

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

H

1

HOUSE BILL 206

Short Title: Gov'r to Set Prison Cap.

(Public)

Sponsors: Representatives Nesbitt; Bowman, Colton, Crawford, Cunningham, Mosley, and Spears.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE GOVERNOR SHALL SET THE PRISON POPULATION CAP.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-4.1 reads as rewritten:

"§ 148-4.1. Release of inmates.

(a) Whenever the Secretary of Correction determines from data compiled by the Department of Correction that it is necessary to reduce the prison population to a more manageable level, he shall direct the Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose.

(b) Except as provided in subsection (c) and (e), only inmates who are otherwise eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of this Chapter may be released under this section.

(c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible for early parole under this section nine months prior to the discharge date otherwise applicable, and six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2.

(c1) For purposes of this section only, 'prison capacity' means the number of prisoners housed in facilities located in North Carolina and owned or operated by the State of North Carolina, as set by the Governor. In setting the prison capacity for purposes of this section, the Governor shall consider the number of beds available and shall make a finding that the number set would not jeopardize the State's ability to

1 perform its obligations under the law. In no event shall the number set by the Governor
2 under this subsection exceed 23,500.

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

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

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

21 (1) Those persons convicted under G.S. 20-138.1 of driving while
22 impaired or any offense involving impaired driving, and

23 (2) Those persons convicted pursuant to G.S. 130A-25 of failing to obtain
24 the treatment required by Part 3 or Part 5 of Article 6 of Chapter 130A
25 or of violating G.S. 130A-144(f) or G.S. 130A-145.

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

30 (g) In order to meet the requirements of this section, the Parole Commission shall
31 not parole any person convicted under Article 7A of Chapter 14 of a sex offense, under
32 G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or
33 under G.S. 14-17. The Parole Commission may continue to consider the suitability for
34 release of such persons in accordance with the criteria set forth in Articles 85 and 85A
35 of Chapter 15A."

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

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