

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 17*

Short Title: Modify Prison Cap.

(Public)

Sponsors: Representatives G. Miller; Alphin, Arnold, Baddour, Barbee, Beall, Black, Bowie, Bowman, Burton, Church, Cole, Colton, Crawford, Cromer, Culp, Cummings, Cunningham, Diamont, Easterling, Esposito, Fitch, Gardner, Gottovi, Hackney, Hightower, Hill, Holt, Hunt, H. Hunter, R. Hunter, Ives, Jarrell, Jeffus, Jenkins, Joye, Kuczmariski, Lemmond, Mavretic, McAllister, McCrary, McLaughlin, McLawhorn, Mercer, Moore, Mosley, Nichols, C. Preston, Ramsey, Redwine, Robinson, Russell, Smith, Spears, Stewart, Sutton, Thompson, Warner, Wilkins, Wilmoth, Wood, Wright, and Yongue.

Referred to: Judiciary III.

February 8, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE PRISON POPULATION CAP.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 148-4.1 reads as rewritten:
5 "§ 148-4.1. Release of inmates.
6 (a) Whenever the Secretary of Correction determines from data compiled by the
7 Department of Correction that it is necessary to reduce the prison population to a more
8 manageable level, he shall direct the Parole Commission to release on parole over a
9 reasonable period of time a number of prisoners sufficient to that purpose.
10 (b) Except as provided in subsection (c) and (e), only inmates who are otherwise
11 eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of
12 this Chapter may be released under this section.
13 (c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible
14 for early parole under this section nine months prior to the discharge date otherwise
15 applicable, and six months prior to the date of automatic 90-day parole authorized by
16 G.S. 15A-1380.2.

1 (c1) For purposes of this section only, 'prison capacity' means the following
2 number of prisoners housed in facilities located in North Carolina and owned or
3 operated by the State of North Carolina, effective on the following dates:

- 4
5 (1) Effective March 1, 1994 22,000 prisoners
6 (2) Effective April 1, 1994 22,500 prisoners
7 (3) Effective May 15, 1994 23,000 prisoners
8 (4) Effective June 30, 1994 23,500 prisoners.

9
10 The Secretary of Correction may advance or delay the effective date of the changes in
11 prison capacity by not more than 45 days from the dates provided in this section, based
12 upon the availability or lack of prison space.

13 (d) If the number of prisoners housed in facilities located in North Carolina and
14 owned or operated by the State of North Carolina for the Division of Prisons exceeds
15 ninety-eight percent (98%) of 21,400-prison capacity for 15 consecutive days, the
16 Secretary of Correction shall notify the Governor and the Chairman of the Parole
17 Commission of this fact. Upon receipt of this notification, the Parole Commission shall
18 within 90 days release on parole a number of inmates sufficient to reduce the prison
19 population to ninety-seven percent (97%) of 21,400-prison capacity.

20 From the date of the notification until the prison population has been reduced to
21 ninety-seven percent (97%) of 21,400-prison capacity, the Secretary may not accept any
22 inmates ordered transferred from local confinement facilities to the State prison system
23 under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the
24 State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local
25 confinement facility from which the inmate was transferred.

26 (e) In addition to those persons otherwise eligible for parole, from the date of
27 notification in subsection (d) until the prison population has been reduced to ninety-
28 seven percent (97%) of 21,400-prison capacity, any person imprisoned only for a
29 misdemeanor also shall be eligible for parole and immediate termination upon
30 admission, notwithstanding any other provision of law, except:

- 31 (1) Those persons convicted under G.S. 20-138.1 of driving while
32 impaired or any offense involving impaired driving, and
33 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
34 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
35 or of violating G.S. 130A-144(f) or G.S. 130A-145.

36 (f) In complying with the mandate of subsection (d), the Parole Commission may
37 exercise the discretion granted to refuse parole by G.S. 15A-1371 in selecting felons to
38 be paroled under this section so long as the prison population does not exceed 21,400-
39 prison capacity.

40 (g) In order to meet the requirements of this section, the Parole Commission shall
41 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under
42 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or
43 under G.S. 14-17. The Parole Commission may continue to consider the suitability for

1 release of such persons in accordance with the criteria set forth in Articles 85 and 85A
2 of Chapter 15A."

3 Sec. 2. Sections 7 through 9 of Chapter 91 of the 1993 Session Laws are
4 repealed.

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