

GENERAL ASSEMBLY OF NORTH CAROLINA  
1985 SESSION

CHAPTER 474  
HOUSE BILL 1074

AN ACT TO CLARIFY AND IMPROVE THE PROCEDURES TO COLLECT  
RESTITUTION FROM CRIMINAL DEFENDANTS AND MAKE OTHER  
TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(d) is amended as follows:

(1) by deleting the second and third sentences of that subsection;

(2) by changing the period at the end of the fourth sentence of that subsection to a comma and adding the following phrase to read:

"but the court is not required to make findings of fact or conclusions of law on these matters when the sentence is imposed.";

(3) by rewriting the seventh sentence of that subsection to read:

"As used herein, 'restitution' shall mean (i) compensation for damage or loss as could ordinarily be recovered by an aggrieved party in a civil action, and (ii) reimbursement to the State for the total amount of a judgment authorized by G.S. 7A-455(b).";

(4) by deleting the period at the end of the tenth sentence of that subsection and adding the following phrase to read:

"and except that the State may receive restitution for the total amount of a judgment authorized by G.S. 7A-455(b)."; and

(5) by changing the period at the end of the twelfth sentence of that subsection to a comma and adding the following phrase to read:

"but the liability of a third party to pay indemnity to an aggrieved party or any payment of indemnity actually made by a third party to an aggrieved party does not prohibit or limit in any way the power of the court to require the defendant to make complete and full restitution or reparation to the aggrieved party for the total amount of the damage or loss caused by the defendant."

Sec. 2. G.S. 15A-1021(d) is amended as follows:

(1) The second sentence of G.S. 15A-1021(d) is amended by deleting the words "may order" and substituting the words "may recommend" and by deleting the word "attains" and substituting the words "is granted".

(2) The third sentence of G.S. 15A-1021(d) is amended by inserting between the words "order" and "providing" the words "or recommendation".

(3) The fourth sentence of G.S. 15A-1021(d) is rewritten to read:

"When restitution or reparation is recommended as part of a plea arrangement that results in an active sentence, the sentencing court shall enter as a part of the

commitment that restitution or reparation is recommended as part of the plea arrangement."

(4) The fifth sentence of G.S. 15A-1021(d) is amended by deleting the word "orders" and substituting the word "recommendations".

Sec. 3. G.S. 148-33.1 is amended as follows:

(1) Subdivision (3a) of subsection (f) is rewritten to read:

"(3a) To make restitution or reparation as provided in G.S. 148-33.2."

(2) Subdivision (4) of subsection (f) is amended by deleting the words "case before such" and substituting the words "judgment rendered by the".

Sec. 4. G.S. 148-33.2 is amended as follows:

(1) Subsection (a) is repealed. (2) The first sentence of subsection (b) is amended by deleting that part of the sentence following the words "Department of Correction is" and substituting the following phrase to read:

"authorized to require any prisoner granted work-release privileges to make restitution or reparation to an aggrieved party from any earnings gained by the defendant while on work release when the sentencing court recommends that restitution or reparation be paid by the defendant out of any earnings gained by the defendant if he is granted work-release privileges."

(3) The first three sentences of subsection (c) are rewritten to read:

"When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Secretary of Correction that restitution or reparation be made by the defendant out of any earnings gained by the defendant if he is granted work-release privileges. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody."

(4) The fourth sentence of subsection (c) is amended by deleting the words "order or".

(5) The fifth sentence of subsection (c) is amended by deleting the words "orders or" and the words "order or".

(6) The first sentence of subsection (d) is amended by deleting the phrase "restitution or reparation is being considered as a condition of work release," and substituting the following phrase to read:

"the payment of restitution or reparation from any earnings gained by the prisoner while on work release is being considered as a condition of any work-release privileges granted the prisoner,".

(7) The second sentence of subsection (d) is amended by deleting the words "order or".

Sec. 5. G.S. 148-57.1 is amended as follows:

(1) Subsection (a) is repealed.

(2) The first sentence of subsection (b) is amended by deleting that part of the sentence following the words "the Parole Commission is" and substituting the following phrase to read:

"authorized to require a prisoner to whom parole is granted to make restitution or reparation to an aggrieved party as a condition of parole when the sentencing court recommends that restitution or reparation to an aggrieved party be made a condition of any parole granted the defendant."

(3) The first three sentences of subsection (c) are rewritten to read:

"When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Parole Commission that restitution or reparation by the defendant be made a condition of any parole granted the defendant. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody."

(4) The fourth sentence of subsection (c) is amended by deleting the words "order or".

(5) The fifth sentence of subsection (c) is amended by deleting the words "orders or" and the words "order or".

(6) The first sentence of subsection (d) is amended by deleting the phrase "restitution or reparation is being considered as a condition of his parole," and substituting the following phrase to read:

"the payment of restitution or reparation by the prisoner is being considered as a condition of any parole granted the prisoner,".

(7) The second sentence of subsection (d) is amended by deleting the words "order or".

Sec. 6. G.S. 15A-1374(b) is amended by adding a new subdivision to read as follows:

"(11b) Comply with an order from a court of competent jurisdiction regarding the payment of an obligation of the parolee in connection with any judgment rendered by the court."

Sec. 7. G.S. 15A-1343(b1) is amended by renumbering subdivision (9) as subdivision (10) and inserting a new subdivision (9) to read as follows:

"(9) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted."

Sec. 8. G.S. 15A-1343(b)(10) is amended by deleting the words "counsel or public" and substituting the phrase "counsel, public defender, or appellate".

Sec. 9. G.S. 7A-455 is amended as follows:

(1) Subsection (a) is amended by deleting the words "counsel or by the public" and substituting the phrase "counsel, the public defender, or the appellate".

(2) The first sentence of subsection (b) is amended by deleting the words "counsel or the public" and substituting the phrase "counsel, the public defender, or the appellate".

(3) Subsection (b) is amended by adding the following sentences at the end of that subsection to read:

"In fixing the money value of services rendered by the public defender and the appellate defender, the court shall consider the factors normally involved in fixing the fees of private attorneys, such as the nature of the case, the time, effort, and responsibility involved, and the fee usually charged in similar cases. The value of the services shall be fixed by a district court judge for actions or proceedings finally determined in the district court and by a superior court judge for actions or proceedings originating in, heard on appeal in, or appealed from the superior court. Even if the trial, appeal, hearing, or other proceeding is never held, preparation therefor is nevertheless compensable."

Sec. 10. This act shall become effective 14 days after its ratification. If Article 38 of Chapter 7A of the General Statutes expires on June 30, 1985, then Sections 9 and 10 of this act shall also expire on June 30, 1985.

In the General Assembly read three times and ratified, this the 26th day of June, 1985.