

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 15*
Committee Substitute Favorable 2/21/94

Short Title: Substance Abuse Funds.

(Public)

Sponsors:

Referred to:

February 8, 1994

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE SECRETARY OF CORRECTION TO CONTRACT
WITH PRIVATE FOR-PROFIT OR NONPROFIT FIRMS TO PROVIDE AND
OPERATE TREATMENT CENTERS FOR THE CARE OF INMATES
DIAGNOSED AS NEEDING TREATMENT FOR ALCOHOL OR DRUG
ABUSE, AND TO APPROPRIATE FUNDS TO CONTRACT FOR THOSE
TREATMENT CENTERS.

The General Assembly of North Carolina enacts:

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

"ARTICLE 13.

"PRIVATE PRISON CONTRACTS.

"§ 148-122. Authority to contract.

Notwithstanding any other provision of law, the Secretary of Correction may contract with private, for-profit or nonprofit corporations or firms to provide and operate treatment centers that house, care for, and maintain prisoners committed to the custody of the Department of Correction who are diagnosed as needing treatment for alcohol or drug abuse. No single treatment unit may exceed 100 beds in capacity.

"§ 148-123. Prison rules applicable.

Prisoners housed in privately operated facilities pursuant to this Article shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The rules regarding good time and gain time, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility

1 for parole shall apply to inmates housed in those private prison facilities. Private
2 contractors may promulgate any other rules as may be necessary for the operation of the
3 facilities with the written approval of the Secretary of Correction.

4 **"§ 148-124. Enforcement of rules at private treatment centers.**

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

9 **"§ 148-125. Inmate work requirement.**

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

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

15 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
16 **confinement.**

17 (a) The Secretary of Correction shall have control and custody of all prisoners
18 serving sentence in the State prison ~~system, system~~ and in privately operated facilities
19 pursuant to Article 13 of this Chapter, and such prisoners shall be subject to all the rules
20 and regulations legally adopted for the government thereof. Any sentence to
21 imprisonment in any unit of the State prison system, or to jail to be assigned to work
22 under the State Department of Correction, shall be construed as a commitment, for such
23 terms of imprisonment as the court may direct, to the custody of the Secretary of
24 Correction or his authorized representative, who shall designate the places of
25 confinement within the State prison system or within the facilities authorized pursuant
26 to Article 13 of this Chapter where the sentences of all such persons shall be served.
27 The authorized agents of the Secretary shall have all the authority of peace officers for
28 the purpose of transferring prisoners from place to place in the State as their duties
29 might require and for apprehending, arresting, and returning to prison escaped prisoners,
30 and may be commissioned by the Governor, either generally or specially, as special
31 officers for returning escaped prisoners or other fugitives from justice from outside the
32 State, when such persons have been extradited or voluntarily surrendered. Employees
33 of departments, institutions, agencies, and political subdivisions of the State hiring
34 prisoners to perform work outside prison confines may be designated as the authorized
35 agents of the Secretary of Correction for the purpose of maintaining control and custody
36 of prisoners who may be placed under the supervision and control of such employees,
37 including guarding and transferring such prisoners from place to place in the State as
38 their duties might require, and apprehending and arresting escaped prisoners and
39 returning them to prison. The governing authorities of the State prison system are
40 authorized to determine by rules and regulations the manner of designating these agents
41 and placing prisoners under their supervision and control, which rules and regulations
42 shall be established in the same manner as other rules and regulations for the
43 government of the State prison system.

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

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

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

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

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

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

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

38 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
39 **ammunition or alcoholic beverages to inmates of charitable, mental or**
40 **penal institutions or local confinement facilities.**

41 (a) If any person shall give or sell to any inmate of any charitable, mental or
42 penal institution, or local confinement facility, or if any person shall combine,
43 confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage,
44 attempt to procure, or procure another or others to give or sell to any inmate of any

1 charitable, mental or penal institution, or local confinement facility, any deadly weapon,
2 or any cartridge or ammunition for firearms of any kind, or any controlled substances
3 included in Schedules I through VI contained in Article 5 of Chapter 90 of the General
4 Statutes except under the general supervision of a practitioner, poison or poisonous
5 substance, except upon the prescription of a physician, he shall be punished as a Class H
6 felon; and if he be an officer or employee of any institution of the State, or of any local
7 confinement facility, he shall be dismissed from his position or office.

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

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

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

26 "**§ 14-258.3. Taking of hostage, etc., by prisoner.**

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

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

43 Sec. 6. There is appropriated from the General Fund to the Department of
44 Correction the sum of five million one hundred seventy-three thousand dollars

- 1 (\$5,173,000) for the 1994-95 fiscal year to contract for 500 beds in private alcohol and
- 2 drug treatment centers in accordance with this act.
- 3 Sec. 7. Section 6 of this act is effective July 1, 1994. The remainder of this
- 4 act becomes effective upon ratification.