

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 492
PROPOSED COMMITTEE SUBSTITUTE S492-PCS35273-CE-19

Short Title: Modify Provisions Affecting Adult Correction.-AB

(Public)

Sponsors:

Referred to:

April 4, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY LAWS CONCERNING ADULT CORRECTION, AS
3 RECOMMENDED BY THE DEPARTMENT OF ADULT CORRECTION.

4 The General Assembly of North Carolina enacts:

5
6 **EXPAND AVAILABLE METHODS OF DRUG AND ALCOHOL SCREENING OF**
7 **PROBATIONERS**

8 **SECTION 1.(a)** G.S. 15A-1343(b) reads as rewritten:

9 "(b) Regular Conditions. – As regular conditions of probation, a defendant must:

10 ...

11 (16) ~~Supply a breath, urine, or blood specimen~~ Submit to drug and alcohol
12 screening for analysis of the possible presence of prohibited drugs or alcohol
13 when instructed by the defendant's probation officer for purposes directly
14 related to the probation supervision. If the results of the analysis are positive,
15 the probationer may be required to reimburse the Division of Community
16 Supervision and Reentry of the Department of Adult Correction for the actual
17 costs of drug or alcohol screening and testing.

18 ...

19 In addition to these regular conditions of probation, a defendant required to serve an active
20 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or
21 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and
22 regulations of the Division of Prisons of the Department of Adult Correction and, if applicable,
23 the Division of Juvenile Justice of the Department of Public Safety, governing the conduct of
24 inmates while imprisoned and report to a probation officer in the State of North Carolina within
25 72 hours of his discharge from the active term of imprisonment.

26 Regular conditions of probation apply to each defendant placed on supervised probation
27 unless the presiding judge specifically exempts the defendant from one or more of the conditions
28 in open court and in the judgment of the court. It is not necessary for the presiding judge to state
29 each regular condition of probation in open court, but the conditions must be set forth in the
30 judgment of the court.

31 Defendants placed on unsupervised probation are subject to the provisions of this subsection,
32 except that defendants placed on unsupervised probation are not subject to the regular conditions
33 contained in subdivisions (2), (3), (6), (8), (13), (14), (15), (16) and (17) of this subsection."

34 **SECTION 1.(b)** This section becomes effective December 1, 2023, and applies to
35 offenses committed on or after that date.



1 **INCLUDE PROHIBITION OF FIREARM AMMUNITION IN REGULAR**
 2 **CONDITIONS OF PROBATION, POST-RELEASE SUPERVISION, AND PAROLE**

3 **SECTION 2.(a)** G.S. 15A-1343(b), as amended by Section 1 of this act, reads as
 4 rewritten:

5 "(b) Regular Conditions. – As regular conditions of probation, a defendant must:

6 ...

7 (5) Possess no firearm, firearm ammunition, explosive device or other deadly
 8 weapon listed in G.S. 14-269 without the written permission of the court.

9"

10 **SECTION 2.(b)** G.S. 15A-1368.4(e) reads as rewritten:

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

13 ...

14 (4) ~~Not possess a~~ Possess no firearm, ~~destructive~~ firearm ammunition, explosive
 15 device, or other ~~dangerous~~ deadly weapon listed in G.S. 14-269 unless granted
 16 written permission by the ~~Commission or a post-release supervision~~
 17 ~~officer.~~ Commission.

18"

19 **SECTION 2.(c)** G.S. 15A-1374(b) reads as rewritten:

20 "(b) Appropriate Conditions. – As conditions of parole, the Commission may require that
 21 the parolee comply with one or more of the following conditions:

22 ...

23 (5) ~~Refrain from possessing a~~ Possess no firearm, ~~destructive~~ firearm
 24 ammunition, explosive device, or other dangerous deadly weapon listed in
 25 G.S. 14-269 unless granted written permission by the ~~Commission or the~~
 26 ~~parole officer.~~ Commission.

27"

28 **SECTION 2.(d)** This section becomes effective December 1, 2023, and applies to
 29 offenses committed on or after that date.

30
 31 **EARLY TRANSFERS TO JAILS AND LOCAL DETENTION FACILITIES**

32 **SECTION 3.(a)** G.S. 15A-1352 is amended by adding a new subsection to read:

33 "(g) Early Transfer. – To facilitate an efficient and orderly transfer of custody, a person
 34 -serving a sentence in the Department of Adult Correction who is subject to an outstanding
 35 sentence, detainer, or other lawful process authorizing detention may be transferred up to five
 36 days before the expiration of the person's current sentence, and the remainder of the person's
 37 current sentence may be served in the custody of the requesting local confinement facility. Early
 38 transfers conducted pursuant to this subsection shall only be conducted at the request and expense
 39 of the receiving local confinement facility.

40 Nothing in this subsection shall be construed to authorize the holding of a person beyond the
 41 release date of the current sentence absent an outstanding sentence to be served, detainer, or
 42 service of other lawful process authorizing detention.

43 For purposes of this subsection, "local confinement facility" means those facilities defined in
 44 G.S. 153A-217(5)."

45 **SECTION 3.(b)** This section becomes effective October 1, 2023, and applies to
 46 transfers occurring on or after that date.

47
 48 **OFFENDER POPULATION MAY PURCHASE CORRECTION ENTERPRISES**
 49 **PRODUCTS**

50 **SECTION 4.(a)** G.S. 148-132 reads as rewritten:

51 "§ 148-132. **Distribution of products and services.**

1 The Division of Correction Enterprises of the Department of Adult Correction is empowered
2 and authorized to market and sell products and services produced by Correction Enterprises to
3 any of the following entities:

4 ...

5 (5a) Any individual currently incarcerated within a Department of Adult
6 Correction facility.

7"

8 **SECTION 4.(b)** This section is effective when it becomes law.

10 **RETENTION AND REINVESTMENT OF UTILITY SAVINGS**

11 **SECTION 5.(a)** Part 1 of Article 16 of Chapter 143B of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 143B-1445. Energy conservation savings.**

14 (a) The General Fund current operations appropriations credit balance remaining at the
15 end of each fiscal year for utilities from the Department of Adult Correction that is energy savings
16 realized from implementing an energy conservation measure shall be carried forward to the next
17 fiscal year. Sixty percent (60%) of the energy savings realized shall be utilized for energy
18 conservation measures by the Department of Adult Correction. The use of funds under this
19 section shall be limited to one-time capital and operating expenditures that will not impose
20 additional financial obligations on the State and are nonreverting. The Director of the Budget,
21 under the authority set forth in G.S. 143C-6-2, shall establish the General Fund current operations
22 credit balance remaining in each budget code of the Department of Adult Correction.

23 (b) The Director of the Budget shall not decrease the recommended continuation budget
24 requirements for utilities from the previous fiscal year for the Department of Adult Correction
25 by the amount of energy savings realized from implementing energy conservation measures,
26 including savings achieved through a guaranteed energy savings contract.

27 (c) The Department of Adult Correction shall submit an annual report on the use of funds
28 authorized pursuant to this section as required under G.S. 143-64.12.

29 (d) As used in this section, "energy savings," "guaranteed energy savings contract," and
30 "energy conservation measure" have the same meaning as in G.S. 143-64.17."

31 **SECTION 5.(b)** This section is effective when it becomes law.

33 **RETAIN PROCEEDS FROM SALE OF DEPARTMENT OF ADULT CORRECTION** 34 **PROPERTY**

35 **SECTION 6.(a)** G.S. 146-30(d) reads as rewritten:

36 "(d) Notwithstanding any other provision of this Subchapter, the following exceptions
37 apply:

38 ...

39 (15) The net proceeds derived from the sale or lease of land or facilities owned by
40 the Department of Adult Correction or owned by the State and solely
41 maintained by the Department of Adult Correction shall be deposited in a
42 capital improvement fund to the credit of the Department of Adult Correction
43 to make capital improvements on or to property owned by the Department of
44 Adult Correction or owned by the State and solely maintained by the
45 Department of Adult Correction. Expenditures from this capital fund shall be
46 subject to approval by the Office of State Budget and Management."

47 **SECTION 6.(b)** This section is effective when it becomes law and applies to
48 proceeds from sales occurring on or after that date.

50 **AUTHORIZATION TO DESIGNATE DAC EMPLOYEES TO CARRY CONCEALED** 51 **WEAPONS**

1 **SECTION 7.(a)** G.S. 14-269(b) reads as rewritten:

2 "(b) This prohibition shall not apply to any of the following persons:

3 (1) Officers and enlisted personnel of the Armed Forces of the United States when
4 in discharge of their official duties as such and acting under orders requiring
5 them to carry arms and ~~weapons;~~weapons.

6 (2) Civil and law enforcement officers of the United ~~States;~~States.

7 (3) Officers and soldiers of the militia and the National Guard when called into
8 actual ~~service;~~service.

9 ...

10 (4) Officers of the State, or of any county, city, town, or company police agency
11 charged with the execution of the laws of the State, when acting in the
12 discharge of their official ~~duties;~~duties.

13 (4a) Any person who is a district attorney, an assistant district attorney, or an
14 investigator employed by the office of a district attorney and who has a
15 concealed handgun permit issued in accordance with Article 54B of this
16 Chapter or considered valid under G.S. 14-415.24; provided that the person
17 shall not carry a concealed weapon at any time while in a courtroom or while
18 consuming alcohol or an unlawful controlled substance or while alcohol or an
19 unlawful controlled substance remains in the person's body. The district
20 attorney, assistant district attorney, or investigator shall secure the weapon in
21 a locked compartment when the weapon is not on the person of the district
22 attorney, assistant district attorney, or investigator. Notwithstanding the
23 provisions of this subsection, a district attorney may carry a concealed weapon
24 while in a ~~courtroom;~~courtroom.

25 (4b) Any person who is a qualified retired law enforcement officer as defined in
26 G.S. 14-415.10 and meets any one of the following conditions:

27 ...

28 c. Is certified by the North Carolina Criminal Justice Education and
29 Training Standards Commission pursuant to
30 ~~G.S. 14-415.26;~~G.S. 14-415.26.

31 (4c) Detention personnel or correctional officers employed by the State or a unit
32 of local government who park a vehicle in a space that is authorized for their
33 use in the course of their duties may transport a firearm to the parking space
34 and store that firearm in the vehicle parked in the parking space, provided that:
35 (i) the firearm is in a closed compartment or container within the locked
36 vehicle, or (ii) the firearm is in a locked container securely affixed to the
37 vehicle;vehicle.

38 (4d) Any person who is a North Carolina district court judge, North Carolina
39 superior court judge, or a North Carolina magistrate and who has a concealed
40 handgun permit issued in accordance with Article 54B of this Chapter or
41 considered valid under G.S. 14-415.24; provided that the person shall not
42 carry a concealed weapon at any time while consuming alcohol or an unlawful
43 controlled substance or while alcohol or an unlawful controlled substance
44 remains in the person's body. The judge or magistrate shall secure the weapon
45 in a locked compartment when the weapon is not on the person of the judge
46 or ~~magistrate;~~magistrate.

47 (4e) Any person who is serving as a clerk of court or as a register of deeds and who
48 has a concealed handgun permit issued in accordance with Article 54B of this
49 Chapter or considered valid under G.S. 14-415.24; provided that the person
50 shall not carry a concealed weapon at any time while consuming alcohol or an
51 unlawful controlled substance or while alcohol or an unlawful controlled

1 substance remains in the person's body. The clerk of court or register of deeds
 2 shall secure the weapon in a locked compartment when the weapon is not on
 3 the person of the clerk of court or register of deeds. This subdivision does not
 4 apply to assistants, deputies, or other employees of the clerk of court or
 5 register of ~~deeds;~~deeds.

6 (5) Sworn law-enforcement officers, when off-duty, provided that an officer does
 7 not carry a concealed weapon while consuming alcohol or an unlawful
 8 controlled substance or while alcohol or an unlawful controlled substance
 9 remains in the officer's ~~body;~~body.

10 ...
 11 (7a) A person employed by the Department of Adult Correction who (i) has been
 12 designated in writing by the Secretary of the Department, (ii) has a concealed
 13 handgun permit issued in accordance with Article 54B of this Chapter or
 14 considered valid under G.S. 14-415.24, and (iii) has in the person's possession
 15 written proof of the designation by the Secretary of the Department, provided
 16 that the person shall not carry a concealed weapon at any time while
 17 consuming alcohol or an unlawful controlled substance or while alcohol or an
 18 unlawful controlled substance remains in the person's body.

19"

20 **SECTION 7.(b)** This section is effective when it becomes law and applies to
 21 designations made on or after that date.

22
 23 **EXEMPTIONS FROM CONTESTED CASE PROVISIONS**

24 **SECTION 8.(a)** G.S. 150B-1(e) reads as rewritten:

25 "(e) Exemptions From Contested Case Provisions. – The contested case provisions of this
 26 Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The
 27 contested case provisions of this Chapter do not apply to the following:

28 ...

29 (7) ~~The Division of Prisons of the~~ Department of Adult Correction.

30"

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

33
 34 **EXTEND SUNSET DATE FOR USE OF SECURITY GUARDS AT STATE PRISONS**

35 **SECTION 9.(a)** Section 4.15(c) of S.L. 2020-3, as amended by Section 2 of S.L.
 36 2020-15, Section 19D.2 of S.L. 2021-180, and Section 19D.1 of S.L. 2022-74, reads as rewritten:

37 "~~**SECTION 4.15.(c)** This section is effective when it becomes law and expires upon the~~
 38 ~~earlier of January 1, 2024, or the date of completion of the Youth Development Center in~~
 39 ~~Roekingham County on June 30, 2025."~~

40 **SECTION 9.(b)** This section is effective when it becomes law.

41
 42 **EXPAND AUTHORITY TO INCREASE WAGES PAID TO WORKING NORTH**
 43 **CAROLINA INMATES**

44 **SECTION 10.(a)** G.S. 148-18(a) reads as rewritten:

45 "(a) Prisoners employed by Correction Enterprises shall be compensated as set forth in
 46 Article 14 of this Chapter. Prisoners participating in work assignments established by the
 47 Division of Prisons shall be compensated at rates fixed by the Division of Prisons of the
 48 Department of Adult Correction's rules and regulations; provided, that no prisoner so paid shall
 49 receive more than one dollar (\$1.00) per day, unless the prisoner is performing work for the
 50 Division's BRIDGE Program or the Secretary determines that the work assignment requires
 51 special skills or training. Upon approval of the Secretary, inmates working for the BRIDGE

1 Program or in job assignments requiring special skills or training may be paid up to five dollars
2 (\$5.00) per day. The Correction Enterprises Fund shall be the source of wages and allowances
3 provided to inmates who are employed by the Division of Prisons of the Department of Adult
4 Correction in work assignments established by the Division of Prisons."

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

7
8 **EFFECTIVE DATE**

9 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
10 law.