

§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.

(a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which the local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanor, which local facility shall accept the transferred prisoner.

If no other local confinement facility is available and the reason for the requested transfer is that the local confinement facility that would be required to house the prisoner cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to a facility operated by the Division of Prisons of the Department of Adult Correction as designated by the Division of Prisons. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to a facility operated by the Division of Prisons.

(b1) It is the intent of the General Assembly to authorize the Division of Prisons to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is further the intent of the General Assembly that the Division of Prisons, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a program for housing misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is also the intent of the General Assembly that the Division of Prisons contract with the North Carolina Sheriffs' Association, Inc., to provide a service that identifies space in local confinement facilities that is available for housing these misdemeanants.

The General Assembly intends that the cost of housing and caring for these misdemeanants, including, but not limited to, care, supervision, transportation, medical, and any other related costs, be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly intends that the funds appropriated for the Statewide Misdemeanant Confinement Program be used to provide funding to cover the costs of managing a system for providing that housing of misdemeanants in local confinement facilities as well as reimbursing the counties for housing and related expenses for those misdemeanants.

(b2) The Statewide Misdemeanant Confinement Program is established. The Program shall provide for the housing of misdemeanants from all counties serving sentences imposed for a period of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. Those misdemeanants shall be confined in local confinement facilities except as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the placement and transportation of inmates and reimbursement to counties for the housing of those inmates. Any county that voluntarily agrees to house misdemeanants

from that county or from other counties pursuant to the Program may enter into a written agreement with the Division of Adult Correction and Juvenile Justice to do so.

The North Carolina Sheriffs' Association shall:

- (1) Report no later than the fifteenth day of each month to the Office of State Budget and Management and the Fiscal Research Division on the Statewide Misdemeanant Confinement Program. Each monthly report shall include all of the following:
 - a. The daily population delineated by misdemeanor or DWI monthly housing.
 - b. The cost of housing prisoners under the Program.
 - c. The cost of transporting prisoners under the Program.
 - d. Personnel costs.
 - e. Inmate medical care costs.
 - f. The number of counties that volunteer to house inmates under the Program.
 - g. The administrative costs paid to the Sheriffs' Association and to the Department of Public Safety.
- (2) Report no later than October 1 of each year to the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the Statewide Misdemeanant Confinement Program. The report shall include the following with respect to the prior fiscal year:
 - a. The cost of housing prisoners by county under the Program.
 - b. The cost of transporting prisoners by county under the Program.
 - c. Personnel costs by county.
 - d. Inmate medical care costs by county.
 - e. The number of counties that volunteer to house inmates under the Program.
 - f. The administrative costs paid to the Sheriffs' Association and to the Department of Public Safety.

(b3) The custodian of a local confinement facility may request a judicial order to transfer a misdemeanor housed pursuant to the Statewide Misdemeanant Confinement Program to a facility operated by the Division of Prisons by certifying in writing to the clerk of the superior court in the county in which the local confinement facility is located that one of the following conditions is met:

- (1) The misdemeanor poses a security risk because the misdemeanor:
 - a. Poses a serious escape risk.
 - b. Exhibits violently aggressive behavior that cannot be contained and warrants a higher level of supervision.
 - c. Needs to be protected from other inmates, and the county jail facility cannot provide such protection.
 - d. Is a female or a person 18 years of age or younger, and the county jail facility does not have adequate housing for such prisoners.
 - e. Is in custody at a time when a fire or other catastrophic event has caused the county jail facility to cease or curtail operations.
 - f. Otherwise poses an imminent danger to the staff of the county jail facility or to other prisoners in the facility.
- (2) The misdemeanor requires medical or mental health treatment that the county decides can best be provided by the Division of Prisons.

- (3) The local confinement facility that would be required to house the prisoner (i) cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, and (ii) no other local confinement facility is available.

Upon receiving such request and certification in writing, any superior or district court judge for the district in which the local confinement facility is located may, after ascertaining that the request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the misdemeanor transferred to a unit of the State prison system designated by the Secretary of the Department of Adult Correction or the Secretary's authorized representative. Individuals meeting the condition set forth in subdivision (2) of this subsection may be ordered to be transferred for an initial period not to exceed 30 days. The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the prison unit where the prisoner is to be held and for returning the prisoner to the jail of the county from which the prisoner was transferred. The officer in charge of the prison unit designated by the Secretary of the Department of Adult Correction shall receive custody of the prisoner in accordance with the terms of the order. Prior to the conclusion of the 30-day period, the Division of Prisons shall conduct an assessment of treatment and venue needs. The assessment shall be conducted by the attending medical or mental health professional and shall assess the medical and mental health needs of the prisoner and make a recommendation on whether the prisoner should remain in the custody of the Division of Prisons of the Department of Adult Correction or if the prisoner should be returned to the custody of the county. To extend the order beyond the initial 30-day period, the sheriff shall provide the Division of Prisons assessment and any other relevant information to the resident judge or the superior court or any judge holding superior court in the district or any district court judge who shall determine whether to extend the transfer of the prisoner to a unit of the State prison system beyond the initial 30-day period. If the judge determines that the prisoner should remain in the custody of the Division of Prisons, the judge shall renew the order and include a date certain for review by the court. Prior to the date of review, the Division shall conduct a reassessment of treatment and venue needs and the sheriff shall provide the reassessment and any other relevant information to the court, as described in this subsection. If the judge determines that the prisoner should not remain in the custody of the Division of Prisons, the officer in charge of the prison unit designated by the Secretary of the Department of Adult Correction shall release custody of the prisoner in accordance with the court order and the instructions of the attending medical or mental health professional. The Division of Prisons shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(b4) A misdemeanor housed under the Statewide Misdemeanant Confinement Program established pursuant to subsection (b2) of this section may be transferred to a facility operated by the Division of Prisons if the North Carolina Sheriffs' Association, Inc., determines that the local confinement facilities available for housing misdemeanants under the Program are filled to capacity. The Division of Prisons shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(c) Repealed by Session Laws 2015-40, s. 6.

(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the Division of Prisons, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner's

work-release earnings to the clerk of the court that sentenced the prisoner or to the Division of Prisons, as provided in the prisoner's commitment order. The clerk or the Division, as appropriate, shall disburse the earnings as provided in the prisoner's commitment order. Upon agreement between the Division of Prisons and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner's keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).

(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility or to a detention facility approved by the Juvenile Justice Section of the Division of Prisons pursuant to this section, the custodian of the local confinement facility or detention facility shall forward to the Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Division of Prisons. (1977, c. 450, s. 3; c. 925, s. 2; 1981, c. 859, s. 25; 1985, c. 226, s. 3(1), (2); 1985 (Reg. Sess., 1986), c. 1014, ss. 199, 201(e); 1987, c. 7, ss. 2, 6; 1987 (Reg. Sess., 1988), c. 1037, s. 120; c. 1100, s. 17.4(a); 1989, c. 1, s. 2; c. 761, s. 3; 1991, c. 217, s. 6; 1993, c. 538, s. 33; 1994, Ex. Sess., c. 14, s. 65; c. 24, s. 14(b); 1995, c. 324, s. 19.9(f); 1997-456, s. 23; 2004-199, s. 48; 2004-203, s. 54; 2009-451, s. 19.22A; 2011-145, s. 19.1(h), (i); 2011-192, s. 7(a), (d), (e), (g); 2014-100, s. 16C.1(f); 2015-40, s. 6; 2016-94, s. 17C.1(d); 2017-186, s. 2(vvvvvvvv); 2020-83, ss. 8(m), 9(b); 2021-180, ss. 19C.2, 19C.9(p), (q), (z).)