

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.

(Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A POST-SENTENCING REVIEW FOR CERTAIN YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 93.

"Post-Sentencing Review for Youthful Offenders.

"§ 15A-1480. Post-sentencing review for youthful offender.

(a) Definition. – For purposes of this section, the term youthful offender means 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 the person committed the offense;

(3) Was transferred to superior court pursuant to Article 22 of Chapter 7B of the General Statutes; and

(4) Was sentenced to an active punishment that carries a minimum term of 84 months or more.

(b) Petition for Review; Resident Superior Court Judge Empowered to Act. – A youthful offender who is incarcerated and who has served at least 84 months of an active sentence imposed on the youthful offender for the conviction of a Class B1, B2, C, or D felony may petition the resident superior court judge in the district where the youthful offender was sentenced for a post-sentencing review. The purpose of the post-sentencing review is to determine whether the offender's sentence should be reduced or suspended based on the offender's conduct and record of rehabilitation in prison. The petition for the post-sentencing review may be heard and determined by the resident superior court judge. The petition shall be served on the district attorney of the district where the youthful offender was sentenced in the manner provided in G.S. 15A-951(b) and shall be filed in the manner provided in G.S. 15A-951(c).

(c) Post-Sentencing Hearing and Review. – The superior court judge shall schedule a hearing no later than 30 days from the date the petition is filed for the post-sentencing review. At the hearing the judge shall consider all of the following factors:

(1) Whether the youthful offender has obtained a high school diploma.

(2) Whether the youthful offender has completed one or more substance abuse programs.



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1 (3) Whether the youthful offender has pursued other educational or work
2 opportunities within prison.

3 (4) Whether the youthful offender maintained good conduct within prison.

4 (5) Whether there are any recommendations from the victim against whom the
5 crime was committed or the victim's family regarding the suspension or
6 other modification of the youthful offender's sentence.

7 (d) Entry of Judgment. – If the court determines that the youthful offender's sentence
8 should be reduced or suspended, then the court shall enter an order indicating the modification
9 of the sentence and the findings on which the court based its determination. The modification
10 of the sentence shall be conditioned on successful completion of a period of post-release
11 supervision.

12 (e) Post-Release Supervision. – A youthful offender whose sentence is reduced or
13 suspended pursuant to this section shall be placed on post-release supervision as provided by
14 Article 84A of Chapter 15A of the General Statutes. Notwithstanding G.S. 15A-1368.2, the
15 court shall determine the youthful offender's date of release from prison and may order the
16 youthful offender to complete a period of post-release supervision longer than the period
17 required by G.S. 15A-1368.2. The court shall enter the date of release and the required period
18 of post-release supervision into the judgment pursuant to subsection (d) of this section.

19 (f) Effect of Violation of Post-Release Supervision. – A youthful offender placed on
20 post-release supervision pursuant to this section is subject to revocation of post-release
21 supervision as provided by Article 84A of Chapter 15A of the General Statutes. If post-release
22 supervision of a youthful offender is revoked, the modification of the sentence made pursuant
23 to subsection (d) of this section shall be void, and the youthful offender shall be returned to
24 prison to serve the remaining time on the original maximum imposed term. A youthful offender
25 placed on post-release supervision pursuant to this section, whose post-release supervision is
26 revoked, may not re-petition the court for post-sentencing review pursuant to this section.

27 (g) Effect of Denial of Petition. – If the court determines that the youthful offender's
28 sentence should not be reduced or suspended, then the court shall enter an order indicating the
29 petition is denied, and shall include in the order a notification to the youthful offender that the
30 youthful offender may re-petition the court no sooner than five years from the date of the order.

31 (h) Class A Felony Youthful Offender Ineligible for Review. – This section shall not
32 apply to any youthful offender convicted of a Class A felony."

33 **SECTION 2.** This act becomes effective October 1, 2009.