

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 15\*

Short Title: Substance Abuse Funds.

(Public)

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Sponsors: Representatives G. Miller; Alexander, Alphin, Arnold, Baddour, Black, Bowie, Bowman, Burton, Church, Cole, Colton, Crawford, Cromer, Culp, Cummings, Diamont, Dickson, Easterling, Gardner, Gottovi, Hackney, Hall, Hill, Hunt, R. Hunter, Ives, Jarrell, Jeffus, Joye, Kuczmariski, Lemmond, Mavretic, McCrary, McLawhorn, Mercer, Moore, Mosley, C. Preston, Ramsey, Redwine, Robinson, Smith, Spears, Stewart, Sutton, G. Thompson, Warner, Wilkins, Wilmoth, Wood, Wright, and Yongue.

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Referred to: Judiciary I.

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February 8, 1994

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE SECRETARY OF CORRECTION TO CONTRACT  
2 WITH PRIVATE FOR-PROFIT OR NONPROFIT FIRMS TO PROVIDE AND  
3 OPERATE TREATMENT CENTERS FOR THE CARE OF INMATES  
4 DIAGNOSED AS NEEDING TREATMENT FOR ALCOHOL OR DRUG  
5 ABUSE, AND TO APPROPRIATE FUNDS TO CONTRACT FOR THOSE  
6 TREATMENT CENTERS.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Chapter 148 of the General Statutes is amended by adding a new  
10 Article to read:

11 **"ARTICLE 13.**

12 **"PRIVATE PRISON CONTRACTS.**

13 **"§ 148-122. Authority to contract.**

14 Notwithstanding any other provision of law, the Secretary of Correction may  
15 contract with private, for-profit or nonprofit corporations or firms to provide and  
16 operate treatment centers that house, care for, and maintain prisoners committed to the  
17 custody of the Department of Correction who are diagnosed as needing treatment for  
18 alcohol or drug abuse.

19 **"§ 148-123. Prison rules applicable.**

1 Prisoners housed in privately operated facilities pursuant to this Article shall remain  
2 subject to the rules adopted for the conduct of persons committed to the State prison  
3 system. The rules regarding good time and gain time, discipline, classification,  
4 extension of the limits of confinement, transfers, housing arrangements, and eligibility  
5 for parole shall apply to inmates housed in those private prison facilities. Private  
6 contractors may promulgate any other rules as may be necessary for the operation of the  
7 facilities with the written approval of the Secretary of Correction.

8 **"§ 148-124. Enforcement of rules at private treatment centers.**

9 Custodial officials employed by a private firm pursuant to this Article are agents of  
10 the Secretary of Correction and may use authorized force procedures to defend  
11 themselves, to enforce the observance of discipline in compliance with prison rules, to  
12 secure the person of an offender, and to prevent escape.

13 **"§ 148-125. Inmate work requirement.**

14 Inmates housed in private facilities pursuant to this Article may be required to  
15 perform reasonable work assignments within those facilities. The facility may award  
16 gain time to those prisoners that are eligible for gain time within the applicable statutes  
17 and rules."

18 Sec. 2. G.S. 148-4 reads as rewritten:

19 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**  
20 **confinement.**

21 (a) The Secretary of Correction shall have control and custody of all prisoners  
22 serving sentence in the State prison ~~system, system~~ and in privately operated facilities,  
23 and such prisoners shall be subject to all the rules and regulations legally adopted for  
24 the government thereof. Any sentence to imprisonment in any unit of the State prison  
25 system, or to jail to be assigned to work under the State Department of Correction, shall  
26 be construed as a commitment, for such terms of imprisonment as the court may direct,  
27 to the custody of the Secretary of Correction or his authorized representative, who shall  
28 designate the places of confinement ~~within the State prison system~~ where the sentences of  
29 all such persons shall be served. The authorized agents of the Secretary shall have all  
30 the authority of peace officers for the purpose of transferring prisoners from place to  
31 place in the State as their duties might require and for apprehending, arresting, and  
32 returning to prison escaped prisoners, and may be commissioned by the Governor,  
33 either generally or specially, as special officers for returning escaped prisoners or other  
34 fugitives from justice from outside the State, when such persons have been extradited or  
35 voluntarily surrendered. Employees of departments, institutions, agencies, and political  
36 subdivisions of the State hiring prisoners to perform work outside prison confines may  
37 be designated as the authorized agents of the Secretary of Correction for the purpose of  
38 maintaining control and custody of prisoners who may be placed under the supervision  
39 and control of such employees, including guarding and transferring such prisoners from  
40 place to place in the State as their duties might require, and apprehending and arresting  
41 escaped prisoners and returning them to prison. The governing authorities of the State  
42 prison system are authorized to determine by rules and regulations the manner of  
43 designating these agents and placing prisoners under their supervision and control,

1 which rules and regulations shall be established in the same manner as other rules and  
2 regulations for the government of the State prison system.

3 The Secretary of Correction may extend the limits of the place of confinement of a  
4 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by  
5 authorizing him, under prescribed conditions, to leave the confines of that place  
6 unaccompanied by a custodial agent for a prescribed period of time to

- 7 (1) Contact prospective employers; or
- 8 (2) Secure a suitable residence for use when released on parole or upon  
9 discharge; or
- 10 (3) Obtain medical services not otherwise available; or
- 11 (4) Participate in a training program in the community; or
- 12 (5) Visit or attend the funeral of a spouse, child (including stepchild,  
13 adopted child or child as to whom the prisoner, though not a natural  
14 parent, has acted in the place of a parent), parent (including a person  
15 though not a natural parent, has acted in the place of a parent), brother,  
16 or sister; or
- 17 (6) Participate in community-based programs of rehabilitation, including,  
18 but not limited to the existing community volunteer and home-leave  
19 programs, pre-release and after-care programs as may be provided for  
20 and administered by the Secretary of Correction and other programs  
21 determined by the Secretary of Correction to be consistent with the  
22 prisoner's rehabilitation and return to society; or
- 23 (7) Be on maternity leave, for a period of time not to exceed 60 days. The  
24 county departments of social services are expected to cooperate with  
25 officials at the North Carolina Correctional Center for Women to  
26 coordinate prenatal care, financial services, and placement of the child.

27 The willful failure of a prisoner to remain within the extended limits of his confinement,  
28 or to return within the time prescribed to the place of confinement designated by the  
29 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of  
30 Correction punishable as provided in G.S. 148-45.

31 (b) Notwithstanding any other provision of law, the Secretary of Correction may  
32 contract with private corporations and entities for the housing, care, and maintenance of  
33 prisoners committed to the custody of the Department of Correction who are diagnosed  
34 as needing treatment for alcohol or drug abuse."

35 Sec. 3. G.S 145-45 is amended by adding a new subsection to read:

36 "(h) For purposes of this section, persons housed in privately operated facilities  
37 pursuant to Article 13 of this Chapter shall be considered persons in the custody of the  
38 Department of Correction."

39 Sec. 4. G.S. 145-258.1 reads as rewritten:

40 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**  
41 **ammunition or alcoholic beverages to inmates of charitable, mental or**  
42 **penal institutions or local confinement facilities.**

43 (a) If any person shall give or sell to any inmate of any charitable, mental or  
44 penal institution, or local confinement facility, or if any person shall combine,

1 confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage,  
2 attempt to procure, or procure another or others to give or sell to any inmate of any  
3 charitable, mental or penal institution, or local confinement facility, any deadly weapon,  
4 or any cartridge or ammunition for firearms of any kind, or any controlled substances  
5 included in Schedules I through VI contained in Article 5 of Chapter 90 of the General  
6 Statutes except under the general supervision of a practitioner, poison or poisonous  
7 substance, except upon the prescription of a physician, he shall be punished as a Class H  
8 felon; and if he be an officer or employee of any institution of the State, or of any local  
9 confinement facility, he shall be dismissed from his position or office.

10 (b) Any person who shall knowingly give or sell any alcoholic beverages to any  
11 inmate of any ~~State~~ mental or penal institution, or to any inmate of any local  
12 confinement facility, except for medical purposes as prescribed by a duly licensed  
13 physician and except for an ordained minister or rabbi who gives sacramental wine to an  
14 inmate as part of a religious service; or any person who shall combine, confederate,  
15 conspire, procure, or procure another or others to give or sell any alcoholic beverages to  
16 any inmate of any such ~~State~~ institution or local confinement facility, except for medical  
17 purposes as prescribed by a duly licensed physician and except for an ordained minister  
18 or rabbi who gives sacramental wine to an inmate as part of a religious service; or any  
19 person who shall bring into the buildings, grounds or other facilities of such institution  
20 any alcoholic beverages, except for medical purposes as prescribed by a duly licensed  
21 physician or sacramental wine brought by an ordained minister or rabbi for use as part  
22 of a religious service, shall be guilty of a misdemeanor, and on conviction thereof shall  
23 be fined or imprisoned, in the discretion of the court. If such person is an officer or  
24 employee of any institution of the State, such person shall be dismissed from office.

25 (c) The term 'penal institution' as used in this section includes private facilities  
26 operated in accordance with Article 13 of Chapter 148 of the General Statutes."

27 Sec. 5. G.S. 14-258.3 reads as rewritten:

28 "**§ 14-258.3. Taking of hostage, etc., by prisoner.**

29 (a) Any prisoner in the custody of the Department of Correction, including  
30 persons in the custody of the Department of Correction pending trial or appellate review  
31 or for presentence diagnostic evaluation, or any prisoner in the custody of any local  
32 confinement facility (as defined in G.S. 153A-217), or any person in the custody of any  
33 local confinement facility (as defined in G.S. 153A-217) pending trial or appellate  
34 review or for any lawful purpose, who by threats, coercion, intimidation or physical  
35 force takes, holds, or carries away any person, as hostage or otherwise, shall be  
36 punished as a Class I felon. The provisions of this section apply to: (i) violations  
37 committed by any prisoner in the custody of the Department of Correction, whether  
38 inside or outside of the facilities of the North Carolina Department of Correction; (ii)  
39 violations committed by any prisoner or by any other person lawfully under the custody  
40 of any local confinement facility (as defined in G.S. 153A-217), whether inside or  
41 outside the local confinement facilities (as defined in G.S. 153A-217).

42 (b) For purposes of this section, prisoners housed in privately operated facilities  
43 pursuant to Article 13 of Chapter 148 of the General Statutes shall be considered  
44 persons in the custody of the Department of Correction."

1           Sec. 6. There is appropriated from the General Fund to the Department of  
2 Correction the sum of five million one hundred seventy-three thousand dollars  
3 (\$5,173,000) for the 1994-95 fiscal year to contract for 500 beds in private alcohol and  
4 drug treatment centers in accordance with this act.

5           Sec. 7. This act is effective upon ratification.