

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 576\*

Short Title: Transfer Community Penalties.

(Public)

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Sponsors: Representatives H. Hunter; and Barnes.

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Referred to: Courts, Justice, Constitutional Amendments, and Referenda.

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April 2, 1991

A BILL TO BE ENTITLED

1 AN ACT TO TRANSFER THE COMMUNITY PENALTIES PROGRAM FROM THE  
2 DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO THE  
3 ADMINISTRATIVE OFFICE OF THE COURTS.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Notwithstanding the provisions of Section 130 of Chapter 1066 of  
7 the 1989 Session Laws, the statutory authority, powers, duties, and functions, records,  
8 personnel, property, unexpended balances of appropriations, allocations or other funds,  
9 including the functions of budgeting and purchasing, of the Department of Crime  
10 Control and Public Safety to conduct the community penalties program, as provided by  
11 Part 6 of Article 11 of Chapter 143B of the General Statutes, are transferred to the  
12 Administrative Office of the Courts.

13 Sec. 2. Part 6 of Article 11 of Chapter 143B of the General Statutes, G.S.  
14 143B-500 through G.S. 143B-507, is recodified as Article 61 of Subchapter XIII of  
15 Chapter 7A of the General Statutes, G.S. 7A-770 through G.S. 7A-777. The Revisor of  
16 Statutes shall change any references to "this Part" to "this Article".

17 Sec. 3. G.S. 143-500, as recodified as G.S. 7A-770 by Section 2 of this act,  
18 reads as rewritten:

19 **"§ 7A-770. Purpose.**

20 This Article shall be known and may be cited as the 'Community Penalties Act of  
21 1983.' The purpose of this Article is to reduce prison overcrowding by providing the  
22 judicial system with community sentences to be used in lieu of and at less cost than  
23 imprisonment. In furtherance of this purpose, this Article provides for the following:

- 1 (1) Establishment of local sentencing alternatives for felons who require  
 2 less than institutional custody but more than regular probation  
 3 supervision.  
 4 (2) Increased opportunities for ~~nonviolent~~ certain felons to make restitution  
 5 to victims of crime through financial reimbursement or community  
 6 service.  
 7 (3) Local involvement in the development of community penalties to  
 8 assure that they are specifically designed to meet local needs.  
 9 (4) Reduced expenditures of State funds through an emphasis on  
 10 alternative penalties for offenders so that new prisons need not be built  
 11 or new space added."

12 Sec. 4. G.S. 143B-501, as recodified as G.S. 7A-771 by Section 2 of this act,  
 13 reads as rewritten:

14 **"§ 7A-771. Definitions.**

15 As used in this Part:

- 16 (1) 'Community penalties program' means an agency within the judicial  
 17 district which shall (i) prepare community penalty plans; (ii) arrange or  
 18 contract with public and private agencies for necessary services for  
 19 offenders; and (iii) monitor the progress of offenders placed on  
 20 community penalty plans.  
 21 (2) 'Community penalty plan' means a plan presented in writing to the  
 22 sentencing judge which provides a detailed description of the targeted  
 23 offender's proposed community penalty.  
 24 (2a) 'Director' means the Director of the Administrative Office of the  
 25 Courts.  
 26 (3) 'Judicial district' means a district court district as defined in G.S. 7A-  
 27 133.  
 28 (4) ~~'Secretary' means the Secretary of the Department of Crime Control~~  
 29 ~~and Public Safety.~~  
 30 (5) 'Targeted offenders' means persons convicted of ~~nonviolent~~  
 31 ~~misdemeanors~~ misdemeanors, or nonviolent Class H, I, or J felonies Class  
 32 H felonies other than involuntary manslaughter, or Class I or J  
 33 felonies, who would be eligible for intensive probation or house arrest,  
 34 and who are facing an imminent and substantial threat of  
 35 imprisonment."

36 Sec. 5. G.S. 143B-502, as recodified as G.S. 7A-772 by Section 2 of this act,  
 37 reads as rewritten:

38 **"§ 7A-772. Allocation of funds.**

39 The ~~Secretary~~ Director may award grants in accordance with the policies established  
 40 by this Part and ~~within the limits of any appropriation~~ in accordance with any laws made  
 41 for that purpose, including appropriations acts and provisions in appropriations acts, and  
 42 adopt regulations for the implementation, operation, and monitoring of community  
 43 penalties programs. Community penalties programs that are grantees shall use such  
 44 funds to develop, implement, and monitor community penalty plans. Grants shall be

1 awarded by the ~~Secretary~~Director to agencies whose comprehensive program plans  
2 promise best to meet the goals set forth herein."

3           Sec. 6. G.S. 143B-505, as recodified as G.S. 7A-775 by Section 2 of this act,  
4 reads as rewritten:

5 "**§ 7A-775. ~~Advisory~~ Community penalties board.**

6       Each community penalties program shall establish a community penalties ~~advisory~~  
7 board to provide ~~advice~~direction and assistance to the community penalties program in  
8 the implementation and evaluation of the plan. Community penalties boards may be  
9 organized as nonprofit corporations under Chapter 55A of the General Statutes. The  
10 ~~advisory~~community penalties board shall consist of not less than 12 members, and shall  
11 include, insofar as possible, judges, district attorneys, attorneys, social workers, law-  
12 enforcement officers, probation officers, and other interested persons. The ~~advisory~~  
13 community penalties board shall meet on a regular ~~basis and advise the community~~  
14 ~~penalties program~~basis, and its duties include, but are not limited to, the following:

- 15           (1) Development of an annual budget for the program;
- 16           (2) Hiring, firing, and evaluation of program personnel;
- 17           (3) Selection of board members;
- 18           (4) Arranging for a private and independent annual audit;
- 19           (5) Development of procedures for contracting for services."

20       Sec. 7. The Revisor of Statutes shall change any remaining references in G.S.  
21 7A-770 through 7A-777 to "the Secretary" to "the Director".

22       Sec. 8. Notwithstanding G.S. 150B-13, the Administrative Office of the  
23 Courts may, until six months from the effective date of this act, adopt temporary rules to  
24 carry out the purposes of Article 61 of Subchapter XIII of Chapter 7A of the General  
25 Statutes without prior notice or hearing or upon any abbreviated notice or hearing the  
26 Administrative Office of the Courts finds practicable. The Administrative Office of the  
27 Courts shall begin normal rule-making procedures on permanent rules in accordance  
28 with Article 2 of Chapter 150B at the same time it adopts temporary rules. Temporary  
29 rules adopted under this section shall be published by the Director of the Office of  
30 Administrative Hearings in the **North Carolina Register** and shall be effective for a  
31 period of not longer than 180 days.

32       Sec. 9. Rules adopted by the Department of Crime Control and Public Safety  
33 that are in effect on the effective date of this act apply to the Administrative Office of  
34 the Courts until amended or repealed by the Administrative Office of the Courts.

35       Sec. 10. This act is effective upon ratification.