

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 936
HOUSE BILL 1349

AN ACT TO MANDATE THAT THE DEPARTMENT OF HUMAN RESOURCES HOUSE CERTAIN RESIDENTS IN OR ESCAPEES FROM ITS INSTITUTIONS WHO HAVE COMMITTED CRIMES WHILE STILL RESIDING IN THE INSTITUTION OR SUBSEQUENT TO ESCAPE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 122 is amended by adding a new section to read:

"§ 122-58.27. Housing responsibility for certain residents in or escapees from involuntary commitment. — (a) Any individual who has been involuntarily committed under the provisions of this Article to a mental health facility designated or licensed by the Department of Human Resources:

- (1) Who escapes from or is absent without authorization from the facility prior to being discharged; and
- (2) Who is charged with a criminal offense committed after the escape or during the unauthorized absence; and
- (3) Whose involuntary commitment is determined to be still valid by the judge or judicial officer who would make the pretrial release determination regarding the criminal offense under the provisions of G.S. 15A-533 and G.S. 15A-534; or
- (4) Who is charged with committing a crime while still residing in the facility and whose commitment is still valid as prescribed by subdivision (3) of this section; shall be denied pretrial release pursuant to G.S. 15A-533 and G.S. 15A-534. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) Absent findings of lack of mental responsibility for his criminal offense or lack of competency to stand trial for the criminal offense, the involuntary commitment of an individual as described in subsection (a) shall not be utilized in lieu of nor shall it constitute a bar to proceeding to trial for the criminal offense. At any time that the district court, acting under the provisions of G.S. 122-58.7 and G.S. 122-58.8, or G.S. 122-58.11, or the chief of medical services of the mental health facility, acting under the provisions of G.S. 122-58.13, finds that the individual should be unconditionally discharged, committed for outpatient treatment, or conditionally released, the mental health facility shall notify the clerk of superior court in the county in which the criminal charge is pending prior to effecting the change in status. At this time, a pretrial release determination pursuant to the provisions of G.S. 15A-533 and G.S. 15A-534 shall be made. In this event, arrangements for returning the individual for the pretrial release determination shall be the responsibility of the clerk of superior court.

(c) An individual who has been processed in accordance with subsections (a) and (b) of this section may not later be returned to a mental health facility prior to trial except pursuant to involuntary commitment proceedings by the district court in accordance with the preceding

sections of this Article or after proceedings in accordance with the provisions of G.S. 15A-1002 or G.S. 15A-1321."

Sec. 2. G.S. 15A-533 is amended by adding a new sentence at the beginning of the section, before subsection (a), to read:

"A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Human Resources, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense."

Sec. 3. This act shall become effective October 1, 1981, and applies to persons alleged to have committed crimes on or after this date.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.