

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 966

Short Title: Renegotiate Settlement Agreement.

(Public)

Sponsors: Representatives P. Wilson; Bowman, Decker, Flaherty, and Wood.

Referred to: Courts and Justice.

April 15, 1993

A BILL TO BE ENTITLED

AN ACT DIRECTING THE ATTORNEY GENERAL TO APPLY TO THE UNITED STATES DISTRICT COURT FOR RELIEF FROM THE SETTLEMENT AGREEMENT IN THE CASE OF SMALL V. MARTIN.

Whereas, in December 1988, pursuant to a settlement of lawsuits over alleged unconstitutional crowding of North Carolina's prisons, the State of North Carolina agreed to eliminate "triple bunking" in its prisons, to provide 50 square feet of living space per inmate, and to provide access to dayrooms or indoor recreation space in the amount of 25 square feet per inmate; and

Whereas, in an effort to avoid federal intervention in the State's prison system and in anticipation of the terms of the settlement agreement, the 1987 General Assembly enacted legislation that placed a limit, or "cap", on the State's prison population; and

Whereas, that legislation provides that when the population reaches 98% of the cap figure for 15 consecutive days, prisoners eligible for parole must be paroled in sufficient numbers so that the population is reduced to 97% of the cap figure within 60 days; and

Whereas, the cap figure was originally set at 18,000 inmates but gradually has been raised as new prisons have been built to 20,900 inmates; and

Whereas, since the cap was enacted in 1987 there has been a continuing, precipitous decline in the percent of time served in prisons by felons and misdemeanants; and

Whereas, in 1987, convicted felons served 40.7% of their court-imposed sentences, but by 1991 that figure had declined to 24.2%; and

1 Whereas, convicted felons are therefore serving less time in prison, on
2 average, than at any time in the last twenty years; and

3 Whereas, in 1987, convicted misdemeanants served 39.4% of their court-
4 imposed sentences, but by 1991 that figure had declined to 10.9%; and

5 Whereas, convicted felons and misdemeanants are therefore serving less time
6 in prison, on average, than at any time in the last 20 years; and

7 Whereas, after enactment of the prison cap legislation, the recidivism rate in
8 North Carolina increased by 45% in just three years, as the proportion of inmates
9 returning within one year of release went from 13.5% in 1986 to 19.6% in 1989; and

10 Whereas, the combined effect of rising recidivism rates and the increasing
11 number of releases from prison resulted in 4,500 inmates being released in 1990 only to
12 be reincarcerated within one year, a 128% increase over 1984 when 1,900 inmates were
13 released and returned within one year; and

14 Whereas, in 1991, for the first time in history, the reported crime rate for
15 North Carolina reached the same level as the national crime rate; and

16 Whereas, from 1985 to 1991, the reported crime rate in North Carolina
17 increased by 45%, while in the South as a whole it increased by only 24% and in the
18 United States as a whole it increased by only 15%; and

19 Whereas, from 1985 to 1991, the violent crime rate in North Carolina
20 increased by 60%, while in the South as a whole it increased by only 48% and in the
21 United States as a whole it increased by only 38%; and

22 Whereas, from 1985 to 1991, the murder rate in North Carolina increased by
23 almost 50%, the greatest increase in any comparable time in the last 30 years; and

24 Whereas, North Carolina ranks number one among the fifty states in the
25 growth rate in reported robberies, with an increase since 1985 of over 125%; and

26 Whereas, from 1985 to 1991, the amount of time served in prison relative to
27 the sentence imposed in the courtroom declined by 58%, while at the same time there
28 was a 35% increase in inmate recidivism and a 45% increase in the reported crime rate
29 per 1,000 population; Now, therefore,

30 The General Assembly of North Carolina enacts:

31 Section 1. The General Assembly finds that the present situation constitutes
32 an emergency of a magnitude not foreseen or foreseeable at the time the parties entered
33 the settlement agreement.

34 Sec. 2. The Attorney General shall apply to the District Court for the Eastern
35 District of North Carolina for appropriate relief from the settlement agreement in the
36 cases of Small v. Martin, No. 85-987-CRT, and Thorne v. Martin, No. 87-446-CRT,
37 pursuant to Paragraph 14 of the settlement agreement entered into by the parties in those
38 cases, which permits the defendants to apply to the Court for appropriate relief in the
39 event of unforeseen emergencies affecting the implementation of any provision of that
40 agreement.

41 Sec. 3. This act is effective upon ratification.