

## Chapter 148.

### State Prison System.

#### Article 1.

##### Organization and Management.

#### **§ 148-1: Repealed by Session Laws 1973, c. 1262, s. 10.**

#### **§ 148-2. Prison moneys and earnings.**

(a) Persons authorized to collect or receive the moneys and earnings of the State prison system shall enter into bonds payable to the State of North Carolina in penal sums and with security approved by the Division of Prisons of the Department of Adult Correction, conditioned upon the faithful performance by these persons of their duties in collecting, receiving, and paying over prison moneys and earnings to the State Treasurer. Only corporate security with sureties licensed to do business in North Carolina shall be accepted.

(b) Repealed by Session Laws 2007-280, s. 2, effective August 1, 2007.

(c) Notwithstanding G.S. 147-77, Article 6A of Chapter 147 of the General Statutes, or any other provision of law, the Division of Prisons of the Department of Adult Correction may deposit revenue from prison canteens in local banks. The profits from prison canteens shall be deposited with the State Treasurer on a monthly basis in a fund denominated as the Inmate Welfare Fund. Once the operating budget for the Inmate Welfare Fund has been met, an amount equal to the funds allocated to each prison unit on a per inmate per year basis shall be credited to the Crime Victims Compensation Fund established in G.S. 15B-23G as soon as practicable after the total amount paid to each unit per inmate per year has been determined. (1901, c. 472, s. 7; Rev., s. 5389; C.S., s. 7704; 1923, c. 156; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 2; 1967, c. 996, s. 14; 1973, c. 1262, s. 10; 1985 (Reg. Sess., 1986), c. 1014, s. 203; 1991 (Reg. Sess., 1992), c. 902, s. 4; 1993 (Reg. Sess., 1994), c. 769, s. 21.5(a); 2007-280, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(tttttt); 2021-180, s. 19C.9(p); 2023-134, s. 19B.6(a).)

#### **§ 148-3. Prison property.**

(a) The Division of Prisons of the Department of Adult Correction shall subject to the provisions of G.S. 143-341, have control and custody of all unexpended surplus highway funds previously allocated for prison purposes and all property of every kind and description now used by or considered a part of units of the State prison system, except vehicles used on a rental basis. The property coming within the provisions of this section shall be identified and agreed upon by the executive heads of the highway and prison systems, or by their duly authorized representatives. The Governor shall have final authority to decide whether or not particular property shall be transferred to the Division of Prisons of the Department of Adult Correction in event the executive heads of the two systems are unable to agree.

(b) Property, both real and personal, deemed by the Division of Prisons of the Department of Adult Correction to be necessary or convenient in the operation of the State prison system may, subject to the provisions of G.S. 143-341, be acquired by gift, devise, purchase, or lease. The Division of Prisons of the Department of Adult Correction may, subject to the provisions of G.S. 143-341, dispose of any prison property, either real or personal, or any interest or estate therein. (1901, c. 472, ss. 2, 6; Rev., s. 5392; C.S., s. 7705; 1925, c. 163; 1933, c. 172, s. 18; 1943, c. 409; 1957, c. 349, s. 3; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(uuuuuu); 2021-180, s. 19C.9(p).)

**§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of confinement.**

The Secretary of the Department of Adult Correction shall have control and custody of all prisoners serving sentence in the State prison system, and such prisoners shall be subject to all the rules and regulations legally adopted for the government thereof. Any sentence to imprisonment in any unit of the State prison system, or to jail to be assigned to work under the Division of Prisons of the Department of Adult Correction, shall be construed as a commitment, for such terms of imprisonment as the court may direct, to the custody of the Secretary of the Department of Adult Correction or his authorized representative, who shall designate the places of confinement within the State prison system where the sentences of all such persons shall be served. The authorized agents of the Secretary shall have all the authority of peace officers for the purpose of transferring prisoners from place to place in the State as their duties might require and for apprehending, arresting, and returning to prison escaped prisoners, and may be commissioned by the Governor, either generally or specially, as special officers for returning escaped prisoners or other fugitives from justice from outside the State, when such persons have been extradited or voluntarily surrendered. Employees of departments, institutions, agencies, and political subdivisions of the State hiring prisoners to perform work outside prison confines may be designated as the authorized agents of the Secretary of the Department of Adult Correction for the purpose of maintaining control and custody of prisoners who may be placed under the supervision and control of such employees, including guarding and transferring such prisoners from place to place in the State as their duties might require, and apprehending and arresting escaped prisoners and returning them to prison. The governing authorities of the State prison system are authorized to determine by rules and regulations the manner of designating these agents and placing prisoners under their supervision and control, which rules and regulations shall be established in the same manner as other rules and regulations for the government of the State prison system.

The Secretary of the Department of Adult Correction may extend the limits of the place of confinement of a prisoner, as to whom there is reasonable cause to believe 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 to

- (1) Contact prospective employers; or
- (2) Secure a suitable residence for use when released on parole or upon discharge;  
or
- (3) Obtain medical services not otherwise available; or
- (4) Participate in a training program in the community; or
- (5) Visit or attend the funeral of a spouse, child (including stepchild, adopted child or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person though not a natural parent, has acted in the place of a parent), brother, or sister; or
- (6) Participate in community-based programs of rehabilitation, including, but not limited to the existing community volunteer and home-leave programs, pre-release and after-care programs as may be provided for and administered by the Secretary of the Department of Adult Correction and other programs determined by the Secretary of the Department of Adult Correction to be consistent with the prisoner's rehabilitation and return to society; or

- (7) Be on maternity leave, for a period of time not to exceed 60 days. The county departments of social services are expected to cooperate with officials at the North Carolina Correctional Center for Women to coordinate prenatal care, financial services, and placement of the child; or
- (8) Receive palliative care, only in the case of a terminally ill inmate or a permanently and totally disabled inmate that the Secretary finds no longer poses a significant public safety risk, and only after consultation with any victims of the inmate or the victims' families. For purposes of this subdivision, the term "terminally ill" describes an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing and was not diagnosed upon entry to prison, that will likely produce death within six months, and that is so debilitating that it is highly unlikely that the inmate poses a significant public safety risk. For purposes of this subdivision, the term "permanently and totally disabled" describes an inmate who, as determined by a licensed physician, suffers from permanent and irreversible physical incapacitation as a result of an existing physical or medical condition that was unknown at the time of sentencing and was not diagnosed upon entry to prison, and that is so incapacitating that it is highly unlikely that the inmate poses a significant public safety risk. The Department's medical director shall notify the Secretary immediately when an inmate has been classified as terminally ill and shall provide regular reports on inmates classified as permanently and totally disabled. The Secretary shall act expeditiously in determining whether to extend the limits of confinement under this subdivision upon receiving notice that an inmate has been classified as terminally ill or permanently and totally disabled and, in the case of a terminally ill inmate, the Secretary shall make a good faith effort to reach a determination within 30 days of receiving notice of the inmate's terminal condition.

The willful failure of a prisoner 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 the Department of Adult Correction, shall be deemed an escape from the custody of the Secretary of the Department of Adult Correction punishable as provided in G.S. 148-45. (1901, c. 472, s. 4; Rev., s. 5390; C.S., s. 7706; 1925, c. 163; 1933, c. 172, ss. 5, 18; 1935, c. 257, s. 2; 1943, c. 409; 1955, c. 238, s. 2; 1957, c. 349, s. 10; 1959, c. 109; 1965, c. 1042; 1967, c. 996, ss. 13, 15; 1973, c. 902; c. 1262, s. 10; 1977, c. 704, s. 5; 1985, c. 483; 2001-424, s. 25.9(a); 2005-276, s. 17.13; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(vvvvvv); 2021-180, s. 19C.9(o), (p).)

**§ 148-4.1. Release of inmates.**

(a) Whenever the Secretary of the Department of Adult Correction determines from data compiled by the Division of Prisons that it is necessary to reduce the prison population to a more manageable level or to meet the State's obligations under law, the Secretary in consultation with the Secretary of the Department of Public Safety may direct the Post-Release Supervision and Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose. From the time the Secretary directs the Post-Release Supervision and Parole Commission until the prison population has been reduced to a more manageable level, 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. In order to meet the requirements of this section, the Parole Commission shall not parole any person convicted under Article 7B of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or under G.S. 14-17, or any other violent felon as defined in subsection (a1) of this section. The Parole Commission may continue to consider the suitability for release of such persons in accordance with the criteria set forth in Articles 85 and 85A of Chapter 15A.

(a1) Notwithstanding any other provision of this section, the Division of Prisons of the Department of Adult Correction shall at all times secure the necessary prison space to house any violent felon or habitual felon for the full active sentence imposed by the court. For purposes of this subsection, the term "violent felon" means any person convicted of the following felony offenses: first or second degree murder, voluntary manslaughter, first or second degree rape, first or second degree sexual offense, any sexual offense involving a minor, robbery, kidnapping, or assault, or attempting, soliciting, or conspiring to commit any of those offenses.

(b) Except as provided in subsection (c), 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.

(c) Persons eligible for parole under Article 85A of Chapter 15A 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.

(c1) through (g). Repealed by 1995 Session Laws, c. 324, s. 19.9(e).

(g1) Expired July 1, 1996.

(h) A person sentenced under Article 81B of Chapter 15A of the General Statutes shall not be released pursuant to this section.

(i) This section does not apply to inmates released pursuant to G.S. 148-64.1. (1983, c. 557, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 197(a); 1987, c. 7, ss. 1, 3, 4; c. 879, s. 1.2; 1989, c. 1, s. 1; 1990, Ex. Sess., c. 1, ss. 1-3.3; 1989 (Reg. Sess., 1990), c. 933, ss. 10-13; 1991, c. 187, s. 2; c. 217, ss. 6, 7; c. 437, ss. 1-9; 1991 (Reg. Sess., 1992), c. 1036, ss. 5-7; 1993, c. 91, ss. 1-9; c. 538, s. 31; 1994, Ex. Sess., c. 14, s. 64; c. 15, ss. 1-4; c. 24, s. 14(b), (e); 1995, c. 324, s. 19.9(a)-(e); 2008-199, s. 1; 2011-145, s. 19.1(h), (i); 2015-181, s. 47; 2017-186, s. 2(wwwww); 2021-180, s. 19C.9(cccc).)

#### **§ 148-5. Secretary to manage prison property.**

The Secretary of the Department of Adult Correction shall manage and have charge of all the property and effects of the State prison system, and conduct all its affairs subject to the provisions of this Chapter and the rules and regulations legally adopted for the government thereof. (1933, c. 172, s. 4; 1955, c. 238, s. 3; 1967, c. 996, s. 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(i); 2021-180, s. 19C.9(o).)

#### **§ 148-5.1. Confining inmates away from victims.**

If a victim or immediate family member of a victim requests that, for the safety of the victim or family member, an inmate be confined outside the county where the victim or family member resides or is employed, the Department shall make a reasonable effort to house the inmate in a facility in another county. If the inmate is not so housed in another county, the Department shall notify the victim or family member in writing. (2001-433, s. 10; 2001-487, s. 120.)

**§ 148-5.2: Reserved for future codification purposes.**

**§ 148-5.3: Reserved for future codification purposes.**

**§ 148-5.4: Reserved for future codification purposes.**

**§ 148-5.5. (Delayed expiration – see note) Training and authority of security guards.**

Any security guard and patrol professional that is licensed pursuant to Chapter 74C of the General Statutes and is employed to provide security services related to entry and exit, direction and movement of individuals at entry and exit, security working towers, or perimeter security patrols at a State prison facility, shall receive training on State prison policies, including policies on the use of force, prior to providing any security services at a State prison. Security guard and patrol professionals trained pursuant to this section shall have the authority to detain and use necessary force pursuant to State prison policies to prevent contraband entry or inmate escape. (2020-3, s. 4.15(b); 2020-15, s. 2; 2021-180, s. 19D.2; 2022-58, s. 12; 2022-74, s. 19D.1(a); 2023-121, s. 9(a); 2023-134, s. 19C.5(a).)

**§ 148-6. Custody, employment and hiring out of convicts.**

The Division of Prisons of the Department of Adult Correction shall provide for receiving, and keeping in custody until discharged by law, all such convicts as may be now confined in the prison and such as may be hereafter sentenced to imprisonment therein by the several courts of this State. The Division shall have full power and authority to provide for employment of such convicts, either in the prison or on farms leased or owned by the State of North Carolina, or elsewhere, or otherwise; and may contract for the hire or employment of any able-bodied convicts upon such terms as may be just and fair, but such convicts so hired, or employed, shall remain under the actual management, control and care of the Division. (1895, c. 194, s. 5; 1897, c. 270; 1901, c. 472, ss. 5, 6; Rev., s. 5391; C.S., s. 7707; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2007-398, s. 2; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(xxxxxx); 2021-180, s. 19C.9(p).)

**§ 148-7: Repealed by Session Laws 1995, c. 233, s. 1.**

**§ 148-8. Transferred to § 66-58(b)(15) by Session Laws 1975, c. 730, s. 2.**

**§ 148-8.1. Transferred to § 66-58(b)(16) by Session Laws 1975, c. 730, s. 3.**

**§ 148-9. Repealed by Session Laws 1973, c. 476, s. 138.**

**§ 148-10. Department of Adult Correction to supervise sanitary and health conditions of prisoners.**

The Department of Adult Correction shall have general supervision over the sanitary and health conditions of the central prison, over the prison camps, or other places of confinement of prisoners under the jurisdiction of the Division of Prisons of the Department of Adult Correction. (1917, c. 286, s. 8; 1919, c. 80, s. 4; C.S., s. 7714; 1925, c. 163; 1933, c. 172, s. 22; 1943, c. 409; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1973, c. 476, s. 128; 1989, c. 727, s. 219(37); 1997-443, s.

11A.111; 2011-145, s. 19.1(h); 2012-83, s. 61; 2015-241, s. 14.30(u); 2017-186, s. 2(yyyyyy); 2021-158, s. 9; 2021-180, s. 19C.9(p); 2022-74, s. 19A.1(h).)

**§ 148-10.1. Employment of clinical chaplains for inmates.**

The Division of Prisons of the Department of Adult Correction is authorized and directed to employ clinical chaplains to provide moral, spiritual and social counselling and ministerial services to inmates in the custody of the Secretary of the Department of Adult Correction. The Division of Prisons of the Department of Adult Correction shall seek to employ a diversity of qualified persons having differing faiths which are to the extent practicable reflective of the professed religious composition of the inmate population. (1977, c. 950, s. 1; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(zzzzzz); 2021-180, s. 19C.9(o), (p).)

**§ 148-10.2. Policy: Certain inmates not to contact family members of victims.**

(a) It shall be the policy of the Division of Prisons of the Department of Adult Correction to prohibit death row inmates from contacting the surviving family members of the victims without the written consent of the family members being contacted. For purposes of this subsection, the term "contact" includes arranging for a third party to forward communications from the inmate to the surviving family members of the victim.

(b) At the request of the victim or a family member of the victim, the Division of Prisons of the Department of Adult Correction shall prohibit an inmate convicted of an offense listed in G.S. 15A-830(a)(7) from contacting the requesting party. For purposes of this subsection, the term "contact" includes arranging for a third party to forward communications from the inmate to the victim or family member.

(c) The Division of Prisons of the Department of Adult Correction shall develop and impose sanctions against any inmate who violates the provisions of this section. (1999-358, s. 1; 2001-433, s. 9; 2001-487, s. 120; 2011-145, s. 19.1(h); 2017-186, s. 2(aaaaaa); 2021-180, s. 19C.9(p).)

**§ 148-10.3. Electronic monitoring costs.**

Personnel, equipment, and other costs of providing electronic monitoring of pretrial or sentenced offenders shall be reimbursed to the Division of Prisons of the Department of Adult Correction by the State or local agency requesting the service in an amount not exceeding the actual costs. (2002-126, s. 17.10(a); 2011-145, s. 19.1(h); 2017-186, s. 2(bbbbbbb); 2021-180, s. 19C.9(p).)

**§ 148-10.4. Statewide Misdemeanant Confinement Fund.**

(a) Definitions. – The following definitions apply in this section:

(1) Division. – Division of Prisons of the Department of Adult Correction.

(2) Fund. – The Statewide Misdemeanant Confinement Fund established by this section.

(3) Program. – Statewide Misdemeanant Confinement Program established under G.S. 148-32.1(b3) [G.S. 148-32.1(b2)].

(4) Sheriffs' Association. – North Carolina Sheriffs' Association, Inc.

(b) Intent and Purpose. – It is the intent of the General Assembly that the funds in the Fund established by this section be used to reimburse local governments for expenses incurred for housing misdemeanants under the Program, and other related expenses; and to cover

administrative costs incurred by the Sheriffs' Association for services provided by it regarding the housing of these misdemeanants.

(c) Statewide Misdemeanant Confinement Fund established. – There is created within the Division of Prisons a special nonreverting fund called the Statewide Misdemeanant Confinement Fund.

(d) Fund Uses. – Moneys in the Fund may be used for the following:

- (1) Reimbursements by the Sheriffs' Association to counties for the costs of housing misdemeanants under the Program, including the care, supervision, and transportation of those misdemeanants.
- (2) Reimbursements to the Division of Prisons for the cost of housing misdemeanants transferred to the Division pursuant to G.S. 148-32.1(b3), including the care, supervision, and transportation of those misdemeanants.
- (3) To pay the Sheriffs' Association for administrative and operating expenses pursuant to subsection (e) of this section.
- (4) To pay the Division of Prisons for administrative and operating expenses pursuant to subsection (e) of this section.

(e) Repealed by Session Laws 2016-94, s. 17C.1(b), effective July 1, 2016.

(f) Upon notification from the Division of Prisons that an amount owed by a county for safekeeper reimbursements authorized under G.S. 162-39 is more than 120 days overdue, the Sheriffs' Association shall withhold funds from any reimbursements due to a county under this section and transmit those funds to the Division until that overdue safekeeper reimbursement is satisfied. (2011-145, s. 19.1(h), (i); 2011-192, s. 7(h); 2013-360, s. 16C.6(a); 2015-241, ss. 16C.6(c), 16C.12; 2016-94, s. 17C.1(b); 2017-186, ss. 2(cccccc), 3(a); 2021-180, s. 19C.9(p), (q).)

#### **§ 148-10.5. Facilitation of reentry.**

In order to facilitate successful reentry and improve judicial efficiency, the Division of Prisons of the Department of Adult Correction shall work with law enforcement, the district attorneys' offices, and the courts to develop a process by which, both at intake and before release, effort is made, for each inmate in custody, to identify all outstanding warrants on the inmate. The plan should seek to resolve inmates' outstanding warrants while in custody, whenever feasible. In the course of resolving an outstanding warrant while in custody, an inmate shall be notified of the outstanding warrant and his or her right to counsel if such a right exists. (2015-48, s. 2; 2017-186, s. 2(dddddd); 2021-180, s. 19C.9(p).)