

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 560
Apr 14, 2021
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10253-ND-84

Short Title: Public Safety Reform.

(Public)

Sponsors: Representative Boles.

Referred to:

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 1.(a)** Section 36.15 of S.L. 2013-360 reads as rewritten:

5 "SECTION 36.15. Notwithstanding any other provision of the law, an employee of a State
6 agency or institution may perform work involving the installation, construction, maintenance, or
7 repair of any buildings, wiring, piping, devices, appliances, or equipment located in or
8 constituting improvements located on State-owned land without the requirement of licensure
9 under Chapter 87 of the General Statutes if ~~(i) the work is performed by an employee who is~~
10 employed by the State agency or institution and either the work performed is valued at less than
11 one hundred thousand dollars (\$100,000), (ii) (\$100,000) or all work is performed as
12 force-account work otherwise authorized by law up to the value authorized, and (iii) the work is
13 performed by an employee who is employed by the State agency or institution. authorized. The
14 Office of State Construction may regulate work performed pursuant to this section to ensure
15 compliance with building and safety codes. Nothing in this section shall be construed to allow
16 an employee of a State agency or institution to engage in any activities described in this section
17 privately or outside the employee's scope of employment without meeting all licensure
18 requirements otherwise required by law."

19 **SECTION 1.(b)** This section is effective when it becomes law and applies to work
20 performed on or after that date.

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

22 "**§ 14-258.4. Malicious conduct by prisoner.**

23 ...

24 (b) Any prisoner who knowingly and willfully exposes genitalia to an employee while
25 the employee is in the performance of the employee's duties ~~is guilty of~~ shall be punished as a
26 Class I felony felon and shall be sentenced to a minimum term of six months and a maximum
27 term of 12 months in the State's prison.

28 ...

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

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

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

35 "(c) Possessing Tools for Escape. – Any prisoner who possesses a letter, weapon, tool,
36 good, article of clothing, device, or instrument to ~~do any of the following~~ is guilty of effect an



1 escape or aide in an assault or insurrection shall be punished as a Class H ~~felony~~:felon and shall
2 be sentenced to a minimum term of 12 months and a maximum term of 24 months in the State's
3 prison.

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

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

6 **SECTION 3.(b)** G.S. 15A-1368.1 reads as rewritten:

7 "**§ 15A-1368.1. Applicability of Article 84A.**

8 This Article applies to all felons sentenced to an active punishment under Article 81B of this
9 ~~Chapter or G.S. 90-95(h), Chapter, G.S. 14-258, 14-258.4, or 90-95(h),~~ but does not apply to
10 felons in Class A and Class B1 sentenced to life imprisonment without parole. Prisoners subject
11 to Articles 85 and 85A of this Chapter are excluded from this Article's coverage."

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

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

16 "**§ 148-18.2. Prisoner property.**

17 (a) In no event shall the personal property of an inmate in the custody of the Department
18 of Public Safety, Division of Adult Correction and Juvenile Justice, exceed a maximum total
19 value of two hundred fifty dollars (\$250.00).

20 (b) When the property of an inmate in the custody of the Department of Public Safety,
21 Division of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged
22 through the negligent handling of its correctional facility, or staff members thereof, the
23 Department of Public Safety shall reimburse the inmate for the value of the item, or provide for
24 replacement of the item, when the Department's Administrative Remedies Procedure results in
25 that recommendation. This shall be the inmate's sole remedy for property loss, destruction, or
26 damage.

27 (c) Reimbursement pursuant to this section shall be calculated in a manner authorized by
28 the Department of Public Safety, Division of Adult Correction and Juvenile Justice, but in no
29 event shall reimbursement exceed a maximum of two hundred fifty dollars (\$250.00) per
30 incident, nor shall an inmate in the custody of the Department of Public Safety, Division of Adult
31 Correction and Juvenile Justice, be reimbursed for lost, destroyed, or damaged State-issued
32 property."

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

35 "**§ 143-295.2. Inmate property claims against the Department of Public Safety.**

36 When the property of an inmate in the custody of the Department of Public Safety, Division
37 of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged through the
38 negligent handling of its correction facility, or staff members thereof, the inmates shall have no
39 recourse under this Article. Instead, the Department of Public Safety shall reimburse the inmate
40 for the value of the item, or provide for replacement of the item, as described in G.S. 148-18.2."

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

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

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

47 "(b) No State ~~court~~-court, including the North Carolina Industrial Commission, or
48 administrative body shall entertain a prisoner's grievance or complaint which falls under the
49 purview of the Administrative Remedy Procedure unless and until the prisoner shall have
50 exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue
51 administrative remedies through this procedure, any petition or complaint he files shall be stayed

1 for 90 days to allow the prisoner to file a grievance and for completion of the procedure. If at the
2 end of 90 days the prisoner has failed to timely file his grievance, then the petition or complaint
3 shall be dismissed. ~~Provided, however, that the court can waive the exhaustion requirement if it~~
4 ~~finds such waiver to be in the interest of justice."~~

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

6 "**§ 143-291.2. Costs and fees.**

7 (a) The Industrial Commission may by order tax the costs against the losing party in the
8 same amount and the same manner as costs are taxed in the Superior Court Division of the
9 General Court of Justice. However, in no event shall the Industrial Commission tax the cost
10 against the prevailing party. When a State department, institution, or agency appeals to the full
11 commission the decision rendered by a hearing commissioner, the State department, institution,
12 or agency shall furnish a copy of the transcript of the hearing to the appellee without cost. The
13 State department, institution, or agency concerned may pay the costs taxed against it. When costs
14 are not paid by a party from whom they are due, the Industrial Commission shall issue an
15 execution for the costs and attach a bill of costs to each execution. The Sheriff shall levy upon
16 the execution as provided in Chapter 6 of the General Statutes in civil actions.

17 ...

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

22 (1) Frivolous.

23 (2) Malicious.

24 (3) Not within the statute of limitations.

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

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

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

28 "**§ 143-295. Settlement of claims.**

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

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

40"

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

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

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

48 "**§ 143-299.5. Limited liability for claims against the Department of Public Safety, Division**
49 **of Adult Correction and Juvenile Justice.**

50 The Department of Public Safety, Division of Adult Correction and Juvenile Justice, shall
51 not be liable for damages under this Article for the acts or omissions of its employees tasked with

1 the supervision, protection, control, confinement, or custody of the State's inmate population,
2 unless such acts or omissions amount to gross negligence."

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

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

6 "**§ 15-205. Duties and powers of the probation officers.**

7 (a) A probation officer shall investigate all cases referred to him for investigation by the
8 judges of the courts or by the Secretary of Public Safety. Such officer shall keep informed
9 concerning the conduct and condition of each person on probation under his supervision by
10 visiting, requiring reports, and in other ways, and shall report thereon in writing as often as the
11 court or the Secretary of Public Safety may require. Such officer shall use all practicable and
12 suitable methods, not inconsistent with the conditions imposed by the court or the Secretary of
13 Public Safety, to aid and encourage persons on probation to bring about improvement in their
14 conduct and condition. Such officer shall keep detailed records of his work; shall make such
15 reports in writing to the Secretary of Public Safety as he may require; and shall perform such
16 other duties as the Secretary of Public Safety may require. A probation officer shall have, in the
17 execution of his duties, the powers of arrest ~~and, to the extent necessary for the performance of~~
18 ~~his duties, the same right to execute process as is now given, or that may hereafter be given by~~
19 ~~law, to the sheriffs of this State and the authority of a peace officer for the service of any warrant~~
20 ~~or other process issuing from any of the courts of the State having criminal jurisdiction.~~

21 (b) Probation officers shall have authority to assist law enforcement officers in effecting
22 arrests and preventing escapes from custody when requested to do so by a law enforcement
23 officer or when, in the judgment of the probation officer, that assistance may be necessary. When
24 rendering assistance pursuant to this subsection, probation officers have authority to arrest and
25 to take enforcement action for any criminal offense.

26 (c) Probation officers shall have the authority of peace officers on prison property for the
27 purpose of protecting life and property, for the purpose of transferring prisoners from place to
28 place as the probation officers' duties might require, and for apprehending, arresting, and
29 returning to prison escaped prisoners.

30 (d) Probation officers shall have the authority of peace officers when responding to active
31 assailant incidents and civil disturbances or when assigned by the Secretary of Public Safety to
32 perform additional duties during times of man-made or natural disasters."

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

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

35 "**§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
36 **duties.**

37 (a) There is hereby created a Post-Release Supervision and Parole Commission of the
38 Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the
39 authority to grant paroles, including both regular and temporary paroles, to persons held by virtue
40 of any final order or judgment of any court of this State as provided in Chapter 148 of the General
41 Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B
42 of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally
43 released into the custody and control of United States Immigration and Customs Enforcement
44 pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and
45 suspend paroles of such persons (including persons placed on parole on or before the effective
46 date of the Executive Organization Act of 1973) and to assist the Governor in exercising his
47 authority in granting reprieves, commutations, and pardons, and shall perform such other services
48 as may be required by the Governor in exercising his powers of executive clemency. The
49 Commission shall also have authority to revoke and terminate persons on post-release
50 supervision, as provided in Article 84A of Chapter 15A of the General Statutes. The Commission
51 shall also have authority to issue orders of temporary or conditional revocation of post-release

1 supervision and parole subjecting supervisees and parolees to arrest by a law enforcement officer
2 or a post-release supervision and parole officer. The Commission shall also have the authority to
3 punish for criminal contempt for willful refusal to accept post-release supervision or to comply
4 with the terms of post-release supervision by a prisoner whose offense requiring post-release
5 supervision is a reportable conviction subject to the registration requirement of Article 27A of
6 Chapter 14 of the General Statutes. Any contempt proceeding conducted by the Commission
7 shall be in accordance with G.S. 5A-15 as if the Commission were a judicial official.

8 ...

9 (f1) The Commission shall enter all orders of temporary or conditional revocation of
10 post-release supervision and parole subjecting supervisees and parolees to arrest by a law
11 enforcement officer or a post-release supervision and parole officer into CJLEADS.

12"

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

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

16 "**§ 143B-603A. Continuously Operating Reference Station Fund.**

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

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

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

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

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

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

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

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

35 ...

36 (1a) Emergency personnel officer. – Firefighting, search and rescue, or emergency
37 medical service personnel, or any employee of any duly accredited State or
38 local government agency possessing authority to enforce the criminal laws of
39 the State who (i) is actively serving in a position with assigned primary duties
40 and responsibilities for the prevention and detection of crime or the general
41 enforcement of the criminal laws of the State and (ii) possesses the power of
42 arrest by virtue of an oath administered under the authority of the State.

43 ...

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

- 47 a. Has received training to provide emotional and moral support and
48 counseling to client law enforcement ~~employees–employees,~~
49 emergency personnel officers, and their immediate families;
50 and families.

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

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

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

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

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

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

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

"§ 15B-2. Definitions.

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

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

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

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

...."

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

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

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

...

(10) Submit at reasonable times to ~~warrantless searches of the supervisee's person~~ by a post-release supervision officer of the supervisee's person and of the supervisee's vehicle and premises while the supervisee is present for purposes reasonably related to the post-release supervision. The Commission shall not require as a condition of post-release supervision that the supervisee submit to any other searches that would otherwise be unlawful. Whenever the search

1 consists of testing for the presence of illegal drugs, the supervisee may also
2 be required to reimburse the Division of Adult Correction and Juvenile Justice
3 of the Department of Public Safety for the actual cost of drug testing and drug
4 screening, if the results are positive.

5"

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

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