

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**EXTRA SESSION 1994**

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**1**

HOUSE BILL 194

Short Title: Punish Drug Trafficking Conspiracy.

(Public)

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Sponsors: Representatives Colton; Cummings and Crawford.

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Referred to: Appropriations.

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February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A DEFENDANT WHO IS CONVICTED OF A DRUG  
TRAFFICKING CONSPIRACY IS NOT ELIGIBLE FOR COMMUNITY  
SERVICE PAROLE UNDER CURRENT LAW AND IS NOT ELIGIBLE FOR  
INTERMEDIATE SANCTIONS UNDER THE STRUCTURED SENTENCING  
LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1371(h) reads as rewritten:

"(h) Community Service Parole. – Notwithstanding the provisions of any other subsection herein, certain prisoners specified herein shall be eligible for community service parole, in the discretion of the Parole Commission.

Community service parole is early parole for the purpose of participation in a program of community service under the supervision of a probation/parole officer. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence (if he was sentenced prior to July 1, 1981), or 32 hours for each month of active service in one-half of his sentence imposed under G.S. 15A-1340.4. The Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the community service coordinator shall develop a program of community service for the parolee. The community service coordinator shall

1 report any willful failure to perform community service work to the probation/parole  
2 officer. Parole may be revoked for any parolee who willfully fails to perform  
3 community service work as directed by a community service coordinator. The  
4 provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

5 Community service parole eligibility shall be available to a prisoner:

- 6 (1) Who is serving an active sentence the term of which exceeds six  
7 months; and
- 8 (2) Who, in the opinion of the Parole Commission, is unlikely to engage in  
9 further criminal conduct; and
- 10 (3) Who agrees to complete service of his sentence as herein specified;  
11 and
- 12 (4) Who has served one-half of his minimum sentence (if he was  
13 sentenced prior to July 1, 1981), or one-fourth of a sentence imposed  
14 under G.S. 15A-1340.4.

15 No prisoner convicted under Article 7A of Chapter 14 of a sex offense, under G.S.  
16 14-39, 14-41, or 14-43.3, ~~or~~ under G.S. 90-95(h) of a drug trafficking ~~offense~~  
17 offense, or under G.S. 90-95(i) of a drug trafficking conspiracy offense shall be eligible  
18 for community service parole.

19 In computing the service requirements of subdivision (4) of this subsection, credit  
20 shall be given for good time and gain time credit earned pursuant to G.S. 148-13.  
21 Nothing herein is intended to create or shall be construed to create a right or entitlement  
22 to community service parole in any prisoner."

23 Sec. 2. G.S. 15A-1380.2(h) reads as rewritten:

24 "(h) Community Service Parole. – Notwithstanding the provisions of any other  
25 subsection herein, certain prisoners specified herein shall be eligible for community  
26 service parole, in the discretion of the Parole Commission.

27 Community service parole is early parole for the purpose of participation in a  
28 program of community service under the supervision of a probation/parole officer. A  
29 parolee who is paroled under this subsection must perform as a condition of parole  
30 community service in an amount and over a period of time to be determined by the  
31 Parole Commission. However, the total amount of community service shall not exceed  
32 an amount equal to 32 hours for each month of active service remaining in his minimum  
33 sentence (if he was sentenced prior to July 1, 1981), or 32 hours for each month of  
34 active service in one-half of his sentence imposed under G.S. 15A-1340.4.

35 The probation/parole officer and the community service coordinator shall develop a  
36 program of community service for the parolee. The community service coordinator shall  
37 report any willful failure to perform community service work to the probation/parole  
38 officer. Parole may be revoked for any parolee who willfully fails to perform  
39 community service work as directed by a community service coordinator. The  
40 provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

41 Community service parole eligibility shall be available to a prisoner:

- 42 (1) Who is serving an active sentence the term of which exceeds six  
43 months; and

- 1           (2) Who, in the opinion of the Parole Commission, is unlikely to engage in  
2 further criminal conduct; and  
3           (3) Who agrees to complete service of his sentence as herein specified;  
4 and  
5           (4) Who has served one-half of his minimum sentence (if he was  
6 sentenced prior to July 1, 1981), or one-fourth of a sentence imposed  
7 under G.S. 15A-1340.4.

8 No prisoner convicted under Article 7A of Chapter 14 of a sex offense, under G.S.  
9 14-39, 14-41, or 14-43.3, ~~or~~ under G.S. 90-95(h) of a drug trafficking ~~offense~~  
10 offense, or under G.S. 90-95(i) of a drug trafficking conspiracy offense shall be eligible  
11 for community service parole.

12 In computing the service requirements of subdivision (4) of this subsection, credit  
13 shall be given for good time and gain time credit earned pursuant to G.S. 148-13.  
14 Nothing herein is intended to create or shall be construed to create a right or entitlement  
15 to community service parole in any prisoner."

16 Sec. 3. G.S. 15A-1340.13(h), as enacted by Section 1 of Chapter 538 of the  
17 1993 Session Laws, reads as rewritten:

18 "(h) Exceptions When Extraordinary Mitigation Shall Not Be Used. – The court  
19 shall not impose an intermediate sanction pursuant to subsection (g) of this section if:

- 20           (1) The offense is a Class A offense;  
21           (2) The offense is a drug trafficking offense under ~~G.S. 90-95(h);~~ G.S. 90-  
22 95(h) or a drug trafficking conspiracy offense under G.S. 90-95(i); or  
23           (3) The defendant has five or more points as determined by G.S. 15A-  
24 1340.14."

25 Sec. 4. Sections 1 and 2 of this act become effective March 1, 1994, and  
26 apply to offenses committed on or after that date. Section 3 of this act becomes  
27 effective January 1, 1995, and applies to offenses committed on or after that date.