

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 7
HOUSE BILL 48

AN ACT TO PROVIDE FOR THE STABILIZATION OF THE PRISON
POPULATION.

Whereas, it is the intent of the General Assembly to operate a prison system that complies with all provisions of the State and federal constitutions and to continue to protect the people of the State from those who refuse to obey the rules of society; and

Whereas, during the past few years the federal courts have intervened in the operation of many state prison systems; and

Whereas, there are now 13 state prison systems that are entirely under supervision of the federal courts, and there are 26 states that have one or more facilities under court order; and

Whereas, when federal intervention occurs, the federal government normally places a cap on the prison population; and

Whereas, North Carolina is presently under federal intervention in the South Piedmont Area of the Department of Correction, and a cap on the prison population in that area has been imposed by the court; and

Whereas, the State is litigating a lawsuit similar to the lawsuit in the South Piedmont Area of the Department of Correction that encompasses the remaining prison field units throughout the State; and

Whereas, in 1985 and 1986 the General Assembly appropriated funds to make improvements in the South Piedmont Area of the Department of Correction and throughout the system and will continue to make progress in addressing any problems existing in our system; and

Whereas, the Attorney General has advised that the State prison population must be stabilized while improvements are being made in the system, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the Attorney General concur in the necessity of the recommendation of the Special Committee on Prisons to establish a temporary maximum inmate population and a mechanism for not exceeding that maximum; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-4.1 is amended by adding the following subsections to read:

"(d) If the number of prisoners serving a sentence in the State prison system or otherwise housed in the State prison system exceeds ninety-seven percent (97%) of 18,000 for 15 consecutive days, the Secretary of Correction shall notify the Governor

and the Chairman of the Parole Commission of this fact. Upon receipt of this notification, the Parole Commission shall within 60 days release on parole a number of inmates sufficient to reduce the number of prisoners serving a sentence in the State prison system or otherwise housed in the State prison system to ninety-six percent (96%) of 18,000.

From the date of the notification until the number of prisoners serving a sentence in the State prison system or otherwise housed in the State prison system has been reduced to ninety-six percent (96%) of 18,000, the Secretary may not accept any inmates ordered transferred from local confinement facilities to the State prison system under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local confinement facility from which the inmate was transferred.

(e) In addition to those persons otherwise eligible for parole, from the date of notification in subsection (d) until the number of prisoners serving a sentence in the State prison system or otherwise housed in the State prison system has been reduced to ninety-six percent (96%) of 18,000, any person imprisoned only for a misdemeanor also shall be eligible for parole notwithstanding any other provision of law, except those persons convicted of a misdemeanor for which assault is one of the elements necessary to establish the offense of which the person was convicted."

Sec. 2. G.S. 148-32.1(b) is amended by adding the following language at the end of the first sentence immediately before the period:

"or within another judicial district where space is available, which local facility shall accept the transferred prisoner, if the prison population has exceeded the limits established in G.S. 148-4.1(d)".

Sec. 3. G.S. 148-4.1(b) is rewritten to read:

"(b) Except as provided in subsection (c) and (e), only inmates who are otherwise eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of this Chapter may be released under this section."

Sec. 4. G.S. 148-4.1(c) is rewritten to read:

"(c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible for early parole under this section six-nine months prior to the discharge date otherwise applicable, and three-six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2; ~~provided, however, when the Secretary of Correction certifies that in his opinion a person eligible for parole under Article 85A of Chapter 15A poses no threat to society, that person shall be eligible for early parole under this section nine months prior to the discharge date otherwise applicable, and six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2.~~"

Sec. 5. G.S. 15A-1380.2(c) is rewritten to read:

"(c) The term of parole for a prisoner paroled under this section shall be 90 days. In the case of an inmate eligible for parole under G.S. 148-4.1 who has less than 180 ~~270~~ days remaining on the maximum sentence, the Parole Commission may simultaneously parole and terminate supervision of the prisoner when the Commission finds that such action will not be incompatible with the public interest. ~~In the case of an inmate eligible for parole under G.S. 148-4.1 who has 180 to 270 days remaining on the~~

~~maximum sentence, the Parole Commission may simultaneously parole and terminate supervision of the prisoner when the Secretary of Correction certifies that in his opinion the prisoner poses no threat to society and when the Commission finds that such action will not be incompatible with the public interest."~~

Sec. 6. Sections 1, 2, and 3 of this act shall expire July 1, 1989, unless reenacted by the General Assembly. The Joint Legislative Commission on Governmental Operations, or other Committee designated by the Speaker of the House of Representatives and the Lieutenant Governor, shall monitor the implementation of this act. The Secretary of Correction and the Chairman of the Parole Commission shall make a written report to the Governor, the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Special Committee on Prisons at least one month prior to the 1989 Session of the General Assembly.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of March, 1987.