

April 8, 2009

H 1242. YOUTHFUL OFFENDER/SENTENCE REVIEW. Filed 4/8/09. *TO ESTABLISH A POST-SENTENCING REVIEW FOR CERTAIN YOUTHFUL OFFENDERS.* Adds a new Article 93, consisting of GS 15A-1480 to provide for such review.

Defines *youthful offender* to mean a person who (1) was convicted of a class B1, B2, C, or D felony; (2) was 13, 14, or 15 years of age at the time offense committed; (3) was tried as an adult; and (4) was sentenced to an active punishment that carries a minimum term of 84 months or more.

Allows a youthful offender who is incarcerated and who has served at least 84 months of an active sentence to petition the resident superior court judge in the district where the offender was sentenced for a post-sentencing review. Directs the judge to schedule a hearing no later than 30 days from date petition is filed. Requires petition to be served on the district attorney in the district where the offender was sentenced. Declares that the purpose of the review is to determine whether the sentence should be reduced or suspended based on the offender's conduct and record of rehabilitation.

Directs judge to consider the following: (1) whether the youthful offender has obtained a high school diploma, (2) whether the offender has completed one or more substance abuse programs, (3) whether the offender has pursued other educational or work opportunities within prison, (4) whether the offender maintained good conduct within prison, and (5) whether there are any recommendations from the victim against whom the crime was committed or the victim's family regarding the suspension or other modification of the offender's sentence. If the court determines that the sentence should be reduced or suspended, directs the court to enter an order indicating modification of the sentence and the findings upon which the court based its determination.

Provides that a youthful offender whose sentence is reduced or suspended must be placed on post-release supervision pursuant to GS Chapter 15A, Article 84A. Provides, however, that notwithstanding GS 15A-1368.2, the calculation to determine the appropriate release from prison for supervision purposes shall be as determined in the court's judgment rather than the offender's maximum imposed prison term.

Provides that this form of sentence review is not available to a youthful offender convicted of a Class A felony.

Effective October 1, 2009.

Intro. by Mobley.

GS 15A

May 7, 2009

H 1242. YOUTHFUL OFFENDER/SENTENCE REVIEW. Filed 4/8/09. House committee substitute makes the following changes to 1st edition. Clarifies the definition of *youthful offender* to include transfer to superior court pursuant to Article 22 of Chapter 7B of the General Statutes (was, included a person who was tried as an adult in the 1st edition). Requires a court to condition any modification of a youthful offender's sentence on successful completion of a period of post-release supervision. Permits a court to order a period of post-release supervision longer than the period required by GS 15A-1368.2, and requires a court to enter the date of release and the required period of post-release supervision into the judgment. Makes a youthful offender placed on post-release supervision subject to revocation of the post-release supervision. Provides that if post-release supervision is revoked, the modification to the original sentence is void, and the youthful offender must be returned to prison to serve the remaining time on the original maximum imposed term. Prohibits a youthful offender whose post-release supervision is revoked from re-petitioning the court for post-sentencing review pursuant to this statute. Provides that if a court denies a petition made pursuant to this statute, then the court must enter an order, with notification to the youthful offender, indicating that the youthful offender may re-petition the court no sooner than five years of the date of the order. Makes stylistic changes.