.

23 (1) ~~To effect an escape.~~

24 (2) ~~Aide in an assault or insurrection.~~"

25 **SECTION 3.(b)** This section becomes effective December 1, 2021, and applies to
26 offenses committed on or after that date.

27 **SECTION 4.(a)** Article 2 of Chapter 148 of the General Statutes is amended by
28 adding a new section to read:

29 "**§ 148-18.2. Prisoner property.**

30 (a) In no event shall the personal property of an inmate in the custody of the Department
31 of Public Safety, Division of Adult Correction and Juvenile Justice, exceed a maximum total
32 value of two hundred fifty dollars (\$250.00), except that an inmate may also possess one wedding
33 ring with a value not to exceed five hundred dollars (\$500.00). The limitations of this subsection
34 do not apply to (i) medical devices that are not State-issued or (ii) legal material, including copies
35 of documents filed in or prepared for legal actions.



1 (b) When the property of an inmate in the custody of the Department of Public Safety,
2 Division of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged
3 through the negligent handling of the correctional facility or its staff members, the Department
4 of Public Safety shall reimburse the inmate for the value of the item, or, when recommended by
5 the Department's Administrative Remedy Procedure, provide for replacement of the item. This
6 shall be the inmate's sole remedy for property loss, destruction, or damage unless the property is
7 (i) a medical device that is not State-issued or (ii) legal material, including copies of documents
8 filed or prepared for legal actions.

9 (c) Reimbursement pursuant to this section shall be calculated in a manner authorized by
10 the Department of Public Safety, Division of Adult Correction and Juvenile Justice, but in no
11 event shall reimbursement exceed a maximum of two hundred fifty dollars (\$250.00) per
12 incident, except that reimbursement may be up to five hundred dollars (\$500.00) for a wedding
13 ring. An inmate in the custody of the Department of Public Safety, Division of Adult Correction
14 and Juvenile Justice shall not be reimbursed for lost, destroyed, or damaged State-issued
15 property."

16 **SECTION 4.(b)** Article 31 of Chapter 143 of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 143-295.2. Inmate property claims against the Department of Public Safety.**

19 When the property of an inmate in the custody of the Department of Public Safety, Division
20 of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged through the
21 negligent handling of the correctional facility or its staff members, the Department of Public
22 Safety shall reimburse the inmate for the value of the item, or provide for replacement of the
23 item, as described in G.S. 148-18.2, and the inmate shall have no recourse under this Article."

24 **SECTION 4.(c)** G.S. 143-291 is amended by adding a new subsection to read:

25 "(e) The Industrial Commission shall have no jurisdiction over any claim brought by an
26 inmate in the custody of the Department of Public Safety, Division of Adult Correction and
27 Juvenile Justice, unless and until the inmate has first exhausted the Department's Administrative
28 Remedy Procedure, as established by G.S. 148-118.2."

29 **SECTION 4.(d)** G.S. 148-118.2(b) reads as rewritten:

30 "(b) No State court—court, including the North Carolina Industrial Commission, or
31 administrative body shall entertain a prisoner's grievance or complaint which falls under the
32 purview of the Administrative Remedy Procedure unless and until the prisoner shall have
33 exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue
34 administrative remedies through this procedure, any petition or complaint he files shall be stayed
35 for 90 days to allow the prisoner to file a grievance and for completion of the procedure. If at the
36 end of 90 days the prisoner has failed to timely file his grievance, then the petition or complaint
37 shall be dismissed. ~~Provided, however, that the court can waive the exhaustion requirement if it~~
38 ~~finds such waiver to be in the interest of justice.~~"

39 **SECTION 4.(e)** G.S. 143-291.2 reads as rewritten:

40 **"§ 143-291.2. Costs and fees.**

41 (a) The Industrial Commission may by order tax the costs against the losing party in the
42 same amount and the same manner as costs are taxed in the Superior Court Division of the
43 General Court of Justice. In no event shall the Industrial Commission tax the cost against the
44 prevailing party. When a State department, institution, or agency appeals to the full commission
45 the decision rendered by a hearing commissioner, the State department, institution, or agency
46 shall furnish a copy of the transcript of the hearing to the appellee without cost. The State
47 department, institution, or agency concerned may pay the costs taxed against it. When costs are
48 not paid by a party from whom they are due, the Industrial Commission shall issue an execution
49 for the costs and attach a bill of costs to each execution. The Sheriff shall levy upon the execution
50 as provided in Chapter 6 of the General Statutes in civil actions.

51 ...

1 (c) In no event shall a currently incarcerated inmate bringing a claim under this Article
2 be granted indigent status if the inmate has, on three or more prior occasions while incarcerated
3 or detained in any State facility, brought an action or appeal before the Industrial Commission
4 which was dismissed on the grounds that it was either:

5 (1) Frivolous.

6 (2) Malicious.

7 (3) Not within the statute of limitations.

8 (4) Exceeding the exclusive jurisdiction of the Industrial Commission.

9 (5) Failing to state a claim upon which relief may be granted."

10 **SECTION 4.(f)** G.S. 143-295 reads as rewritten:

11 **"§ 143-295. Settlement of claims.**

12 (a) Any ~~claims-claims,~~ except claims of minors pending or hereafter ~~filed-filed,~~ against
13 the various departments, institutions and agencies of the State may be settled upon agreement
14 between either the claimant and the Attorney General-General or the claimant and the various
15 departments, institutions, and agencies of the State for an any amount not in excess of twenty-five
16 thousand dollars (\$25,000), without the approval of the Industrial Commission. The Attorney
17 General may also make settlements by agreement for claims in excess of twenty-five thousand
18 dollars (\$25,000) and claims of infants or persons non sui juris, provided such claims have been
19 subject to review and approval by the Industrial Commission.

20 (b) In settlements under twenty-five thousand dollars (\$25,000), agreed upon between
21 the Attorney ~~General-General,~~ or the various departments, institutions, and agencies of the State,
22 and the claimant, the filing of an affidavit as set forth in G.S. 143-297 shall not be required.

23 "

24 **SECTION 4.(g)** G.S. 143-299.1A is amended by adding a new subsection to read:

25 "(c1) Nothing in subsection (b) of this section shall limit the application of the public duty
26 doctrine in cases where the claimant is an inmate in the custody of the Department of Public
27 Safety, Division of Adult Correction and Juvenile Justice, except where the injury arises as the
28 result of gross negligence on the part of the Department or its staff members."

29 **SECTION 4.(h)** Article 31 of Chapter 143 of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 143-299.5. Limited liability for claims against the Department of Public Safety, Division**
32 **of Adult Correction and Juvenile Justice.**

33 The Department of Public Safety, Division of Adult Correction and Juvenile Justice, shall
34 not be liable for damages under this Article for the acts or omissions of its employees tasked with
35 the supervision, protection, control, confinement, or custody of the State's inmate population,
36 unless such acts or omissions amount to gross negligence."

37 **SECTION 4.(i)** This section becomes effective October 1, 2021, and applies to
38 property held and actions or claims brought on or after that date.

39 **SECTION 5.(a)** G.S. 15-205 reads as rewritten:

40 **"§ 15-205. Duties and powers of the probation officers.**

41 (a) A probation officer shall investigate all cases referred to him for investigation by the
42 judges of the courts or by the Secretary of Public Safety. Such officer shall keep informed
43 concerning the conduct and condition of each person on probation under his supervision by
44 visiting, requiring reports, and in other ways, and shall report thereon in writing as often as the
45 court or the Secretary of Public Safety may require. Such officer shall use all practicable and
46 suitable methods, not inconsistent with the conditions imposed by the court or the Secretary of
47 Public Safety, to aid and encourage persons on probation to bring about improvement in their
48 conduct and condition. Such officer shall keep detailed records of his work; shall make such
49 reports in writing to the Secretary of Public Safety as he may require; and shall perform such
50 other duties as the Secretary of Public Safety may require. A probation officer shall have, in the
51 execution of his duties, the powers of arrest and, to the extent necessary for the performance of

1 his duties, the same right to execute process as is now given, or that may hereafter be given by
2 law, to the sheriffs of this State.

3 (b) Probation officers may be assigned by the Secretary of Public Safety to perform
4 additional duties during a declared state of emergency or a natural disaster. This authority does
5 not convey to probation officers any additional powers of arrest or other authority beyond that
6 provided in subsection (a) of this section."

7 **SECTION 5.(b)** This section becomes effective October 1, 2021.

8 **SECTION 6.(a)** G.S. 143B-720 reads as rewritten:

9 **"§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
10 **duties.**

11 (a) There is hereby created a Post-Release Supervision and Parole Commission of the
12 Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the
13 authority to grant paroles, including both regular and temporary paroles, to persons held by virtue
14 of any final order or judgment of any court of this State as provided in Chapter 148 of the General
15 Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B
16 of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally
17 released into the custody and control of United States Immigration and Customs Enforcement
18 pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and
19 suspend paroles of such persons (including persons placed on parole on or before the effective
20 date of the Executive Organization Act of 1973) and to assist the Governor in exercising his
21 authority in granting reprieves, commutations, and pardons, and shall perform such other services
22 as may be required by the Governor in exercising his powers of executive clemency. The
23 Commission shall also have authority to revoke and terminate persons on post-release
24 supervision, as provided in Article 84A of Chapter 15A of the General Statutes. The Commission
25 shall also have authority to issue orders of temporary or conditional revocation of post-release
26 supervision and parole subjecting supervisees and parolees to arrest by a law enforcement officer
27 or a post-release supervision and parole officer. The Commission shall also have the authority to
28 punish for criminal contempt for willful refusal to accept post-release supervision or to comply
29 with the terms of post-release supervision by a prisoner whose offense requiring post-release
30 supervision is a reportable conviction subject to the registration requirement of Article 27A of
31 Chapter 14 of the General Statutes. Any contempt proceeding conducted by the Commission
32 shall be in accordance with G.S. 5A-15 as if the Commission were a judicial official.

33 ...

34 (f1) The Commission shall enter all orders of temporary or conditional revocation of
35 post-release supervision and parole subjecting supervisees and parolees to arrest by a law
36 enforcement officer or a post-release supervision and parole officer into the Criminal Justice Law
37 Enforcement Automated Data System (CJLEADS).

38"

39 **SECTION 6.(b)** This section becomes effective October 1, 2021.

40 **SECTION 7.(a)** Part 1 of Article 13 of Chapter 143B of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 143B-603A. Continuously Operating Reference Station Fund.**

43 (a) Establishment of Fund. – The Continuously Operating Reference Station (CORS)
44 Fund is established as a special revenue fund. The Fund consists of General Fund appropriations,
45 gifts, donations, grants, devises, fees, and monies contributed by State and non-State entities for
46 the operation, maintenance, and expansion of the North Carolina CORS/Real Time Network
47 (RTN) operated and maintained by the North Carolina Geodetic Survey and any other revenues
48 specifically allocated to the Fund by an act of the General Assembly.

49 (b) Uses of Fund. – Revenue credited to the Fund may only be used for costs associated
50 with CORS/RTN operations, maintenance, and expansion."

51 **SECTION 7.(b)** This section becomes effective July 1, 2021.

1 **SECTION 8.(a)** G.S. 166A-19.21(a) reads as rewritten:

2 "(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant
3 to ~~G.S. 166A-19.20~~, G.S. 166A-19.20 or G.S. 166A-19.22, the Secretary shall provide the
4 Governor and the General Assembly with a preliminary damage assessment as soon as the
5 assessment is available."

6 **SECTION 8.(b)** This section is effective when it becomes law and applies to states
7 of emergency declared on or after that date.

8 **SECTION 9.(a)** G.S. 8-53.10(a) reads as rewritten:

9 "(a) Definitions. – The following definitions apply in this section:

10 ...

11 (1a) Emergency personnel officer. – Firefighting, search and rescue, or emergency
12 medical service personnel, or any employee of any duly accredited State or
13 local government agency possessing authority to enforce the criminal laws of
14 the State who (i) is actively serving in a position with assigned primary duties
15 and responsibilities for the prevention and detection of crime or the general
16 enforcement of the criminal laws of the State and (ii) possesses the power of
17 arrest by virtue of an oath administered under the authority of the State.

18 ...

19 (3) Peer counselor. – Any active or retired law enforcement officer~~–officer,~~
20 emergency personnel officer, or civilian employee of a law enforcement
21 agency who:

22 a. Has received training to provide emotional and moral support and
23 counseling to client law enforcement ~~employees~~–employees,
24 emergency personnel officers, and their immediate families;
25 ~~and families.~~

26 b. Was designated by the sheriff, police chief, or other head of a law
27 enforcement or emergency agency to counsel a client law enforcement
28 employee.

29 (4) Privileged communication. – Any communication made by a client law
30 enforcement ~~employee~~–employee, emergency personnel officer, or a member
31 of the client law enforcement employee's immediate family to a peer counselor
32 while receiving counseling."

33 **SECTION 9.(b)** This section is effective when it becomes law and applies to
34 communications made on or after that date.

35 **SECTION 10.(a)** G.S. 86A-14 is amended by adding a new subdivision to read:

36 "(7) Inmates under the jurisdiction of the North Carolina Department of Public
37 Safety."

38 **SECTION 10.(b)** This section is effective when it becomes law and applies to
39 actions performed on or after that date.

40 **SECTION 11.(a)** G.S. 15B-2 reads as rewritten:

41 "**§ 15B-2. Definitions.**

42 As used in this Article, the following definitions apply, unless the context requires otherwise:

43 (1) Allowable expense. – Reasonable charges incurred for reasonably needed
44 products, services, and accommodations, including those for medical care,
45 rehabilitation, medically-related property, and other remedial treatment and
46 care. Reasonably needed services include (i) counseling for immediate family
47 members of children under the age of 18 who are victims of rape, sexual
48 assault, or domestic violence and (ii) family counseling and grief counseling
49 for immediate family members of homicide victims. The cumulative total for
50 counseling services provided to immediate family members shall not exceed
51 three thousand dollars (\$3,000) per family.

1 Allowable expense includes a total charge not in excess of ~~five-eight~~
 2 thousand dollars ~~(\$5,000)-(\$8,000)~~ for expenses related to funeral, cremation,
 3 and burial, including transportation of a body, but excluding expenses for
 4 flowers, gravestone, and other items not directly related to the funeral service.

5 Allowable expense for medical care, counseling, rehabilitation,
 6 medically-related property, and other remedial treatment and care of a victim
 7 shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount
 8 usually charged by the provider for the treatment or care. By accepting the
 9 compensation paid as allowable expense pursuant to this subdivision, the
 10 provider agrees that the compensation is payment in full for the treatment or
 11 care and shall not charge or otherwise hold a claimant financially responsible
 12 for the cost of services in addition to the amount of allowable expense.

13"

14 **SECTION 11.(b)** This section becomes effective July 1, 2021, and applies to
 15 expenses incurred on or after that date.

16 **SECTION 12.(a)** G.S. 15A-1368.4(e) reads as rewritten:

17 "(e) Controlling Conditions. – Appropriate controlling conditions, violation of which may
 18 result in revocation of post-release supervision, are:

19 ...

20 (10) Submit at reasonable times to ~~warrantless searches of the supervisee's person~~
 21 by a post-release supervision officer of the supervisee's person and of the
 22 supervisee's vehicle and premises while the supervisee is present for purposes
 23 reasonably related to the post-release supervision. The Commission shall not
 24 require as a condition of post-release supervision that the supervisee submit
 25 to any other searches that would otherwise be unlawful. Whenever the search
 26 consists of testing for the presence of illegal drugs, the supervisee may also
 27 be required to reimburse the Division of Adult Correction and Juvenile Justice
 28 of the Department of Public Safety for the actual cost of drug testing and drug
 29 screening, if the results are positive.

30"

31 **SECTION 12.(b)** This section is effective when it becomes law and applies to
 32 searches on or after that date.

33 **SECTION 13.** Except as otherwise provided, this act is effective when it becomes
 34 law.