

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 560
PROPOSED COMMITTEE SUBSTITUTE H560-PCS40534-SA-23

Short Title: Public Safety Reform.

(Public)

Sponsors:

Referred to:

April 15, 2021

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 a Class I felony.
26 Notwithstanding G.S. 15A-1340.17, a person convicted of a violation of this subsection shall be
27 sentenced to an active punishment with a minimum term of six months.

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~~ effect an escape or aid



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1 in an assault or insurrection is guilty of a Class H felony-felony. Notwithstanding
2 G.S. 15A-1340.17, a person convicted of a violation of this subsection shall be sentenced to an
3 active punishment with a minimum term of 12 months.

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

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

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

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

10 **"§ 148-18.2. Prisoner property.**

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

14 (b) When the property of an inmate in the custody of the Department of Public Safety,
15 Division of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged
16 through the negligent handling of the correctional facility or its staff members, the Department
17 of Public Safety shall reimburse the inmate for the value of the item, or, when recommended by
18 the Department's Administrative Remedy Procedure, provide for replacement of the item. This
19 shall be the inmate's sole remedy for property loss, destruction, or damage.

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

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

28 **"§ 143-295.2. Inmate property claims against the Department of Public Safety.**

29 When the property of an inmate in the custody of the Department of Public Safety, Division
30 of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged through the
31 negligent handling of the correctional facility or its staff members, the Department of Public
32 Safety shall reimburse the inmate for the value of the item, or provide for replacement of the
33 item, as described in G.S. 148-18.2, and the inmate shall have no recourse under this Article."

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

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

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

40 "(b) No State court—court, including the North Carolina Industrial Commission, or
41 administrative body shall entertain a prisoner's grievance or complaint which falls under the
42 purview of the Administrative Remedy Procedure unless and until the prisoner shall have
43 exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue
44 administrative remedies through this procedure, any petition or complaint he files shall be stayed
45 for 90 days to allow the prisoner to file a grievance and for completion of the procedure. If at the
46 end of 90 days the prisoner has failed to timely file his grievance, then the petition or complaint
47 shall be dismissed. Provided, however, that the court can waive the exhaustion requirement if it
48 finds such waiver to be in the interest of justice."

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

50 **"§ 143-291.2. Costs and fees.**

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

11 ...

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

16 (1) Frivolous.

17 (2) Malicious.

18 (3) Not within the statute of limitations.

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

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

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

22 **"§ 143-295. Settlement of claims.**

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

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

34"

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

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

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

42 **"§ 143-299.5. Limited liability for claims against the Department of Public Safety, Division**
43 **of Adult Correction and Juvenile Justice.**

44 The Department of Public Safety, Division of Adult Correction and Juvenile Justice, shall
45 not be liable for damages under this Article for the acts or omissions of its employees tasked with
46 the supervision, protection, control, confinement, or custody of the State's inmate population,
47 unless such acts or omissions amount to gross negligence."

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

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

51 **"§ 15-205. Duties and powers of the probation officers.**

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

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

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

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

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

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

29 **"§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
30 **duties.**

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

Chapter 14 of the General Statutes. Any contempt proceeding conducted by the Commission shall be in accordance with G.S. 5A-15 as if the Commission were a judicial official.

...

(f1) The Commission shall enter all orders of temporary or conditional revocation of post-release supervision and parole subjecting supervisees and parolees to arrest by a law enforcement officer or a post-release supervision and parole officer into the Criminal Justice Law Enforcement Automated Data System (CJLEADS).

...."

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

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

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

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

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

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

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

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

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

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

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

...

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

...

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

a. Has received training to provide emotional and moral support and counseling to client law enforcement ~~employees~~ employees, emergency personnel officers, and their immediate families; 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 consists of testing for the presence of illegal drugs, the supervisee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug testing and drug screening, if the results are positive.

...."

1 **SECTION 12.(b)** This section is effective when it becomes law and applies to
2 searches on or after that date.
3 **SECTION 13.** Except as otherwise provided, this act is effective when it becomes
4 law.