

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 684
PROPOSED COMMITTEE SUBSTITUTE S684-PCS85209-SA-50

Short Title: Post-Release Supervision/Sex Offenders.

(Public)

Sponsors:

Referred to:

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 felony that is a reportable conviction 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 whose maximum sentence is established pursuant to G.S. 15A-1340.17(f) 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 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



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1 Department of Correction must treat the defendant as though he has been committed for a
2 single term with the following incidents:

- 3 (1) The maximum prison sentence consists of the total of the maximum terms of
4 the consecutive sentences, less nine months for each of the second and
5 subsequent sentences imposed for Class B through Class E ~~felonies;~~
6 felonies, or less 60 months for each second or subsequent Class B1 through
7 E felony for which the sentence was established pursuant to
8 G.S. 15A-1340.17(f); and
- 9 (2) The minimum term consists of the total of the minimum terms of the
10 consecutive sentences."

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

12 "(5) Maximum imposed term. – The maximum term of imprisonment imposed on
13 an individual prisoner by a court judgment, as described in
14 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms,
15 the maximum imposed term, for purposes of this Article, is the sum of all
16 maximum terms imposed in the court judgment or judgments, less nine
17 months for each of the second and subsequent sentences imposed for Class B
18 through Class E ~~felonies.~~ felonies, or less 60 months for each second or
19 subsequent Class B1 through E felony for which the sentence was
20 established pursuant to G.S. 15A-1340.17(f)."

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

22 "(b) A prisoner shall not refuse post-release supervision. Willful refusal to accept
23 post-release supervision or to comply with the terms of post-release supervision by a prisoner
24 whose offense requiring post-release supervision is a reportable conviction subject to the
25 registration requirement of Article 27A of Chapter 14 of the General Statutes, is punishable as
26 contempt of court under G.S. 5A-11 and may result in imprisonment under G.S. 5A-12.
27 Furthermore, any period of time during which a prisoner whose offense requiring post-release
28 supervision is a reportable conviction subject to the registration requirement of Article 27A of
29 Chapter 14 of the General Statutes is not in fact released pursuant to subsection (a) of this
30 section due to the prisoner's resistance to that release shall toll the running of the period of
31 supervised release imposed by subsection (c) of this section. For purposes of this subsection
32 and the provisions of G.S. 5A-11, "willful refusal to accept post-release supervision or to
33 comply with the terms of post-release supervision" includes, but is not limited to, knowingly
34 violating the terms of post-release supervision in order to be returned to prison to serve out the
35 remainder of the prisoner's sentence. Notwithstanding any other provision of law, a prisoner
36 punished for the offense of contempt of court under this subsection is not eligible for credit for
37 time served against the sentence for which the prisoner is subject to post-release supervision.
38 Punishment by contempt for willful refusal to accept post-release supervision or to comply with
39 the terms of post-release supervision does not preclude the application of any other sanction
40 provided by law for the same conduct."

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

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

- 43 (1) Willful behavior committed during the sitting of a court and directly tending
44 to interrupt its proceedings.
- 45 (2) Willful behavior committed during the sitting of a court in its immediate
46 view and presence and directly tending to impair the respect due its
47 authority.
- 48 (3) Willful disobedience of, resistance to, or interference with a court's lawful
49 process, order, directive, or instruction or its execution.

- 1 (4) Willful refusal to be sworn or affirmed as a witness, or, when so sworn or
2 affirmed, willful refusal to answer any legal and proper question when the
3 refusal is not legally justified.
- 4 (5) Willful publication of a report of the proceedings in a court that is grossly
5 inaccurate and presents a clear and present danger of imminent and serious
6 threat to the administration of justice, made with knowledge that it was false
7 or with reckless disregard of whether it was false. No person, however, may
8 be punished for publishing a truthful report of proceedings in a court.
- 9 (6) Willful or grossly negligent failure by an officer of the court to perform his
10 duties in an official transaction.
- 11 (7) Willful or grossly negligent failure to comply with schedules and practices
12 of the court resulting in substantial interference with the business of the
13 court.
- 14 (8) Willful refusal to testify or produce other information upon the order of a
15 judge acting pursuant to Article 61 of Chapter 15A, Granting of Immunity to
16 Witnesses.
- 17 (9) Willful communication with a juror in an improper attempt to influence his
18 deliberations.
- 19 (9a) Willful refusal by a defendant to comply with a condition of probation.
- 20 (9b) Willful refusal to accept post-release supervision or to comply with the
21 terms of post-release supervision by a prisoner whose offense requiring
22 post-release supervision is a reportable conviction subject to the registration
23 requirement of Article 27A of Chapter 14 of the General Statutes. For
24 purposes of this subdivision, "willful refusal to accept post-release
25 supervision or to comply with the terms of post-release supervision"
26 includes, but is not limited to, knowingly violating the terms of post-release
27 supervision in order to be returned to prison to serve out the remainder of the
28 supervisee's sentence.
- 29 (10) Any other act or omission specified elsewhere in the General Statutes of
30 North Carolina as grounds for criminal contempt.

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

33 **SECTION 7.** G.S. 143B-266(a) reads as rewritten:

34 "(a) There is hereby created a Post-Release Supervision and Parole Commission of the
35 Department of Correction with the authority to grant paroles, including both regular and
36 temporary paroles, to persons held by virtue of any final order or judgment of any court of this
37 State as provided in Chapter 148 of the General Statutes and laws of the State of North
38 Carolina, except that persons sentenced under Article 81B of Chapter 15A of the General
39 Statutes are not eligible for parole but may be conditionally released into the custody and
40 control of United States Immigration and Customs Enforcement pursuant to G.S. 148-64.1. The
41 Commission shall also have authority to revoke, terminate, and suspend paroles of such persons
42 (including persons placed on parole on or before the effective date of the Executive
43 Organization Act of 1973) and to assist the Governor in exercising his authority in granting
44 reprieves, commutations, and pardons, and shall perform such other services as may be
45 required by the Governor in exercising his powers of executive clemency. The Commission
46 shall also have authority to revoke and terminate persons on post-release supervision, as
47 provided in Article 84A of Chapter 15A of the General Statutes. The Commission shall also
48 have the authority to punish for criminal contempt for willful refusal to accept post-release
49 supervision or to comply with the terms of post-release supervision by a prisoner whose offense
50 requiring post-release supervision is a reportable conviction subject to the registration
51 requirement of Article 27A of Chapter 14 of the General Statutes. Any contempt proceeding

1 conducted by the Commission shall be in accordance with G.S. 5A-15 as if the Commission
2 were a judicial official."

3 **SECTION 8.** Sections 5, 6, and 7 of this act are effective when they become law
4 and apply to willful refusals to accept post-release supervision or to comply with the terms of
5 post-release supervision that occur on or after that date. The remainder of this act becomes
6 effective December 1, 2011, and applies to offenses committed on or after that date.