GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2009

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HOUSE BILL 1242 PROPOSED COMMITTEE SUBSTITUTE H1242-PCS50673-SA-24

| | Short Title: Youthful Offender/Sentence Review. (Pub | lic) |
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| | Sponsors: | |
| | Referred to: | |
| | April 9, 2009 | |
| 1 | A BILL TO BE ENTITLED | |
| 2 3 | AN ACT TO ESTABLISH A POST-SENTENCING REVIEW FOR CERTAIN YOUTHF OFFENDERS. | UL |
| 4 | The General Assembly of North Carolina enacts: | |
| 5 | SECTION 1. Chapter 15A of the General Statutes is amended by adding a r | new |
| 6 | Article to read: | |
| 7 | "Article 93. | |
| 8 | "Post-Sentencing Review for Youthful Offenders. | |
| 9 | " <u>§ 15A-1480. Post-sentencing review for youthful offender.</u> | |
| 10 | (a) Definition For purposes of this section, the term youthful offender mean | s a |
| 11 | person who: | |
| 12 | (1) Was convicted of a Class B1, B2, C, or D felony; | |
| 13 | (2) Was 13, 14, or 15 years of age at the time the person committed the offen | |
| 14 | (3) Was transferred to superior court pursuant to Article 22 of Chapter 7B of | the |
| 15 | General Statutes; and | |
| 16 | (4) Was sentenced to an active punishment that carries a minimum term of | 84 |
| 17 | months or more. | |
| 18 | (b) <u>Petition for Review; Resident Superior Court Judge Empowered to Act.</u> - | |
| 19 | youthful offender who is incarcerated and who has served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of a served at least 84 months of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of an activity of a served at least 84 months of a served a | |
| 20 | sentence imposed on the youthful offender for the conviction of a Class B1, B2, C, or D feld | |
| 21 | may petition the resident superior court judge in the district where the youthful offender | |
| 22 | sentenced for a post-sentencing review. The purpose of the post-sentencing review is | |
| 23 | determine whether the offender's sentence should be reduced or suspended based on | |
| 24 | offender's conduct and record of rehabilitation in prison. The petition for the post-sentence | - |
| 25 | review may be heard and determined by the resident superior court judge. The petition shall | |
| 26 27 | served on the district attorney of the district where the youthful offender was sentenced in manner provided in G.S. 15A-951(b) and shall be filed in the manner provided | |
| 28 | G.S. 15A-951(c). | 111 |
| 28 29 | (c) Post-Sentencing Hearing and Review. – The superior court judge shall schedul | 0 0 |
| 30 | hearing no later than 30 days from the date the petition is filed for the post-sentencing revi | |
| 30 31 | At the hearing the judge shall consider all of the following factors: | <u></u> |
| 32 | (1) Whether the youthful offender has obtained a high school diploma. | |
| 33 | (2) Whether the youthful offender has completed one or more substance ab | use |
| 34 | programs. | |



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| opportunities within prison. (4) Whether the youthful offender maintained good conduct within prison. (5) Whether there are any recommendations from the victim against whom crime was committed or the victim's family regarding the suspension other modification of the youthful offender's sentence. (d) Entry of Judgment. – If the court determines that the youthful offender's sentence should be reduced or suspended, then the court shall enter an order indicating the modificat of the sentence and the findings on which the court based its determination. The modificat of the sentence shall be conditioned on successful completion of a period of post-release supervision. (e) Post-Release Supervision. – A youthful offender whose sentence is reduced suspended pursuant to this section shall be placed on post-release supervision as provided Article 84A of Chapter 15A of the General Statutes. Notwithstanding G.S. 15A-1368.2, court shall determine the youthful offender's date of release from prison and may order youthful offender to complete a period of post-release supervision longer than the perequired by G.S. 15A-1368.2. The court shall enter the date of release and the required period of post-release supervision into the judgment pursuant to subsection (d) of this section. (f) Effect of Violation of Post-Release Supervision. – A youthful offender shall be returned post-release supervision pursuant to this section is subject to revocation of post-release supervision as provided by Article 84A of Chapter 15A of the General Statutes. If post-release supervision as provided post-release supervision pursuant to this section, whose post-release supervision function of the sentence made pursuat to subsection (d) of this section shall be void, and the youthful offender shall be returned prison to serve the remaining time on the original maximum imposed term. A youthful offender placed on post-release supervision pursuant to this section, whose post-rele | General Assembly Of North CarolinaSession 2009 |
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| prison to serve the remaining time on the original maximum imposed term. A youthful offer placed on post-release supervision pursuant to this section, whose post-release supervision revoked, may not re-petition the court for post-sentencing review pursuant to this section. (g) Effect of Denial of Petition. – If the court determines that the youthful offend sentence should not be reduced or suspended, then the court shall enter an order indicating | |
| placed on post-release supervision pursuant to this section, whose post-release supervision revoked, may not re-petition the court for post-sentencing review pursuant to this section. (g) Effect of Denial of Petition. – If the court determines that the youthful offence sentence should not be reduced or suspended, then the court shall enter an order indicating | to subsection (d) of this section shall be void, and the youthful offender shall be returned to |
| revoked, may not re-petition the court for post-sentencing review pursuant to this section. (g) Effect of Denial of Petition. – If the court determines that the youthful offence sentence should not be reduced or suspended, then the court shall enter an order indicating | prison to serve the remaining time on the original maximum imposed term. A youthful offender |
| (g) Effect of Denial of Petition. – If the court determines that the youthful offend sentence should not be reduced or suspended, then the court shall enter an order indicating | placed on post-release supervision pursuant to this section, whose post-release supervision is |
| sentence should not be reduced or suspended, then the court shall enter an order indicating | • • • • |
| | (g) Effect of Denial of Petition. – If the court determines that the youthful offender's |
| petition is denied and shall include in the order a notification to the youthful offender that | sentence should not be reduced or suspended, then the court shall enter an order indicating the |
| • | petition is denied, and shall include in the order a notification to the youthful offender that the |
| • • • | youthful offender may re-petition the court no sooner than five years from the date of the order. |
| | |
| apply to any youthful offender convicted of a Class A felony." | |
| SECTION 2. This act becomes effective October 1, 2009. | SECTION 2. This act becomes effective October 1, 2009. |