

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

H

1

HOUSE BILL 195

Short Title: Juvenile Crime Prevention Act.

(Public)

---

Sponsors: Representative Wood.

---

Referred to: Education.

---

February 14, 1994

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE TUITION FOR STUDENTS WHO HAVE BEEN  
2 EXPELLED FROM PUBLIC SCHOOLS, JUVENILES ADJUDICATED  
3 DELINQUENT FOR VIOLENT FELONIES, AND STUDENTS READING TWO  
4 OR MORE YEARS BEHIND GRADE LEVEL, TO END THE PRACTICE OF  
5 RETURNING VIOLENT YOUTHS TO THE PUBLIC SCHOOLS, TO PREVENT  
6 CRIME BY ENCOURAGING THE PRIVATE SECTOR TO ESTABLISH  
7 ALTERNATIVE PROGRAMS TO EDUCATE THESE YOUTHS, AND TO  
8 REDUCE THE NUMBER OF YOUTHS WHO TURN TO VIOLENCE AS A  
9 COVER TO HIDE EDUCATIONAL DEFICIENCIES.  
10

11 The General Assembly of North Carolina enacts:

12 Section 1. This act may be cited as the "Juvenile Crime Prevention Act of  
13 1994".

14 Sec. 2. Article 39 of Chapter 115C of the General Statutes is amended by  
15 adding a new Part to read:

16 **"PART 4. TUITION PROGRAM FOR PROBLEM CHILDREN**  
17 **ATTENDING NONPUBLIC SCHOOLS.**

18 **"§ 115C-567.1. Creation of program.**

19 There is created in the Office of the Governor, Division of Nonpublic Education, a  
20 tuition program for problem children attending nonpublic schools.

21 **"§ 115C-567.2. Participation of pupils in the program.**

22 Any pupil in grades two to 12 may attend, at no charge to the pupil or his parent or  
23 guardian, any nonpublic school participating in this program if the following applies:

24 (1) The pupil is school age.

- 1           (2)    The pupil:  
2            a.    Has been expelled from school;  
3            b.    Has been adjudicated delinquent for an offense that would be a  
4                Class A, B, C, D, or E felony if committed by an adult; or  
5            c.    Is reading two or more years behind grade level.  
6           (3)    The pupil or the pupil's parent or guardian shall submit an application  
7                on a form provided by the Office of the Governor, Division of  
8                Nonpublic Education, to the participating nonpublic school in which  
9                the pupil wishes to enroll. The nonpublic school shall notify the  
10              applicant, in writing, whether the application has been accepted.

11 **"§ 115C-567.3. Participation of schools in the program.**

12       The nonpublic school participating in this program shall:

- 13           (1)    Notify the Office of the Governor, Division of Nonpublic Education,  
14                by letter of its intent to participate in the program.  
15           (2)    Meet all health and safety laws or codes that apply to public schools.  
16           (3)    Agree to charge in tuition and fees for each child in the program, no  
17                more than the total tuition available in State and local supplements for  
18                the child.  
19           (4)    Publish standardized test score results in terms of grade level averages  
20                and net value added improvement.

21 **"§ 115C-567.4. Duties of the Division of Nonpublic Education.**

22       The Office of the Governor, Division of Nonpublic Education shall:

- 23           (1)    Monitor the performance of the pupils attending schools under this  
24                Part.  
25           (2)    Annually submit to the Principal Clerk of the Senate and the Principal  
26                Clerk of the House of Representatives for distribution to the  
27                appropriate standing committees, and to each nonpublic school  
28                participating in the program, a report comparing the standardized test  
29                results of pupils attending a nonpublic school under this Article and  
30                pupils enrolled in the local school administrative unit.  
31           (3)    Maintain a current list of all approved nonpublic schools participating  
32                in this program and furnish this information from time to time to the  
33                local school administrative unit.

34 **"§ 115C-567.5. Payment of tuition.**

35       The Office of the Governor, Division of Nonpublic Education, shall pay tuition from  
36       State funds upon receipt of satisfactory evidence that the child for whom payment is  
37       made actually attended a nonpublic school in the program. The school attended shall  
38       furnish, upon forms prescribed by the Division of Nonpublic Education, a sworn  
39       certification signed by the director of the school, showing the number of school days  
40       actually attended by the child for whom payment is made. A child is deemed to be in  
41       attendance, although temporarily absent due to illness or other good cause, so long as  
42       such a child is enrolled in the school as a bona fide student.

43       The amount of the tuition available to each eligible child shall equal the per-day, per  
44       pupil amount of State funds expended on operating expenses for public schools in the

1 local school administrative unit where that student resides. In no event shall tuition for  
2 any child exceed the amount actually expended for the nonpublic education of such  
3 child.

4 **"§ 115C-567.6. Proration of costs for pupil transfer.**

5 Local school administrative units that expel pupils shall rebate those pupils  
6 remaining per pupil expenditure to the General Fund to pay for those pupils' education  
7 under this Part. Local school administrative units shall also rebate remaining per pupil  
8 expenditure for any pupil who is reading two or more years behind grade level who  
9 transfers mid-year to a nonpublic school under this Part.

10 **"§ 115C-567.7. Effect of participation in the program.**

11 Except as provided by this Part, the State of North Carolina, the State Board of  
12 Education, and other agencies and political subdivisions of the State, shall not (i)  
13 exercise any supervision or control over a nonpublic school, or (ii) have any  
14 responsibility for the conduct and operation of a nonpublic school, because it  
15 participates in this program.

16 **"§ 115C-567.8. Local tuition supplements.**

17 The appropriate tax-levying authorities for a local school administrative unit  
18 participating in the program may appropriate amounts from any local tax or nontax  
19 funds for a local tuition supplement. In no event shall the combined total tuition of the  
20 supplements for any one child, from both State and local funds, exceed the amount of  
21 actual expenses incurred in the nonpublic education of such a child. Applications for a  
22 local tuition supplement shall be filed by the pupil, parent or guardian, with the local  
23 board of education when local funds have been allotted for such purpose. No child shall  
24 be entitled to said local tuition supplement who is not at the same time eligible for  
25 tuition from State funds."

26 Sec. 3. G.S. 7A-649(8) reads as rewritten:

- 27 "(8) Place the juvenile on probation under the supervision of a court  
28 counselor. In any case where a juvenile is placed on probation, the  
29 court counselor shall have the authority to visit the juvenile where the  
30 juvenile resides. The judge shall specify conditions of probation that  
31 are related to the needs of the juvenile including any of the following:
- 32 a. That the juvenile shall remain on good behavior and not violate  
33 any laws.
  - 34 b. That the juvenile attend school ~~regularly~~ regularly, unless the  
35 juvenile has been adjudicated delinquent for an offense that  
36 would be a Class A, B, C, D, or E felony if committed by an  
37 adult. If the adjudication of delinquency was for an offense  
38 other than one that would be a Class A, B, C, D, or E felony if  
39 committed by an adult, but involves ~~involving~~ a threat to the  
40 safety of the juvenile or others and school attendance is a  
41 condition of probation, the judge shall make a finding of  
42 whether or not the principal of the juvenile's school should be  
43 notified. If the judge orders that the principal be notified, the  
44 juvenile court counselor shall within five days or before the

1 juvenile begins to attend school, whichever occurs first, notify  
2 the principal of the juvenile's school in writing of the nature of  
3 the offense and the probation requirements related to school  
4 attendance. A principal notified by a juvenile court counselor  
5 shall handle the report according to the guidelines and rules  
6 adopted by the State Board of Education.

7 b1. That the juvenile maintain passing grades in up to four courses  
8 during each grading period and meet with the court counselor  
9 and a representative of the school to make a plan for how to  
10 maintain those passing grades.

11 c. That the juvenile not associate with specified persons or be in  
12 specified places.

13 d. That the juvenile report to a court counselor as often as required  
14 by a court counselor.

15 e. That the juvenile make specified financial restitution or pay a  
16 fine in accordance with subdivisions (2) and (3).

17 f. That the juvenile be employed regularly if not attending school.

18 g. That the juvenile attend a nonpublic school program established  
19 in Part 4 of Article 39 of Chapter 155C in the local school  
20 administrative unit in which the juvenile resides if the juvenile  
21 has been adjudicated delinquent for an offense that would be a  
22 Class A, B, C, D, or E felony if committed by an adult, unless  
23 the juvenile is a child with special needs pursuant to Article 9 of  
24 Chapter 115C of the General Statutes and notwithstanding any  
25 law to the contrary.

26 If the juvenile is a child with special needs pursuant to Article  
27 9 of Chapter 115C of the General Statutes, request the child's  
28 local educational agency to have the appropriateness of the  
29 child's placement reconsidered in light of the judge's finding  
30 that the juvenile's behavior makes it more appropriate for the  
31 juvenile to attend a nonpublic school program and it is in the  
32 best interest of the juvenile and the local school administrative  
33 unit for the juvenile to attend a nonpublic school program.

34 An order of probation shall remain in force for a period not to exceed  
35 one year from the date entered. Prior to expiration of an order of  
36 probation, the judge may extend it for an additional period of one year  
37 after a hearing if the judge finds that the extension is necessary to  
38 protect the community or to safeguard the welfare of the juvenile."

39 Sec. 4. Effective October 1, 1995, G.S. 7A-649(8) reads as rewritten:

40 "(8) Place the juvenile on probation under the supervision of a court  
41 counselor. In any case where a juvenile is placed on probation, the  
42 court counselor shall have the authority to visit the juvenile where he  
43 resides. The judge shall specify conditions of probation that are related  
44 to the needs of the juvenile including any of the following:

- 1 a. That the juvenile shall remain on good behavior and not violate  
2 any laws;
- 3 b. That the juvenile attend school ~~regularly~~; regularly unless the  
4 juvenile has been adjudicated delinquent for an offense that  
5 would be a Class A, B, C, D, or E felony if committed by an  
6 adult;
- 7 b1. That the juvenile maintain passing grades in up to four courses  
8 during each grading period and meet with the court counselor  
9 and a representative of the school to make a plan for how to  
10 maintain those passing grades;
- 11 c. That the juvenile not associate with specified persons or be in  
12 specified places;
- 13 d. That the juvenile report to a court counselor as often as required  
14 by a court counselor;
- 15 e. That the juvenile make specified financial restitution or pay a  
16 fine in accordance with subdivisions (2) and (3);
- 17 f. That the juvenile be employed regularly if not attending ~~school~~;  
18 school;
- 19 g. That the juvenile attend a nonpublic school program established  
20 in Part 4 of Article 39 of Chapter 155C in the local school  
21 administrative unit in which the juvenile resides if the juvenile  
22 has been adjudicated delinquent for an offense that would be a  
23 Class A, B, C, D, or E felony if committed by an adult, unless  
24 the juvenile is a child with special needs pursuant to Article 9 of  
25 Chapter 115C of the General Statutes and notwithstanding any  
26 law to the contrary.  
27 If the juvenile is a child with special needs pursuant to Article  
28 9 of Chapter 115C of the General Statutes, request the child's  
29 local educational agency to have the appropriateness of the  
30 child's placement reconsidered in light of the judge's finding  
31 that the juvenile's behavior makes it more appropriate for the  
32 juvenile to attend a nonpublic school program and it is in the  
33 best interest of the juvenile and the local school administrative  
34 unit for the juvenile to attend a nonpublic school program.

35 An order of probation shall remain in force for a period not to exceed  
36 one year from the date entered. Prior to expiration of an order of  
37 probation, the judge may extend it for an additional period of one year  
38 after a hearing if he finds that the extension is necessary to protect the  
39 community or to safeguard the welfare of the juvenile;"

40 Sec. 5. Section 3 of this act becomes effective on the same date that Section  
41 56 of Chapter 538 of the 1993 Session Laws provides that that act becomes effective,  
42 and expires on October 1, 1995, but remains effective for offenses committed after its  
43 effective date but prior to October 1, 1995. Section 4 of this act becomes effective  
44 October 1, 1995. The remainder of this act becomes effective on the same date that

1 Section 56 of Chapter 538 of the 1993 Session Laws provides that that act becomes  
2 effective. Prosecutions for, or sentences based on, offenses occurring on or before the  
3 effective date of Sections 1 through 3 of this act are not affected by the provisions of  
4 this act, and the statutes that would be applicable to those prosecutions or sentences but  
5 for the provisions of this act remain applicable to those prosecutions or sentences.