

**JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND  
JUVENILE JUSTICE OVERSIGHT COMMITTEE**



REPORT TO THE  
2006 Regular Session  
of the  
2005 GENERAL ASSEMBLY OF NORTH CAROLINA

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May 9, 2006

TO THE MEMBERS OF THE 2005 GENERAL ASSEMBLY (2006 Regular Session):

The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee herewith submits to you for your consideration its recommendations pursuant to G.S. 120-70.94(b).

Respectfully submitted,

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Senator Ellie Kinnaird

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Representative Phillip Haire

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Representative Joe Kiser

Cochairs  
Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee

## PREFACE

The Joint Legislative Corrections, Crime Control, and Juvenile Oversight Committee, established by Article 12J of Chapter 120 of the General Statutes, is authorized to examine, on a continuing basis, the correctional, law enforcement, and juvenile justice systems in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to improve those systems and to assist those systems in realizing their objectives of protecting the public and of punishing and rehabilitating offenders. The Commission is cochaired by appointees of the Speakers of the House and the President Pro Tempore of the Senate and has eight members appointed from each house of the General Assembly. Among the Commission's duties is that of studying the budget, programs, and policies of the Departments of Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention to determine ways in which the General Assembly may improve the effective of those Departments.

Senator Ellie Kinnaird, Representative Phillip Haire and Representative Joe Kiser serve as co-chairs of the Committee. The committee clerk maintains a notebook containing the committee minutes and all information presented to the committee.

## **COMMITTEE RECOMMENDATION #1:**

### **Extend Pilot Programs Banning Use of Tobacco at State Correctional Institutions**

*The Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee recommends that before the General Assembly considers a total ban on smoking at State correctional institutions, the Department of Correction be given until March 1, 2007 to complete its three pilot programs; and that DOC report the results of the pilot programs to the 2007 General Assembly.*

#### **Background**

Session Law 2005-372 (Senate Bill 1130, An Act to Prohibit Smoking in State Correctional Institutions), prohibits smoking and use of tobacco products inside all State correctional facilities effective January 1, 2006. (See Appendix I)

Section 3 of the act required the Department of Correction (DOC) to develop one or more pilot programs banning the use of tobacco products inside and on the grounds of a State correctional facility. Any pilot(s) must also include a smoking cessation program to help staff and inmates stop smoking. A report to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee (Oversight Committee) was due April 1, 2006.

Section 4 of the act required the Oversight Committee to study and make recommendations to the 2006 Short Session of the General Assembly on the feasibility of a two-year phase-in program that would ban smoking inside and on the grounds of the State correctional centers.

#### **Committee Activities**

On March 28, 2006, the Oversight Committee discussed Senate Bill 1130 and heard a report from the Department of Correction. DOC noted that the indoor use of tobacco products was banned effective January 1, 2006 as required by Senate Bill 1130. DOC also reported that as of March 1, 2006, three pilot programs were underway at three different correctional centers – Piedmont, North Piedmont for Women, and Duplin. Each facility has banned both the indoor and outdoor use of tobacco. DOC also developed a smoking cessation program effective February 2006 at the pilot sites. As of March 28, there had been 44 inmate infractions for tobacco related incidents at the pilot sites while 141 inmates and staff had completed the tobacco cessation program.

The Oversight Committee discussed the need for DOC and the General Assembly to have additional time to assess whether a full ban on indoor and outdoor use of tobacco would be effective. The Committee approved a motion that, *“as a recommendation from this Committee, the Department of Correction be given a full year to test these three facilities.”* It was clarified that the facilities are Piedmont, North Piedmont for Women and Duplin.

In effect, the Oversight Committee recommends that DOC be given until March 1, 2007 to complete the pilot programs before a total ban on smoking is considered and that DOC report the results of the pilot programs to the 2007 General Assembly.

**COMMITTEE RECOMMENDATION #2:**  
**Review of State and Local Juvenile Detention Center Budget Proposals**

*The Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee forwards information from its study of local juvenile detention centers and recommends that the Joint Appropriations Subcommittee on Justice and Public Safety review any budgetary proposals presented by state and local detention centers during the upcoming 2006 Short Session.*

**Study of Local Detention Centers**

Section 16.9 of Senate Bill 622 (S.L. 2005-276) required the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee to study the operations and needs of the local juvenile detention centers. (See Appendix II)

The Committee collected the following information on State and local detention centers.

**Background**

*Purpose of Detention:* State and local detention centers provide short term, safe “secure detention” for juveniles. There are three primary types of detention: (1) prior to court adjudication (42%); (2) as a dispositional alternative for juveniles adjudicated delinquent; (35%); and (3) for “undisciplined” juveniles (9%). The remaining 14% of juveniles are in detention for various other purposes, including awaiting long term commitment to a youth development center. (The percentages indicated are based on data for fiscal year 2004/05)

*Locations:* There are four local juvenile detention centers operating in this State: Mecklenburg (Gatling), Forsyth; Guilford, and Durham. Nine detention centers are operated by the State: New Hanover (county owns property/state operates), Pitt, Perquimans, Richmond, Wake, Gaston (county owns property/state operates); Buncombe, Alexander, and Cumberland.

- At State-Operated Centers: State and County Split Cost Per Day: 50%
- At Local-Operated Centers: State pays 100% up front/county reimburses 50%. County that pays is county of arrest unless changed to home county by Judge

**Basic Facts: State and Local Centers Combined, Fiscal Year 2004/05**

- Admissions were 7,882 in 04-05 (7,817 in 03-04); 64% were age 14 or 15
- Bed Capacity: Minimum: 302 beds; Maximum: 351 beds
- Average Daily Population (ADP): 263
- Average Length of Stay: 11.8 days (11.3 in 2004)

**Local Detention Centers**

- *Mecklenburg/Gatling Detention Center:* Operated by Mecklenburg County Sheriff’s Office
  - 30 beds/Average Daily Population (ADP) was 24 in 2004/05
  - Average length of stay was 12.7 days
  - Mecklenburg female offenders housed at Gaston State Detention facility. State funding of \$1.127 million for female facility reverted in 2001
  - Gatling facility is 34 years old facility with minimal repair and renovation needs

- *Guilford Juvenile Detention Center;*
  - \$2 million appropriated by State for new Center in 1998
  - 48-52 beds/30 ADP in 04-05; Average length of stay 9.7 days.
  
- *Forsyth: Youth Services Center:*
  - 16 beds/13.5 ADP in 2004/05; Average length of stay was 16.7 days
  - Facility built in 1962; State funding to expand facility (\$1.75 million) was reverted in 2002; \$600,000 in renovations in 2004 (paid by County)
  
- *Durham County Youth Home:*
  - 14 beds/12 ADP
  - Average length of stay 14.7 days
  - Youth Home moved to former State Willie M facility in 1988
  - Repair/renovation needs extensive; some projects recently funded by County

### **Committee Activities**

On April 19, 2006 the Oversight Committee met to review the information collected on State and local detention centers and to discuss resource needs. The Committee heard a presentation from Secretary George Sweat on State juvenile detention centers as well as presentations from each of the four local centers. Presenters from local centers included Benny Murrill, Director of the Forsyth Youth Services Center; Sheriff Jim Pendergraph of Mecklenburg County, who oversees the Gatling Detention Center; Angela Nunn, Director of the Durham County Youth Home; and Doug Logan, Director of the Guilford Juvenile Detention Center.

With the exception of Guilford County, which opened a new center in 1998, the local centers presented a wide range of funding needs. Sheriff Pendergraph noted that he has proposed a 100-bed, \$18.5 million dollar replacement facility to the County for several years. The new facility would replace the old 30-bed facility in Huntersville and would be located at a site owned by the county adjacent to Mecklenburg's "Jail North." Benny Murrill of Forsyth County indicated a need to build a 28-bed replacement facility or a new wing to expand the current facility from 16 to 28 beds. No cost estimate was provided although it was noted that a new facility had been proposed by Forsyth County in 1999 at a cost of \$6 million dollars. Angela Nunn of Durham noted that replacement of the current detention center was not part of the Durham capital improvement plan but that a replacement facility is needed at some point, given inadequacy of the current facility.

Secretary Sweat noted that the State detention centers have a variety of needs. The Secretary provided a list of repair and renovation projects underway at the centers and a list of future needs for each center. A top priority is the replacement of Buncombe Detention Center, which is small, outdated, and in need of ongoing repair.

### **Committee Recommendation**

The Joint Committee recommends that the Joint Appropriations Subcommittee on Justice and Public Safety review any budgetary proposals by state and local detention centers during the upcoming 2006 Short Session



## LEGISLATIVE PROPOSAL I

A BILL TO BE ENTITLED  
AN ACT TO MAKE CHANGES TO THE JUVENILE CODE, AS RECOMMENDED  
BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL AND  
JUVENILE JUSTICE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7B-1903(d) reads as rewritten:

"(d) The court may order secure custody for a juvenile who is alleged to have substantially violated the conditions of the juvenile's probation or post-release supervision, ~~but only if the juvenile is alleged to have committed acts that damage property or injure persons-supervision.~~"

**SECTION 2.** G.S. 7B-2507(b) reads as rewritten:

"(b) Points. – Points are assigned as follows:

- (1) For each prior adjudication of a Class A through E felony offense, 4 points.
- (2) For each prior adjudication of a Class F through I felony ~~offense~~ offense, Class A1 misdemeanor offense, G.S. 14-202.2 (indecent liberties between children), G.S. 14-269 (carrying concealed weapons), or G.S. 14-269.7(a) (prohibitions on handguns for minors), 2 points.
- (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, except G.S. 14-202.2 (indecent liberties between children), G.S. 14-269 (carrying concealed weapons), or G.S. 14-269.7(a) (prohibitions on handguns for minors), 1 point.
- (4) If the juvenile was on probation at the time of offense, 2 points."

**SECTION 3.** G.S. 7B-2508(a) reads as rewritten:

"(a) Offense Classification. – The offense classifications are as follows:

- (1) Violent – Adjudication of a Class A through E felony offense;
- (2) Serious – Adjudication of a Class F through I felony ~~offense or~~ offense, a Class A1 ~~misdemeanor~~ misdemeanor, G.S. 14-202.2 (indecent liberties between children), G.S. 14-269 (carrying concealed weapons), or G.S. 14-269.7(a) (prohibitions on handguns for minors);
- (3) Minor – Adjudication of a Class 1, 2, or 3 ~~misdemeanor~~ misdemeanor, except G.S. 14-202.2 (indecent liberties between children), G.S. 14-269 (carrying concealed weapons), or G.S. 14-269.7(a) (prohibitions on handguns for minors)."

**SECTION 4.** G.S. 7B-2510(e) reads as rewritten:

"(e) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of probation set by the court, the court may continue the original conditions of probation, modify the conditions of probation, or, except as provided in subsection (f) of this section, order a new disposition at the next higher level on the disposition chart in G.S. 7B-2508. In the

court's discretion, ~~part of the new disposition~~ if the juvenile's disposition is not raised to a higher level of disposition, the court may include an order of confinement in a secure juvenile detention facility for up to twice the term authorized by ~~G.S. 7B-2508~~. G.S. 7B-2508 for the juvenile's dispositional level."

**SECTION 5.** G.S. 7B-1501 is amended by adding a new subsection to read:

"(21a) Prior adjudication. – Any adjudication that occurred before the current date of disposition which is not a part of some related transaction for the current offense."

**SECTION 6.** This act becomes effective December 1, 2006, and applies to offenses committed on or after that date.

## SUMMARY OF LEGISLATIVE PROPOSAL I

A BILL TO BE ENTITLED AN ACT TO MAKE CHANGES TO THE JUVENILE CODE, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL AND JUVENILE JUSTICE OVERSIGHT COMMITTEE.

*This legislative proposal makes several changes to the State's Juvenile Code. The changes were presented to the Committee by the State Advisory Council on Juvenile Justice and Delinquency Prevention.*

**Section 1.** – Amends G.S. 7B-1903(d) regarding secure custody. Under current law, the court may order secure custody for a juvenile who is alleged to have violated conditions of probation or post-release supervision, but only if the juvenile is alleged to have committed acts that damage property or injure persons. The bill would allow the court to order secure custody for a juvenile who is alleged to have substantially violated conditions of probation or post-release supervision.

**Section 2.** – Amends G.S. 7B-2507(b) regarding the assignments of points in determining the delinquency history level for a delinquent juvenile. Under current law, when determining a juvenile's delinquency history, points are assigned to each of the juvenile's prior adjudications and to the juvenile's probation status, if any, at the time of the offense. Under current law, each prior adjudication of a Class 1, 2, or 3 misdemeanor offense is assigned 1 point. The bill would assign 2 points (up from 1) for the following offenses:

G.S. 14-202.2 -- indecent liberties between children; a Class 1 misdemeanor

G.S. 14-269 -- carrying concealed weapons; a Class 2 misdemeanor

G.S. 14-269.7(a) – prohibition on handguns for minors; a Class 2 misdemeanor

**Section 3.** – Amends G.S. 7B-2508(a) regarding offense classifications, to increase the offense classification for the following offenses: indecent liberties between children; carrying concealed weapons; prohibition on handguns for minors. These offenses are currently classified as minor offenses; the bill would classify them as serious for purposes of determining the disposition level (community, intermediate, or commitment). Under current law, without a finding that the juvenile has been adjudicated of four or more prior offenses, a juvenile with a high delinquency history may not be committed to a youth development center when adjudicated of a minor offense; however, such juvenile may be committed for a serious offense.

**Section 4.** – Amends G.S. 7B-2510 regarding days of confinement for violation of conditions of probation. Under current law, if the court finds that a juvenile has violated the terms of probation, the court may continue or modify the original conditions, or order a new disposition at the next higher level on the disposition chart. Part of the new disposition may include an order of confinement in a secure juvenile detention facility for up to twice the term authorized under the statute governing dispositional limits. The bill specifies that this expanded term of confinement may occur only when the juvenile's disposition is not raised to a higher level as a result of the probation violation.

**Section 5.** – Amends G.S. 7B-1501 by defining the term “prior adjudication” as any adjudication that occurred before the date of disposition, which is not a part of some related transaction for the current offense. The term is not currently defined in the statutes.

The bill would become effective December 1, 2006 and apply to offenses committed on or after that date.

## LEGISLATIVE PROPOSAL II

### A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE LAWS CONCERNING VICTIMS' COMPENSATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 15B-2(1) reads as rewritten:

"(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, medically-related property, and other remedial treatment and care.

Allowable expense includes a total charge not in excess of ~~three thousand five hundred dollars (\$3,500)~~ five thousand dollars (\$5,000) for expenses related to funeral, cremation, and burial, including transportation of a body, but excluding expenses for flowers, gravestone, and other items not directly related to the funeral service.

Allowable expense for medical care, counseling, rehabilitation, medically-related property, and other remedial treatment and care of a victim shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount usually charged by the provider for the treatment or care. If the provider is one that accepts Medicare, Medicaid or similar government funding, then the provider shall accept the compensation paid under such program as allowable expense pursuant to this subdivision. By accepting the compensation paid as allowable expense pursuant to this subdivision, the provider agrees that the compensation is payment in full for the treatment or care and shall not charge or otherwise hold a claimant financially responsible for the cost of services in addition to the amount of allowable expense."

**SECTION 2.** G.S. 15B-4(a) reads as rewritten:

"(a) Subject to the limitations in G.S. 15B-22, compensation for criminally injurious conduct shall be awarded to a claimant if substantial evidence establishes that the requirements for an award have been met. Compensation shall only be paid for economic loss and not for noneconomic detriment or loss. The Commission shall follow the rules of liability applicable to civil tort law in North Carolina."

**SECTION 3.** G.S. 15B-11(c) reads as rewritten:

"(c) A claim may be denied, an award of compensation may be reduced, and a claim that has already been decided may be reconsidered upon finding that the claimant or victim, without good cause, has not fully cooperated with appropriate law enforcement agencies or in the prosecution of criminal cases with regard to the criminally injurious conduct that is the basis for the award."

**SECTION 4.** This act is effective July 1, 2006, and applies to claims filed on or after that date.

## SUMMARY OF LEGISLATIVE PROPOSAL II

A BILL TO BE ENTITLED  
AN ACT TO MAKE CHANGES TO THE LAWS CONCERNING VICTIMS'  
COMPENSATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT  
COMMITTEE..

*This legislative proposal makes several changes to the laws governing the State's Victims' Compensation program. The changes were presented to the Committee by the Department of Crime Control and Public Safety.*

**Section 1.** – Amends G.S.15B-2 to increase from \$3,500 to \$5,000 the total allowable expenses related to funerals, and to add language clarifying victims' compensation as the payor of last resort for medical expenses incurred by the victim.

**Section 2.** – Amends G.S. 15B-4 to add language clarifying that compensation under the victims' compensation program will not be paid for "noneconomic detriment". The term, which is defined in G.S. 15B-2(11), includes pain, suffering, inconvenience, physical impairment, and other non-pecuniary damage.

**Section 3.** – Amends G.S. 15B-11, to add language giving the victims' compensation program the discretion to deny, reduce, or reconsider an award where the victim, without good cause, fails to cooperate with the prosecution of a criminal case arising out of the criminally injurious conduct that is the basis of the award.

**Section 4.** -- The bill would be effective July 1, 2006, and apply to victims' compensation claims filed on or after that date.

APPENDIX I

SESSION LAW 2005-372  
SENATE BILL 1130

AN ACT TO PROHIBIT SMOKING IN STATE CORRECTIONAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-599, as amended by S.L. 2005-19, S.L. 2005-168, and S.L. 2005-239, is amended by adding a new subdivision to read:

"(9) State correctional facilities operated by the Department of Correction."

**SECTION 2.** Article 2 of Chapter 148 of the General Statutes is amended by adding a new section to read:

**"§ 148-23.1. Smoking prohibited in State correctional facilities.**

(a) The General Assembly finds that in order to protect the health, welfare, and comfort of inmates in the custody of the Department of Correction and to reduce the costs of inmate health care, it is necessary to prohibit inmates from using tobacco products inside State correctional facilities and to ensure that employees and visitors do not use tobacco products inside those facilities.

(b) No person may use tobacco products inside of a State correctional facility, except for authorized religious purposes.

(c) The Department of Correction may adopt rules to implement the provisions of this section. Inmates in violation of this section are subject to disciplinary measures to be determined by the Department, including the potential loss of sentence credits earned prior to that violation. Employees in violation of this section are subject to disciplinary action by the Department. Visitors in violation of this section are subject to removal from the facility and loss of visitation privileges.

(d) As used in this section, the following terms mean:

- (1) State correctional facility. – All buildings of a State correctional institution operated by the Department of Correction.
- (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant that are prepared or used for smoking, chewing, dipping, or other personal use."

**SECTION 3.** The Department of Correction shall conduct one or more pilot programs banning smoking both inside buildings and on the grounds of State correctional institutions and administering smoking cessation programs for staff and inmates. The pilot smoking cessation programs shall be available to inmates and staff on a volunteer basis, and no person shall be compelled or coerced to participate. The smoking cessation program shall include instructions and education that will help inmates and staff cease the use of tobacco products and remain smoke free. The cost of administering the pilot smoking cessation program shall be paid from existing funds available to the Department of Correction. The Department of Correction may use services, personnel, and resources donated by nongovernmental agencies and organizations to implement this program. The Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on or before April 1, 2006, on the progress and status of the pilot programs.

**SECTION 4.** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall study and make legislative recommendations on the feasibility and implementation of a two-year phase-in program banning smoking by all inmates, personnel, and visitors in all buildings and on all grounds of State correctional institutions operated by the Department of Correction. This study shall examine methods to assist with smoking cessation, including the use of nongovernmental

agencies, organizations, and corporations for counseling, training, cessation aids, and interventions. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall report the results of this study to the General Assembly prior to the convening of the 2006 Session of the 2005 General Assembly.

**SECTION 5.** Sections 1 and 2 of this act become effective January 1, 2006. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of August, 2005.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 1:39 p.m. this 8<sup>th</sup> day of September, 2005



APPENDIX II

**Section 16.9,  
SESSION LAW 2005-276  
SENATE BILL 622**

**STUDY OF LOCAL DETENTION CENTERS**

**SECTION 16.9.** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee ("Committee") shall study the four juvenile detention centers located in Durham, Guilford, Forsyth, and Mecklenburg Counties that are operated by the counties. For each of the facilities, the review shall include:

- (1) Recent admission trends and projections of future population.
- (2) The offense history and assessed needs of the population.
- (3) Whether staffing levels are appropriate for the number and types of offenders housed in the facility.
- (4) Whether the center has adequate housing capacity.
- (5) The cost to operate the center, including the formula for allocating costs between the county that operates the facility and the State.
- (6) The feasibility of the State operating the local detention center, if recommended by one or more of the counties that operate the facility.
- (7) Determine the repair and renovation needs and estimate the cost of any repairs or renovations.
- (8) The estimated cost to plan, design, and construct new detention centers, if appropriate.

The Committee shall conduct the study in conjunction with the local detention centers, the Office of State Budget and Management, the Office of State Construction of the Department of Administration, and the Department of Juvenile Justice and Delinquency Prevention.

The Committee shall report its findings to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the House of Representatives and the Senate upon the convening of the 2006 Regular Session of the 2005 General Assembly.