

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

3

SENATE BILL 1630\*  
Judiciary I Committee Substitute Adopted 6/15/94  
Third Edition Engrossed 6/21/94

Short Title: Criminal Technical Corrections.

(Public)

Sponsors:

Referred to:

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND TO MAKE CLARIFYING  
AND CONFORMING CHANGES TO VARIOUS CRIMINAL STATUTES, AND  
TO REPEAL VARIOUS CRIMINAL LAWS THAT ARE OBSOLETE OR  
REDUNDANT.

The General Assembly of North Carolina enacts:

PART 1. EARNED TIME FOR MISDEMEANOR OFFENDERS

Section 1. G.S. 15A-1340.20(d) reads as rewritten:

"(d) Earned Time Authorization. – An offender sentenced to a term of imprisonment that is activated is eligible to receive earned time credit for misdemeanor offenders awarded by the Department of Correction or the custodian of a local confinement facility, pursuant to rules adopted in accordance with law and pursuant to G.S. 162-60. These rules and statute combined shall not award misdemeanor offenders more than four days of earned time credit per month of incarceration."

Sec. 2. G.S. 162-60 reads as rewritten:

**"§ 162-60. Reduction in sentence allowed for work.**

~~In addition to any earned time credit a prisoner may be awarded under G.S. 15A-1340.20, a~~  
A prisoner who has faithfully performed the duties assigned to him pursuant to G.S. 162-58 is entitled to a reduction in his sentence of four days for each 30 days of work performed. The person having custody of the prisoner, as defined in G.S. 162-59, shall

1 be the sole judge as to whether the prisoner has faithfully performed his duties. A  
2 prisoner who escapes or attempts to escape while performing work pursuant to G.S.  
3 162-58 shall forfeit any reduction in sentence that he would have been entitled to under  
4 this section."

5 Sec. 3. G.S. 153A-230.3(b) reads as rewritten:

6 "(b) Operation of Satellite Jail/Work Release Unit. – A county or group  
7 of counties operating a satellite jail/work release unit shall comply with the following  
8 requirements concerning operation of the unit:

9 (1) The county shall make every effort to ensure that at least eighty  
10 percent (80%) of the unit occupants shall be employed and on work  
11 release, and that the remainder shall earn their keep by working at the  
12 unit on maintenance and other jobs related to the upkeep and operation  
13 of the unit or by assignment to community service work, and that  
14 alcohol and drug rehabilitation be available through community  
15 resources.

16 (2) The county shall require the occupants to give their earnings, less  
17 standard payroll deductions required by law and premiums for group  
18 health insurance coverage, to the Sheriff. The county may charge a  
19 per day charge from those occupants who are employed or otherwise  
20 able to pay from other resources available to the occupants. The per  
21 day charge shall be calculated based on the following formula: The  
22 charge shall be either the amount that the Department of Correction  
23 deducts from a prisoner's work-release earnings to pay for the cost of  
24 the prisoner's keep or fifty percent (50%) of the occupant's net weekly  
25 income, whichever is greater, but in no event may the per day charge  
26 exceed an amount that is twice the amount that the Department of  
27 Correction pays each local confinement facility for the cost of  
28 providing food, clothing, personal items, supervision, and necessary  
29 ordinary medical expenses. The per day charge may be adjusted on an  
30 individual basis where restitution and/or child support has been  
31 ordered, or where the occupant's salary or resources are insufficient to  
32 pay the charge.

33 The county also shall accumulate a reasonable sum from the  
34 earnings of the occupant to be returned to him when he is released  
35 from the unit. The county also shall follow the guidelines established  
36 for the Department of Correction in G.S. 148-33.1(f) for determining  
37 the amount and order of disbursements from the occupant's earnings.

38 (3) Any and all proceeds from daily fees shall belong to the county's  
39 General Fund to aid in offsetting the operation and maintenance of the  
40 satellite unit.

41 (4) The unit shall be operated on a full-time basis, i.e., seven days/nights a  
42 week, but weekend leave may be granted by the Sheriff. In granting  
43 weekend leave, the Sheriff shall follow the policies and procedures of

1 the Department of Correction for granting weekend leave for Level 3  
2 minimum custody inmates.

3 (5) ~~Good time and gain~~ Earned time shall be applied to these county  
4 prisoners in the same manner as prescribed in G.S. ~~15A-1340.7~~ 15A-  
5 1340.20 and G.S. 148-13 for State prisoners.

6 (6) The Sheriff shall maintain complete and accurate records on each  
7 inmate. These records shall contain the same information as required  
8 for State prisoners that are housed in county local confinement  
9 facilities."

10 Sec. 4. G.S. 15A-1368.2(a) reads as rewritten:

11 "(a) A prisoner to whom this Article applies shall be released from prison for  
12 post-release supervision on the date equivalent to his maximum imposed prison term  
13 less nine months, less any earned time awarded by the Department of Correction or the  
14 custodian of a local confinement facility under G.S. ~~15A-1340(d)~~ 15A-1340.13(d). If a  
15 prisoner has not been awarded any earned time, the prisoner shall be released for post-  
16 release supervision on the date equivalent to his maximum prison term less nine  
17 months."

18 Sec. 5. G.S. 15A-1368.3(c) reads as rewritten:

19 "(c) Effect of Violation. – If the supervisee violates a condition, described in G.S.  
20 15A-1368.4, at any time before the termination of the supervision period, the  
21 Commission may continue the supervisee on the existing supervision, with or without  
22 modifying the conditions, or if continuation or modification is not appropriate, may  
23 revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the  
24 supervisee for a term consistent with the following requirements:

25 (1) The supervisee will be returned to prison up to the time remaining on  
26 his maximum imposed term.

27 (2) The supervisee shall not receive any credit for days on post-release  
28 supervision against the maximum term of imprisonment imposed by  
29 the court under G.S. 15A-1340.13.

30 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction  
31 shall award a prisoner credit against any term of reimprisonment for all  
32 time spent in custody as a result of revocation proceedings under G.S.  
33 15A-1368.6.

34 (4) The prisoner is eligible to receive earned time credit against the  
35 maximum prison term as provided in G.S. ~~15A-1340(d)~~ 15A-  
36 1340.13(d) for time served in prison after the revocation."

## 37 38 PART 2. LENGTHS OF PROBATION PERIODS

39  
40 Sec. 6. G.S. 15A-1342(a) reads as rewritten:

41 "(a) Period. – The court may place a convicted offender on probation for the  
42 appropriate period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five  
43 years. The court may place a defendant as to whom prosecution has been deferred on  
44 probation for a maximum of two years. The probation remains conditional and subject

1 to revocation during the period of probation imposed, unless terminated as provided in  
2 subsection (b) or G.S. 15A-1341(c).

3 Extension. – The court with the consent of the defendant may extend the period of  
4 probation beyond ~~five years~~ the original period (i) for the purpose of allowing the  
5 defendant to complete a program of restitution, or (ii) to allow the defendant to continue  
6 medical or psychiatric treatment ordered as a condition of the probation. The period of  
7 extension shall not exceed three years beyond the original period of probation. The  
8 special extension authorized herein may be ordered only in the last six months of the  
9 ~~probation term.~~ original period of probation. Any probationary judgment form provided  
10 to a defendant on supervised probation shall state that probation may be extended  
11 pursuant to this subsection."

12 Sec. 7. G.S. 15A-1351(a) reads as rewritten:

13 "(a) The judge may sentence to special probation a defendant convicted of a  
14 criminal offense other than impaired driving under G.S. 20-138.1, if based on the  
15 defendant's prior record or conviction level as found pursuant to Article 81B of this  
16 Chapter, an intermediate punishment is authorized for the class of offense of which the  
17 defendant has been convicted. A defendant convicted of impaired driving under G.S.  
18 20-138.1 may also be sentenced to special probation. Under a sentence of special  
19 probation, the court may suspend the term of imprisonment and place the defendant on  
20 probation as provided in Article 82, Probation, and in addition require that the defendant  
21 submit to a period or periods of imprisonment in the custody of the Department of  
22 Correction or a designated local confinement or treatment facility at whatever time or  
23 intervals within the period of probation, consecutive or nonconsecutive, the court  
24 determines. In addition to any other conditions of probation which the court may  
25 impose, the court shall impose, when imposing a period or periods of imprisonment as a  
26 condition of special probation, the condition that the defendant obey the Rules and  
27 Regulations of the Department of Correction governing conduct of inmates, and this  
28 condition shall apply to the defendant whether or not the court imposes it as a part of the  
29 written order. If imprisonment is for continuous periods, the confinement may be in the  
30 custody of either the Department of Correction or a local confinement facility.  
31 Noncontinuous periods of imprisonment under special probation may only be served in  
32 a designated local confinement or treatment facility. Except for probationary sentences  
33 of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed  
34 as an incident of special probation, but not including an activated suspended sentence,  
35 may not exceed six months or one fourth the maximum sentence of imprisonment  
36 imposed for the offense, whichever is less, and no confinement other than an activated  
37 suspended sentence may be required beyond two years of conviction. For probationary  
38 sentences for impaired driving under G.S. 20-138.1, the total of all periods of  
39 confinement imposed as an incident of special probation, but not including an activated  
40 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.  
41 In imposing a sentence of special probation, the judge may credit any time spent  
42 committed or confined, as a result of the charge, to either the suspended sentence or to  
43 the imprisonment required for special probation. The original period of probation,  
44 including the period of imprisonment required for special probation, shall be as

1 specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except  
2 as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special  
3 probation as otherwise provided for probationary sentences."

4 Sec. 8. G.S. 15A-1343.2(d) reads as rewritten:

5 "(d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court  
6 makes specific findings that longer or shorter periods of probation are necessary, the  
7 length of the ~~term~~ original period of probation for offenders sentenced under Article 81B  
8 shall be as follows:

- 9 (1) For misdemeanants sentenced to community punishment, not less than  
10 six nor more than 18 months;
- 11 (2) For misdemeanants sentenced to intermediate punishment, not less  
12 than 12 nor more than 24 months;
- 13 (3) For felons sentenced to community punishment, not less than 12 nor  
14 more than 30 months; and
- 15 (4) For felons sentenced to intermediate punishment, not less than 18 nor  
16 more than 36 months.

17 If the court finds at the time of sentencing that a longer period of probation is necessary,  
18 that period may not exceed a maximum of five years, as specified in G.S. 15A-1342 and  
19 G.S. 15A-1351.

20 Extension. – The court may with the consent of the offender extend the original ~~term~~  
21 period of the probation if necessary to complete a program of restitution or to complete  
22 medical or psychiatric treatment ordered as a condition of probation. This extension  
23 may be for no more than three years, and may only be ordered in the last six months of  
24 the original ~~probation term.~~ period of probation."  
25

### 26 PART 3. EXTEND LENGTH OF CONFINEMENT ON SPECIAL PROBATION FOR 27 SENTENCES TO IMPACT

29 Sec. 9. G.S. 15A-1344(e) reads as rewritten:

30 "(e) Special Probation in Response to Violation. – When a defendant has violated  
31 a condition of probation, the court may modify his probation to place him on special  
32 probation as provided in this subsection. In placing him on special probation, the court  
33 may continue or modify the conditions of his probation and in addition require that he  
34 submit to a period or periods of imprisonment, either continuous or noncontinuous, at  
35 whatever time or intervals within the period of probation the court determines. In  
36 addition to any other conditions of probation which the court may impose, the court  
37 shall impose, when imposing a period or periods of imprisonment as a condition of  
38 special probation, the condition that the defendant obey the Rules and Regulations of  
39 the Department of Correction governing conduct of inmates, and this condition shall  
40 apply to the defendant whether or not the court imposes it as a part of the written order.  
41 If imprisonment is for continuous periods, the confinement may be in either the custody  
42 of the Department of Correction or a local confinement facility. Noncontinuous periods  
43 of imprisonment under special probation may only be served in a designated local  
44 confinement or treatment facility. Except for probationary sentences for impaired

1 driving under G.S. ~~20-138.1~~, 20-138.1 and probationary sentences which include a  
2 period of imprisonment in the Intensive Motivational Program of Alternative  
3 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
4 periods of confinement imposed as an incident of special probation, but not including an  
5 activated suspended sentence, may not exceed six months or one fourth the maximum  
6 sentence of imprisonment imposed for the offense, whichever is less. For probationary  
7 sentences for impaired driving under G.S. 20-138.1, the total of all periods of  
8 confinement imposed as an incident of special probation, but not including an activated  
9 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.  
10 For probationary sentences which include a period of imprisonment in the Intensive  
11 Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S.  
12 15A-1343(b1)(2a), the total of all periods of confinement imposed as an incident of  
13 special probation, but not including an activated suspended sentence, shall not exceed  
14 six months or one-half the maximum term of the suspended sentence of imprisonment,  
15 whichever is less. No confinement other than an activated suspended sentence may be  
16 required beyond the period of probation or beyond two years of the time the special  
17 probation is imposed, whichever comes first."

18           Sec. 10. G.S. 15A-1351(a), as amended by Section 7 of this act, reads as  
19 rewritten:

20       "(a) The judge may sentence to special probation a defendant convicted of a  
21 criminal offense other than impaired driving under G.S. 20-138.1, if based on the  
22 defendant's prior record or conviction level as found pursuant to Article 81B of this  
23 Chapter, an intermediate punishment is authorized for the class of offense of which the  
24 defendant has been convicted. A defendant convicted of impaired driving under G.S.  
25 20-138.1 may also be sentenced to special probation. Under a sentence of special  
26 probation, the court may suspend the term of imprisonment and place the defendant on  
27 probation as provided in Article 82, Probation, and in addition require that the defendant  
28 submit to a period or periods of imprisonment in the custody of the Department of  
29 Correction or a designated local confinement or treatment facility at whatever time or  
30 intervals within the period of probation, consecutive or nonconsecutive, the court  
31 determines. In addition to any other conditions of probation which the court may  
32 impose, the court shall impose, when imposing a period or periods of imprisonment as a  
33 condition of special probation, the condition that the defendant obey the Rules and  
34 Regulations of the Department of Correction governing conduct of inmates, and this  
35 condition shall apply to the defendant whether or not the court imposes it as a part of the  
36 written order. If imprisonment is for continuous periods, the confinement may be in the  
37 custody of either the Department of Correction or a local confinement facility.  
38 Noncontinuous periods of imprisonment under special probation may only be served in  
39 a designated local confinement or treatment facility. Except for probationary sentences  
40 of impaired driving under G.S. ~~20-138.1~~, 20-138.1 and probationary sentences which  
41 include a period of imprisonment in the Intensive Motivational Program of Alternative  
42 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
43 periods of confinement imposed as an incident of special probation, but not including an  
44 activated suspended sentence, may not exceed six months or one fourth the maximum

1 sentence of imprisonment imposed for the offense, whichever is less, and no  
2 confinement other than an activated suspended sentence may be required beyond two  
3 years of conviction. For probationary sentences for impaired driving under G.S. 20-  
4 138.1, the total of all periods of confinement imposed as an incident of special  
5 probation, but not including an activated suspended sentence, shall not exceed one-  
6 fourth the maximum penalty allowed by law. For probationary sentences which include  
7 a period of imprisonment in the Intensive Motivational Program of Alternative  
8 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
9 periods of confinement imposed as an incident of special probation, but not including an  
10 activated suspended sentence, shall not exceed six months or one-half of the maximum  
11 term of the suspended sentence, whichever is less. In imposing a sentence of special  
12 probation, the judge may credit any time spent committed or confined, as a result of the  
13 charge, to either the suspended sentence or to the imprisonment required for special  
14 probation. The original period of probation, including the period of imprisonment  
15 required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not  
16 exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court  
17 may revoke, modify, or terminate special probation as otherwise provided for  
18 probationary sentences."

#### 19 20 PART 4. COUNTING MULTIPLE PRIOR CONVICTIONS

21  
22 Sec. 11. G.S. 15A-1340.14(d) reads as rewritten:

23 "(d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of  
24 determining the prior record level, if an offender is convicted of more than one offense  
25 in a single superior court during one calendar week, only the conviction for the offense  
26 with the highest point total is used. If an offender is convicted of more than one offense  
27 in a single session of district court, only one of the convictions is used."

#### 28 29 PART 5. CLASSIFYING PRIOR MISDEMEANOR CONVICTIONS FROM OTHER 30 JURISDICTIONS

31  
32 Sec. 12. G.S. 15A-1340.14(e) reads as rewritten:

33 "(e) Classification of Prior Convictions From Other Jurisdictions. – Except as  
34 otherwise provided in this subsection, a conviction occurring in a jurisdiction other than  
35 North Carolina is classified as a Class I felony if the jurisdiction in which the offense  
36 occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if  
37 the jurisdiction in which the offense occurred classifies the offense as a misdemeanor.  
38 If the offender proves by the preponderance of the evidence that an offense classified as  
39 a felony in the other jurisdiction is substantially similar to an offense that is a  
40 misdemeanor in North Carolina, the conviction is treated as ~~a that class of~~ misdemeanor  
41 for assigning prior record level points. If the State proves by the preponderance of the  
42 evidence that an offense classified as either a misdemeanor or a felony in the other  
43 jurisdiction is substantially similar to an offense in North Carolina that is classified  
44 higher than a Class I felony, as a Class I felony or higher, the conviction is treated as ~~the~~

1 ~~higher~~ that class of felony for assigning prior record level points. If the State proves by  
2 the preponderance of the evidence that an offense classified as a misdemeanor in the  
3 other jurisdiction is substantially similar to an offense classified as a Class 1  
4 misdemeanor in North Carolina, the conviction is treated as a Class 1 misdemeanor for  
5 assigning prior record level points."

6  
7 PART 7. REVISE COMMUNITY PENALTIES ELIGIBILITY CRITERIA

8  
9 Sec. 14. G.S 7A-771 reads as rewritten:

10 **"§ 7A-771. Definitions.**

11 As used in this Article:

- 12 (1) 'Community penalties program' means an agency within the judicial  
13 district which shall (i) prepare community penalty plans; (ii) arrange or  
14 contract with public and private agencies for necessary services for  
15 offenders; and (iii) monitor the progress of offenders placed on  
16 community penalty plans.
- 17 (2) 'Community penalty plan' means a plan presented in writing to the  
18 sentencing judge which provides a detailed description of the targeted  
19 offender's proposed community penalty.
- 20 (2a) 'Director' means the Director of the Administrative Office of the  
21 Courts.
- 22 (3) 'Judicial district' means a district court district as defined in G.S. 7A-  
23 133.
- 24 (4) Repealed by Session Laws 1991, c. 566, s. 4, effective July 1, 1991.
- 25 (5) 'Targeted offenders' means persons convicted of ~~misdemeanors, Class~~  
26 ~~H felonies other than involuntary manslaughter, or Class I or J~~  
27 ~~felonies, who would be eligible for intensive probation or house arrest,~~  
28 misdemeanors or felonies who are eligible to receive an intermediate  
29 punishment based on their class of offense and prior record level and  
30 who are facing an imminent and substantial threat of imprisonment."

31 Sec. 15. G.S. 7A-773 reads as rewritten:

32 **"§ 7A-773. Responsibilities of a community penalties program.**

33 A community penalties program shall be responsible for:

- 34 (1) Targeting offenders who are eligible to receive an intermediate  
35 punishment based on their class of offense and prior record level and  
36 who face an imminent and substantial threat of imprisonment.
- 37 (2) Preparing detailed community penalty plans for presentation to the  
38 sentencing judge by the offender's attorney.
- 39 (3) Contracting or arranging with public or private agencies for services  
40 described in the community penalty plan.
- 41 (4) Monitoring the progress of offenders under community penalty plans."  
42

43 PART 8. REVISE HABITUAL FELON LAW



1           Sec. 16. G.S 14-7.6 reads as rewritten:

2   **"§ 14-7.6. Sentencing of habitual felons.**

3           When an habitual felon as defined in this Article commits any felony under the laws  
4 of the State of North Carolina, the felon must, upon conviction or plea of guilty under  
5 indictment as provided in this Article (except where ~~the death penalty or a sentence of life~~  
6 ~~imprisonment is imposed~~) the felon has been sentenced as a Class A, B1, or B2 felon be  
7 sentenced as a Class C felon. In determining the prior record level, convictions used to  
8 establish a person's status as an habitual felon shall not be used. Sentences imposed  
9 under this Article shall run consecutively with and shall commence at the expiration of  
10 any sentence being served by the person sentenced under this section."

11  
12 PART 9. PUNISH FAILURE TO COMPLY WITH CONTROL CONDITIONS BY  
13 PERSONS WITH COMMUNICABLE DISEASES

14  
15           Sec. 17. G.S. 15A-1340.10 reads as rewritten:

16   **"§ 15A-1340.10. Applicability of structured sentencing.**

17           This Article applies to criminal offenses in North Carolina, other than impaired  
18 driving under G.S. 20-138.1 and failure to comply with control measures under G.S.  
19 130A-25, that occur on or after October 1, 1994. This Article does not apply to violent  
20 habitual felons sentenced under Article 2B of Chapter 14 of the General Statutes."

21           Sec. 18. G.S. 130A-25 reads as rewritten:

22   **"§ 130A-25. Misdemeanor.**

23           (a) A person who violates a provision of this Chapter or the rules adopted by the  
24 Commission or a local board of health shall be guilty of a ~~Class 4~~ misdemeanor.

25           (b) A person convicted under this section ~~for failure to obtain the treatment required~~  
26 ~~by Part 3 or Part 5 of Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S.~~  
27 130A-145 shall not be sentenced under Article 81B of Chapter 15A of the General  
28 Statutes but shall instead be sentenced to a term of imprisonment of no more than two  
29 years and shall serve any prison sentence in McCain Hospital, Division of Prisons,  
30 Department of Correction, McCain, North Carolina; the North Carolina Correctional  
31 Center for Women, Division of Prisons, Department of Correction, Raleigh, North  
32 Carolina; or any other confinement facility designated for this purpose by the Secretary  
33 of Correction after consultation with the State Health Director. The Secretary of  
34 Correction shall consult with the State Health Director concerning the medical  
35 management of these persons.

36           (c) Notwithstanding G.S. 148-4.1, G.S. 148-13, or any other contrary provision  
37 of law, a person imprisoned ~~for failure to obtain the treatment required by Part 3 or Part 5 of~~  
38 ~~Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S. 130A-145~~ shall not  
39 be released prior to the completion of the person's term of imprisonment unless and  
40 until a determination has been made by the District Court that release of the person  
41 would not create a danger to the public health. This determination shall be made only  
42 after the medical consultant of the confinement facility and the State Health Director, in  
43 consultation with the local health director of the person's county of residence, have  
44 made recommendations to the Court."

## PART 10. CLASSIFY CERTAIN OFFENSES

Sec. 19. G.S. 7A-456 reads as rewritten:

**"§ 7A-456. False statements; penalty.**

(a) A false material statement made by a person under oath or affirmation in regard to the question of his indigency constitutes ~~perjury, and upon conviction thereof, the defendant may be punished as provided in G.S. 14-209.~~ a Class I felony.

(b) A judicial official making the determination of indigency shall notify the person of the provisions of subsection (a) of this section ~~and shall explain to him the meaning of and the consequences of committing the crime of perjury.~~ section.

(c) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1100, s. 11.1."

Sec. 20. G.S. 14-253 reads as rewritten:

**"§ 14-253. Failure of certain railroad officers to account with successors.**

If the president and directors of any railroad company, and any person acting under them, shall, upon demand, fail or refuse to account with the president and directors elected or appointed to succeed them, and to transfer to them forthwith all the money, books, papers, choses in action, property and effects of every kind and description belonging to such company, they shall be guilty of a Class I felony. ~~All persons conspiring with any such president, directors or their agents to defeat, delay or hinder the execution of this section shall be guilty of a Class 1 misdemeanor.~~ The Governor is hereby authorized, at the request of the president, directors and other officers of any railroad company, to make requisition upon the governor of any other state for the apprehension of any such president failing to comply with this section."

Sec. 21. G.S. 14-277.4(b) reads as rewritten:

"(b) No person shall injure ~~or attempt~~ or threaten to injure a person who is or has been:

- (1) Obtaining health care services;
- (2) Lawfully aiding another to obtain health care services; or
- (3) Providing health care services."

Sec. 22. G.S. 54C-64 reads as rewritten:

**"§ 54C-64. Prohibited practices.**

A person who engages in any of the following acts or practices is guilty of a Class 1 ~~misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the discretion of the court.~~ misdemeanor:

- (1) Defamation: Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral, written, or printed statement that is false regarding the financial condition of any savings bank.
- (2) False information and advertising: Making, publishing, disseminating, circulating, or otherwise placing before the public in any publication, media, notice, pamphlet, letter, poster, or any other way, an advertisement, announcement, or statement containing any assertion,

1 representation, or statement with respect to the savings bank business  
2 or with respect to any person in the conduct of the savings bank  
3 business that is untrue, deceptive, or misleading.

- 4 (3) Misleading advertising: Use of a name or designation by a savings  
5 bank in advertisements, announcements, or statements concerning the  
6 savings bank that does not include the words 'savings bank' and the  
7 designation 'SSB' in type that is equally prominent with the other terms  
8 in the name or designation of the savings bank."

9 Sec. 23. G.S. 58-2-180 reads as rewritten:

10 **"§ 58-2-180. Punishment for making false statement.**

11 If any person in any financial or other statement required by this Chapter willfully  
12 misstates information, that person making oath to or subscribing the statement is guilty  
13 of ~~perjury under G.S. 14-209; a Class I felony;~~ and the entity on whose behalf the person  
14 made the oath or subscribed the statement is subject to a fine imposed by the court of  
15 not less than two thousand dollars (\$2,000) nor more than ten thousand dollars  
16 (\$10,000)."

17 Sec. 24. G.S. 58-8-1 reads as rewritten:

18 **"§ 58-8-1. Mutual insurance companies organized; requisites for doing business.**

19 No policy may be issued by a mutual company until the president and the secretary  
20 of the company have certified under oath that every subscription for insurance in the list  
21 presented to the Commissioner for approval is genuine, and made with an agreement  
22 with every subscriber for insurance that he will take the policies subscribed for by him  
23 within 30 days after the granting of a license to the company by the Commissioner to  
24 issue policies. Any person making a false oath in respect to the certificate is guilty of  
25 ~~perjury under G.S. 14-209; a Class I felony.~~"

26 Sec. 25. G.S. 58-24-180(d) reads as rewritten:

27 "(d) Any person violating the provisions of G.S. 58-24-65 shall be guilty of a  
28 ~~felony, and upon conviction shall be liable to a fine of not more than fifteen thousand~~  
29 ~~dollars (\$15,000), or to imprisonment for not more than five years, or to both fine and~~  
30 ~~imprisonment. Class I felony."~~

31 Sec. 26. G.S. 74E-13(a) reads as rewritten:

32 "(a) No private person, firm, association, or corporation, and no public institution,  
33 agency, or other entity shall engage in, perform any services as, or in any way hold  
34 itself out as a company police agency or engage in the recruitment or hiring of company  
35 police officers without having first complied with the provisions of this Chapter. Any  
36 person, firm, association, or corporation, or their agents and employees violating any of  
37 the provisions of this Chapter shall be guilty of a ~~misdemeanor and punishable by a fine,~~  
38 ~~imprisonment for a term not to exceed two years, or both, in the discretion of the court. Class I~~  
39 ~~misdemeanor."~~

40 Sec. 27. G.S. 77-57(b) reads as rewritten:

41 "(b) Violation of any regulation of the Commission commanding or prohibiting an  
42 act shall be a ~~misdemeanor punishable by a fine not to exceed two hundred dollars~~  
43 ~~(\$200.00) or imprisonment for not more than 30 days. Class 3 misdemeanor."~~

44 Sec. 28. G.S. 90-210.70(b) reads as rewritten:

1       "(b) Any person who willfully violates any other provision of this Article shall be  
2 guilty of a misdemeanor and shall be fined not less than five hundred dollars (\$500.00),  
3 or shall be imprisoned for not less than 30 days nor more than two years, or both. Class  
4 1 misdemeanor. Each such violation shall constitute a separate offense and may be  
5 prosecuted individually."  
6

7 PART 11. REPEAL CERTAIN OFFENSES  
8

9       Sec. 29. The following statutes which contain felony offenses are repealed:

- 10       (1) G.S. 14-20. Killing adversary in duel; aiders and abettors declared  
11 accessories.  
12       (2) G.S. 14-43. Abduction of married women.

13       Sec. 30. The following statutes which contain misdemeanor offenses are  
14 repealed:

- 15       (1) G.S. 14-111.1. Obtaining ambulance services without intending to pay  
16 therefor - Buncombe, Haywood, and Madison Counties.  
17       (2) G.S. 14-111.2. Obtaining ambulance services without intending to pay  
18 therefor - certain named counties.  
19       (3) G.S. 14-116. Fraudulent entry of horses at fairs.  
20       (4) G.S. 14-133. Erecting artificial islands and lumps in public waters.  
21       (5) G.S. 14-140. Certain fires to be guarded by watchman.  
22       (6) G.S. 14-170. "Rental battery" defined; identification of rental storage  
23 batteries.  
24       (7) G.S. 14-171. Defacing word "rental" prohibited.  
25       (8) G.S. 14-172. Sale, etc., of rental battery prohibited.  
26       (9) G.S. 14-173. Repairing another's rental battery prohibited.  
27       (10) G.S. 14-174. Time limit on possession of rental battery without written  
28 consent.  
29       (11) G.S. 14-175. Violation made misdemeanor.  
30       (12) G.S. 14-176. Rebuilding storage batteries out of old parts and sale of,  
31 regulated.  
32       (13) G.S. 14-195. Using profane or indecent language on passenger trains.  
33       (14) G.S. 14-222. Refusal of witness to appear or to testify in investigations  
34 of lynchings.  
35       (15) G.S. 14-310. Dance marathons and walkathons prohibited.  
36       (16) G.S. 14-311. Penalty for violation.  
37       (17) G.S. 14-312. Each day made separate offense.  
38       (18) G.S. 14-356. Conspiring to blacklist employees.  
39       (19) G.S. 14-389. Sale of Jamaica ginger.  
40       (20) G.S. 14-396. Dogs on "Capitol Square" worrying squirrels.  
41       (21) G.S. 14-397. Use of name of denominational college in connection  
42 with dance hall.

43       Sec. 31. G.S. 14-32.1 reads as rewritten:

44       "**§ 14-32.1. Assaults on handicapped persons; punishments.**"

- 1 (a) For purposes of this section, a 'handicapped person' is a person who has:  
2 (1) A physical or mental disability, such as decreased use of arms or legs,  
3 blindness, deafness, mental retardation or mental illness; or  
4 (2) Infirmary  
5 which would substantially impair that person's ability to defend himself.  
6 (b) ~~Any person who assaults a handicapped person with a deadly weapon with~~  
7 ~~intent to kill and inflicts serious injury is guilty of a Class C felony.~~  
8 (c) ~~Any person who assaults a handicapped person with a deadly weapon and~~  
9 ~~inflicts serious injury is guilty of a Class E felony.~~  
10 (d) ~~Any person who assaults a handicapped person with a deadly weapon with~~  
11 ~~intent to kill is guilty of a Class E felony.~~  
12 (e) Unless his conduct is covered under some other provision of law providing  
13 greater punishment, any person who commits any aggravated assault or assault and  
14 battery on a handicapped person is guilty of a Class F felony. A person commits an  
15 aggravated assault or assault and battery upon a handicapped person if, in the course of  
16 the assault or assault and battery, that person:  
17 (1) Uses a deadly weapon or other means of force likely to inflict serious  
18 injury or serious damage to a handicapped person; or  
19 (2) Inflicts serious injury or serious damage to a handicapped person; or  
20 (3) Intends to kill a handicapped person.  
21 (f) Any person who commits a simple assault or battery upon a handicapped  
22 person is guilty of a Class 1 misdemeanor."  
23

## 24 PART 12. CONTINUING THE SENTENCING HEARING

25

26 Sec. 32. G.S. 15A-1340.14(f) reads as rewritten:

- 27 "(f) Proof of Prior Convictions. – A prior conviction shall be proved by any of the  
28 following methods:  
29 (1) Stipulation of the parties.  
30 (2) An original or copy of the court record of the prior conviction.  
31 (3) A copy of records maintained by the Division of Criminal Information,  
32 the Division of Motor Vehicles, or of the Administrative Office of the  
33 Courts.  
34 (4) Any other method found by the court to be reliable.

35 The State bears the burden of proving, by a preponderance of the evidence, that a  
36 prior conviction exists and that the offender before the court is the same person as the  
37 offender named in the prior conviction. The original or a copy of the court records or a  
38 copy of the records maintained by the Division of Criminal Information, the Division of  
39 Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as  
40 that by which the offender is charged, is **prima facie** evidence that the offender named  
41 is the same person as the offender before the court, and that the facts set out in the  
42 record are true. For purposes of this subsection, 'a copy' includes a paper writing  
43 containing a reproduction of a record maintained electronically on a computer or other  
44 data processing equipment, and a document produced by a facsimile machine. The

1 prosecutor shall make all feasible efforts to obtain and present to the court the offender's  
2 full record. Evidence presented by either party at trial may be utilized to prove prior  
3 convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion  
4 is made pursuant to that section during the sentencing stage of the criminal action, ~~either~~  
5 ~~the State or the offender is entitled to the court may grant~~ a continuance of the sentencing  
6 hearing. If asked by the defendant in compliance with G.S. 15A-903, the prosecutor  
7 shall furnish the defendant's prior criminal record to the defendant within a reasonable  
8 time sufficient to allow the defendant to determine if the record available to the  
9 prosecutor is accurate."

10 Sec. 33. G.S. 15A-1340.21(c) reads as rewritten:

11 "(c) Proof of Prior Convictions. – A prior conviction shall be proved by any of the  
12 following methods:

- 13 (1) Stipulation of the parties.
- 14 (2) An original or copy of the court record of the prior conviction.
- 15 (3) A copy of records maintained by the Division of Criminal Information,  
16 the Division of Motor Vehicles, or of the Administrative Office of the  
17 Courts.
- 18 (4) Any other method found by the court to be reliable.

19 The State bears the burden of proving, by a preponderance of the evidence, that a  
20 prior conviction exists and that the offender before the court is the same person as the  
21 offender named in the prior conviction. The original or a copy of the court records or a  
22 copy of the records maintained by the Division of Criminal Information, the Division of  
23 Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as  
24 that by which the offender is charged, is **prima facie** evidence that the offender named  
25 is the same person as the offender before the court, and that the facts set out in the  
26 record are true. For purposes of this subsection, 'copy' includes a paper writing  
27 containing a reproduction of a record maintained electronically on a computer or other  
28 data processing equipment, and a document produced by a facsimile machine. Evidence  
29 presented by either party at trial may be utilized to prove prior convictions. Suppression  
30 of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that  
31 section during the sentencing stage of the criminal action, ~~either the State or the offender is~~  
32 ~~entitled to the court may grant~~ a continuance of the sentencing hearing."

33 Sec. 33.1. G.S. 20-138.5(b) as amended by Section 32 of Chapter 14 of the  
34 Session Laws of the 1994 Extra Session reads as rewritten:

35 "(b) A person convicted of violating this section shall be punished as a Class ~~I~~G  
36 felon. Sentences imposed under this subsection shall run consecutively with and shall  
37 commence at the expiration of any sentence being served."

38 Sec. 34. Section 13 of this act is effective upon ratification. The remaining  
39 sections of this act become effective October 1, 1994. Prosecution for, or sentences  
40 based on, offenses occurring before the effective date of this act are not abated or  
41 affected by the repeal or amendment in this act of any statute, and the statutes that  
42 would be applicable to those prosecutions or sentences but for the provisions of this act  
43 remain applicable to those prosecutions or sentences.