

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 732
HOUSE BILL 1183

AN ACT TO PROVIDE FOR SPECIAL TREATMENT OF ALL YOUTHFUL OFFENDERS
AND ESTABLISH SPECIAL PAROLE CONSIDERATION FOR COMMITTED
YOUTHFUL OFFENDERS.

The General Assembly of North Carolina enacts:

Section 1. Article 3A of Chapter 148 as it appears in Volume 3C of the General Statutes of North Carolina and in the 1975 Cumulative Supplement thereto is hereby repealed.

Sec. 2. Chapter 148 is hereby amended by adding a new Article 3B to read as follows:

"ARTICLE 3B.

"Facilities and Programs for Youthful Offenders.

"§ 148-49.10. Purposes of Article. — The purposes of this Article are to improve the chances of correction, rehabilitation and successful return to the community of youthful offenders sentenced to imprisonment by preventing, as far as practicable, their association during their terms of imprisonment with older and more experienced criminals, and by closer coordination of the activities of sentencing, training in custody, parole, and final discharge. It is the intent of this Article to provide the courts with an additional sentencing possibility to be used in the court's discretion for correctional punishment and treatment in cases, where in the opinion of the court, a youthful offender requires a period of imprisonment, but no longer than necessary for the Parole Commission to determine that the offender is suitable for a return to freedom and is ready for a period of supervised freedom as a step toward unconditional discharge and restoration of the rights of citizenship.

"§ 148-49.11. Definitions. — As used in this Article, a 'youthful offender' is a person under 21 years of age in the custody of the Secretary of Correction. A 'committed youthful offender' is a youthful offender who shall have the benefit of early release under the provisions of G.S. 148-49.15. All rights accrued by persons prior to the effective date of this statute shall not be affected.

"§ 148-49.12. Treatment of youthful offenders. — (a) To the extent practicable in light of the needs of the youthful offenders and of the needs and resources of the prison system, the Secretary of Correction shall house youthful offenders in facilities separate from prisoners over 21 years of age. In any case where the program needs of a youthful offender or the resources of the Department of Correction prohibit such separate housing, the youthful offender may be assigned to any prison facility pursuant to G.S. 148-4 and G.S. 148-36 as the Secretary of Correction shall deem appropriate. Facilities designated for the housing of youthful offenders shall be, to the extent feasible, adapted to the needs and treatment of youthful offenders. The secretary shall endeavor to provide personnel specially qualified by training, experience, and personality for treatment of youthful offenders.

(b) The Department of Human Resources is authorized to establish and construct on any property of the State under its supervision and control modern facilities where youthful offenders committed to the custody of the Secretary of Correction may be sent for treatment, training, or work under rules and regulations jointly adopted by the Department of Human Resources and the State Department of Correction. The plans, specifications and construction

of such facilities shall meet the requirements of the Secretary of Correction. The cost of the maintenance of youthful offenders assigned to such facilities by the Secretary of Correction and employed in work for the benefit of the Department of Human Resources shall be borne by the Department of Human Resources. The youthful offenders assigned to such facilities shall be under the care and supervision of agents and employees of the Department of Correction or of agents and employees of the Department of Human Resources as may be agreed upon by the two State agencies.

(c) Youthful offenders may be required to participate in vocational, educational and correctional training and activities. Appropriate use shall be made of other methods of treatment, including medical and psychiatric. The Secretary of Correction may extend the limits of the place of confinement of a youthful offender when there is reasonable cause to believe that he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time for any purpose consistent with the public interest. Willful failure to remain within the extended limits of his confinement, or to return within the time prescribed to the place of confinement designated by the Secretary of Correction, shall be deemed an escape from the custody of the Secretary as provided in G.S. 148-45.

(d) The Secretary of Correction may contract with any appropriate public or private agency not under his control for treatment and training services to youthful offenders when this is the most economical or effective way to provide needed services.

"§ 148-49.13. Classification studies. — Every youthful offender shall first be sent to a diagnostic and classification center for a complete study, including a mental and physical examination, to ascertain his personal traits, his capabilities, pertinent circumstances of his school and family life, any previous delinquency or criminal experience, and any mental or physical defect or other factor contributing to his delinquency and criminal activities. All agencies of State and local government in North Carolina shall cooperate with the State Department of Correction in supplying or verifying information helpful for diagnosis, classification, and program planning for youthful offenders. A report of the findings and recommendations of the diagnostic and classification center shall be sent to the Secretary of Correction and shall be made available to the Parole Commission, and to the Department of Human Resources if needed.

"§ 148-49.14. Sentencing committed youthful offenders. — As an alternative to a sentence of imprisonment as is otherwise provided by law, when a person under 21 years of age is convicted of an offense punishable by imprisonment and the court does not suspend the imposition or execution of sentence and place him on probation, the court may sentence such person to the custody of the Secretary of Correction for treatment and supervision as a committed youthful offender. At the time of commitment the court shall fix a maximum term not to exceed the limit otherwise prescribed by law for the offense of which the person is convicted or 20 years, whichever is less. When the maximum permitted penalty for the offense is imprisonment for one year or longer, the maximum term imposed shall not be for less than one year. If the court shall find that a person under 21 years of age should not obtain the benefit of release under G.S. 148-49.15, it shall make such 'no benefit' finding on the record. Whenever the court shall suspend the imposition or execution of sentence and place a person on probation, the court shall not order commitment as a committed youthful offender; however, if probation be subsequently revoked and the active sentence of imprisonment executed, the court may at that time commit the person, if he is still under 21 years of age, to the custody of the Secretary of Correction as a committed youthful offender.

"§ 148-49.15. Parole of committed youthful offenders. — (a) The Parole Commission may at any time after reasonable notice to the Secretary of Correction parole under supervision a committed youthful offender pursuant to the provisions of Article 4 of this Chapter. When, in the judgment of the Secretary of Correction, a committed youthful offender is ready for parole

under supervision, the Secretary may also recommend such action to the Parole Commission. It shall not be necessary for a committed youthful offender to have served one quarter of his sentence before becoming eligible for parole.

(b) When the Parole Commission paroles any committed youthful offender, the time that the committed youthful offender spends at liberty on parole shall be limited and shall be credited toward his active sentence in the same manner as would have occurred had such person been paroled pursuant to Article 4 of this Chapter.

(c) The Parole Commission, after notice to the Secretary of Correction, may release a committed youthful offender on parole within the last 90 days of his maximum term of commitment.

(d) The Parole Commission may revoke or modify any of its orders respecting a committed youthful offender except an order of unconditional discharge. Upon the unconditional discharge by the Parole Commission of a committed youthful offender before the expiration of the maximum sentence imposed upon him, all rights of citizenship which he forfeited on conviction shall be automatically restored and the Parole Commission shall issue to the committed youthful offender a certificate to that effect.

"§ 148-49.16. Supervision of paroled youthful offenders and revocation of such parole. —

(a) Paroled youthful offenders shall be under the supervision of agents and employees of the Department of Correction. The Department of Correction is authorized to encourage the formation of voluntary organizations composed of members who will serve without compensation as voluntary supervisory agents and sponsors. The powers and duties of voluntary supervisory agents and sponsors shall be limited and defined by rules and regulations adopted by the Parole Commission.

(b) If at any time before unconditional discharge of a youthful offender the Parole Commission is of the opinion that for proper reason parole should be revoked, revocation shall proceed under the provisions of Article 4 of this Chapter. After revocation of parole, the Parole Commission may thereafter reinstate parole at such time as in the commission's discretion the youthful offender is ready for reinstatement. Notice to the Secretary of Correction of intent to reinstate parole shall not be required."

Sec. 3. G.S. 148-45(a)(4) as it appears in the 1975 Cumulative Supplement to Volume 3 of the General Statutes of North Carolina is amended by striking out in the third line thereof "or 148-49.3".

Sec. 4. G.S. 148-45(b)(4) as it appears in the 1975 Cumulative Supplement to Volume 3 of the General Statutes of North Carolina is amended by striking out in the third line thereof "or 148-49.3".

Sec. 5. The second sentence of G.S. 143B-266(b) is hereby rewritten to read as follows: "Specifically, such releasing authority includes work release (G.S. 148-33.1), indeterminate-sentence release (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the individual considered for work release or indeterminate-sentence release shall have been recommended for release by the Secretary of Correction or his designee."

Sec. 6. All commitments to the Department of Correction under G.S. 148-49.3 shall be treated as commitments under G.S. 148-12(b).

Sec. 7. This act shall become effective October 1, 1977.

In the General Assembly read three times and ratified, this the 24th day of June, 1977.