

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**EXTRA SESSION 1994**

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**3**

HOUSE BILL 39  
Committee Substitute Favorable 2/21/94  
Committee Substitute #2 Favorable 3/18/94

Short Title: Omnibus 1994 Anti-Crime Act. (Public)

Sponsors:

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Referred to:

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February 8, 1994

A BILL TO BE ENTITLED

1  
2 AN ACT TO ADJUST THE APPROPRIATIONS MADE FOR THE 1993-94 FISCAL  
3 YEAR AND THE 1994-95 FISCAL YEAR TO CREATE THE BUDGET  
4 MODIFICATION ACT OF 1994, TO INCREASE THE PUNISHMENT UNDER  
5 STRUCTURED SENTENCING FOR FIRST DEGREE RAPE AND FIRST  
6 DEGREE SEXUAL OFFENSE, INCLUDING LIFE WITHOUT PAROLE FOR  
7 THE AGGRAVATED RANGE OF PRIOR RECORD LEVELS V AND VI, TO  
8 REPEAL THE PROVISIONS IN THE STRUCTURED SENTENCING ACT  
9 THAT RESTRICTED THE DEFINITION OF HABITUAL FELON AND  
10 LOWERED THE PUNISHMENT FOR AN HABITUAL FELON FROM CLASS C  
11 TO CLASS D, TO PROHIBIT THE POSSESSION OF FIREARMS AND  
12 WEAPONS OF MASS DEATH AND DESTRUCTION BY FELONS, TO  
13 PROVIDE THAT AN ENHANCED SENTENCE SHALL BE IMPOSED ON A  
14 PERSON CONVICTED OF A CLASS A THROUGH E FELONY IF THE  
15 PERSON USED, DISPLAYED, OR THREATENED TO USE OR DISPLAY A  
16 FIREARM DURING THE COMMISSION OF THE FELONY, AND TO  
17 PROVIDE THAT A FIREARM USED IN THE COMMISSION OF A FELONY  
18 SHALL BE CONFISCATED AND DISPOSED OF AS ORDERED BY THE  
19 COURT UNLESS IT CAN BE ESTABLISHED THAT THE FIREARM IS  
20 OWNED BY SOMEONE OTHER THAN THE CONVICTED DEFENDANT, TO  
21 LOWER THE AGE OF JUVENILES WHO MAY BE TRANSFERRED TO  
22 SUPERIOR COURT FROM 14 TO 13 YEARS OF AGE AND TO AUTHORIZE

1 THE JUVENILE CODE COMMITTEE TO STUDY MANDATORY TRANSFER  
 2 OF JUVENILES TO SUPERIOR COURT FOR SERIOUS FELONY OFFENSES,  
 3 TO PROVIDE THAT UPON A THIRD CONVICTION OF CERTAIN VIOLENT  
 4 FELONIES AN OFFENDER IS A VIOLENT HABITUAL FELON AND SHALL  
 5 BE SENTENCED TO LIFE IMPRISONMENT WITHOUT PAROLE, UNLESS  
 6 THE OFFENDER IS SENTENCED TO DEATH FOR A CAPITAL OFFENSE.

7 The General Assembly of North Carolina enacts:

8

9 **PART 1. INTRODUCTION**

10

11 Section 1. The appropriations made in this act are for maximum amounts  
 12 necessary to provide the services and accomplish the purposes described in the budget.  
 13 Savings shall be effected where the total amounts appropriated are not required to  
 14 perform these services and accomplish these purposes and, except as allowed by the  
 15 Executive Budget Act or this act, the savings shall revert to the appropriate fund at the  
 16 end of each fiscal year.

17 Sec. 2. The appropriations made by the 1994 Extra Session of the 1993  
 18 General Assembly in this act for capital improvements are for constructing, repairing, or  
 19 renovating State buildings, utilities, and other capital facilities, for acquiring sites for  
 20 them where necessary, and for acquiring buildings and land for State government  
 21 purposes.

22

23 **PART 2. TITLE OF ACT**

24

25 Sec. 3. This act shall be known and may be cited as "Omnibus Anti-Crime  
 26 Act of 1994".

27

28 **PART 3. GENERAL FUND APPROPRIATIONS**

29

30 **CURRENT OPERATIONS/GENERAL FUND**

31 Sec. 4. Appropriations from the General Fund of the State for the  
 32 maintenance of the State departments, institutions, and agencies, for one-time  
 33 expenditures, and for other purposes as enumerated are made for the biennium ending  
 34 June 30, 1995, according to the schedule that follows. The designation "NR" placed  
 35 after a money amount indicates that that amount is nonrecurring money.

36 <u>Current Operations - General Fund</u>		<u>1993-94</u>		<u>1994-95</u>
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38 General Assembly

39 01. Create a Legislative Study				
40 on Welfare Reform	\$ <u>20,000</u>	NR	\$ <u>40,000</u>	NR
41 Total General Assembly			20,000	40,000

42

43 Judicial Department

44 01. Structured Sentencing Act

1	effective July 1, 1994–			
2	a. Community penalties	1,788,253		
3			44,622	NR
4	b. Legal and administrative			
5	costs	186,048 1,663,626		
6		274,740 NR 489,011 NR		
7	02. Reserve for "Teen Court"			
8	programs	75,000		
9	03. Reserve for court/drug			
10	treatment program	- 800,000		
11	Total Judicial Department		460,788	4,860,512
12				
13	<u>Office of the Governor</u>			
14	Office of State Budget and Management			
15	01. Study a statewide			
16	Criminal Justice Information			
17	Network (CJIN)	50,000NR	-	
18	Total Office of the Governor		50,000	
19				
20	<u>Public Education</u>			
21	State Aid to Local School			
22	Administrative Units			
23	01. Basic Education Program			
24	a. Fund social workers,			
25	psychologists, counselors			
26	in Grades K-8	- 25,716,600		
27	02. Intervention/Prevention			
28	Grant Program	- 15,000,000		
29	Total Public Education		-	40,716,600
30				
31	<u>Department of Justice</u>			
32	01. Upgrade Automated Fingerprint			
33	Identification System (AFIS)	- 397,692		
34		- 3,074,000 NR		
35	Total Department of Justice		-	3,471,692
36				
37	<u>Department of Human Resources</u>			
38	Office of the Secretary			
39	01. Expand Family Preservation			
40	Services Program	500,000		
41	Division of Mental Health, Developmental			
42	Disabilities, and Substance Abuse Services			
43	01. Expand the Student Services Program			
44	of the N.C. High School Athletic			

1	Association - Coach Mentor			
2	Training -	534,000		
3	02. Structured Sentencing Act			
4	effective July 1, 1994-			
5	To provide substance abuse treatment			
6	services to offenders under the			
7	Treatment Alternatives to Street Crime			
8	(TASC) Program-	4,620,000		
9	Subtotal - Mental Health	-	<u>5,154,000</u>	
10	Division of Youth Services			
11	01. Operating funds for two additional			
12	Wilderness Camps -	2,566,000		
13	02. Expand the Governor's One-on-One			
14	Program and increase the funding			
15	for each program -	1,150,000		
16	03. Staff to operate 147 additional			
17	beds in existing training			
18	schools, including a special			
19	education teacher and a guidance			
20	counselor at each school -	7,279,419		
21	04. Contract for 12 beds at county			
22	detention center -	487,360		
23	05. Community-Based Alternatives			
24	Program -	5,000,000		
25	06. Comprehensive study of juvenile			
26	justice system	150,000 NR		
27	Subtotal - Youth Services	<u>150,000</u>	<u>16,482,779</u>	
28	Total Department of Human Resources		150,000	22,136,779
29				
30	<u>Department of Correction</u>			
31	01. Structured Sentencing Act			
32	effective July 1, 1994-	3,834,092	27,346,555	
33				4,053,445 NR
34	02. Operating costs for 208 additional			
35	beds at Piedmont, Lumberton,			
36	Pender, Wayne, and Brown Creek			
37	for a total of 1,040 additional			
38	beds -	13,466,330		
39				2,033,670 NR
40	03. To lease jail space from			
41	local governments -	8,358,000		
42	04. To provide for out-of-State			
43	housing of inmates -	24,972,000		
44	05. To contract for 500 beds in			

1	private substance abuse			
2	treatment centers	-	5,156,740	
3	16,260	NR		
4	06. Use existing space more			
5	efficiently in order to house			
6	500 additional inmates	-	1,639,500	
7	07. Operating costs for a new Drug			
8	and Alcohol Recovery Treatment			
9	(DART) Center	-	1,007,436	
10		-	192,564	NR
11	08. Reserve for the operation of			
12	a new 90-bed boot camp facility			
13	for youthful offenders	-	1,124,373	
14	392,293	NR		
15	09. Additional operating funds			
16	to bring on line the new			
17	facilities constructed with	-	18,991,090	
18	\$87.5 million prison bonds	-	8,235,572	NR
19	10. Operating costs for new			
20	facilities coming on line—			
21	Eastern Processing Center,			
22	Marion Close Custody Addition, and			
23	consolidation of five units	-	546,720	
24		-	125,932	NR
25	11. Criminal Justice Partnership			
26	Act effective January 1, 1995—			
27	a. Grants		6,000,000	
28	b. Administration	-	<u>500,000</u>	
29	12. Structured Sentencing Act			
30	-adaptation of Offender Management			
31	Information System	<u>2,200,000</u>	NR	
32	Total Department of Correction		2,200,000	124,158,480
33				
34	<u>Department of Crime Control and Public Safety</u>			
35	01. Structured Sentencing Act			
36	effective July 1, 1994—			
37	Community Services	-	110,000	
38	02. Victims Assistance			
39	Network	-	150,000	
40	03. Additional funds to the Crime			
41	Victims Compensation Fund		800,000	
42		-	<u>3,000,000</u>	NR
43	Total Department of Crime Control			
44	and Public Safety		-	4,060,000

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GRAND TOTAL CURRENT OPERATIONS -		
GENERAL FUND - RECURRING	4,020,140	177,746,694
NONRECURRING	<u>2,694,740</u>	<u>21,697,369</u>
TOTAL	\$6,714,880	\$199,444,063

**PART 4. CAPITAL IMPROVEMENTS/GENERAL FUND**

Sec. 5. Appropriations are made from the General Fund for the 1993-94 and 1994-95 fiscal years for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

<u>Capital Improvements - General Fund</u>	<u>1993-94</u>	<u>1994-95</u>
<u>Department of Administration</u>		
01. Construct 208 additional beds at Piedmont, Lumberton, Pender, Wayne, and Brown Creek for a total of 1,040 additional prison beds	\$ 21,483,914	\$ -
02. Construct Eastern Processing Center. Due to subsurface soil conditions and wetlands that were unknown at time of original project cost estimate, may need up to \$3.0 million more to complete site development for this unit	- 21,006,000	
03. Construct an addition at Marion Close Custody Unit	- 5,358,900	
04. Consolidation of five prison units (GPAC Recommendations)	- 10,260,500	
05. Construction costs of a new Drug and Alcohol Recovery Treatment (DART) Center	1,425,000 -	
06. To construct new 90-bed boot camp facility for youthful offenders	<u>1,100,000</u> -	
Total Department of Administration	24,008,914	36,625,400
<u>Department of Human Resources</u>		
01. To support construction of one additional Wilderness Camp	750,000 -	
02. To construct two 24-bed Detention Centers	<u>3,200,000</u> -	

1	Total Department of Human Resources	3,950,000	-
2			
3	GRAND TOTAL CAPITAL IMPROVEMENTS -		
4	GENERAL FUND	\$ 27,958,914	\$36,625,400
5			

## 6 PART 5. PROCEDURES FOR DISBURSEMENT

7  
8           Sec. 6. The appropriations made by the 1994 Extra Session of the 1993  
9 General Assembly for capital improvements shall be disbursed for the purposes  
10 provided by this act. Expenditure of funds shall not be made by any State department,  
11 institution, or agency, until an allotment has been approved by the Governor as Director  
12 of the Budget. The allotment shall be approved only after full compliance with the  
13 Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the  
14 award of construction contracts for projects to be financed in whole or in part with self-  
15 liquidating appropriations, the Director of the Budget shall approve the elements of the  
16 method of financing of those projects including the source of funds, interest rate, and  
17 liquidation period. If the Director of the Budget approves the method of financing a  
18 project, the Director shall report that action to the Joint Legislative Commission on  
19 Governmental Operations at its next meeting.

20           Where direct capital improvement appropriations include the purpose of  
21 furnishing fixed and movable equipment for any project, those funds for equipment  
22 shall not be subject to transfer into construction accounts except as authorized by the  
23 Director of the Budget. The expenditure of funds for fixed and movable equipment and  
24 furnishings shall be reviewed and approved by the Director of the Budget prior to  
25 commitment of funds.

26           Capital improvement projects authorized by the 1994 Extra Session of the  
27 1993 General Assembly shall be completed, including fixed and movable equipment  
28 and furnishings, within the limits of the amounts of the direct or self-liquidating  
29 appropriations provided, except as otherwise provided in this act.

## 31 PART 6. GENERAL PROVISIONS

32  
33 Requested by: Representatives Nesbitt and Diamont

### 34 LIMITATIONS ON DEPARTMENTAL USE OF APPROPRIATIONS

35           Sec. 7. (a) Notwithstanding G.S. 143-23(a1), the Director of the Budget shall not  
36 approve the expenditure by a department, institution, or other spending agency of more  
37 than was appropriated for any object or line item.

38           Notwithstanding G.S. 143-23(a1), funds appropriated for salaries and wages  
39 shall be used only for salaries and wages or for premium pay, overtime pay, longevity,  
40 unemployment compensation, workers' compensation, temporary wages, payment of  
41 accumulated annual leave, certain awards to employees, tort claims, and employer's  
42 security, retirement, and hospitalization payments.

43           (b) This section is effective upon ratification and remains in effect through June  
44 30, 1994.

1

2 Requested by: Representatives Nesbitt and Diamont

3 **SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL**  
4 **RECEIPTS/AUTHORIZATION FOR EXPENDITURES**

5 Sec. 8. There is appropriated out of the cash balances, federal receipts, and  
6 departmental receipts available to each department, sufficient amounts to carry on  
7 authorized activities included under each department's operations. All these cash  
8 balances, federal receipts, and departmental receipts shall be expended and reported in  
9 accordance with provisions of the Executive Budget Act, except as otherwise provided  
10 by statute, and shall be expended at the level of service authorized by the General  
11 Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a  
12 specific purpose only, collected in a fiscal year by an institution, department, or agency  
13 exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then  
14 the Director of the Budget shall decrease the amount he allots to that institution,  
15 department, or agency from appropriations from that Fund by the amount of the excess,  
16 unless the Director of the Budget finds that the appropriations from the Fund are  
17 necessary to maintain the function that generated the receipts at the level anticipated in  
18 the certified Budget Codes for that Fund. Funds that become available from  
19 overrealized receipts in General Fund Codes and Highway Fund Codes, other than gifts  
20 and grants that are unanticipated and are for a specific purpose only, shall not be used  
21 for new permanent employee positions or to raise the salary of existing employees  
22 except:

- 23 (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4, or 143-  
24 27; or
- 25 (2) If the Director of the Budget finds that the new permanent employee  
26 positions are necessary to maintain the function that generated the  
27 receipts at the level anticipated in the certified budget codes for that  
28 Fund. The Director of the Budget shall notify the President Pro  
29 Tempore of the Senate, the Speaker of the House of Representatives,  
30 the chairmen of the appropriations committees of the Senate and the  
31 House of Representatives, and the Fiscal Research Division of the  
32 Legislative Services Office that the Director intends to make such a  
33 finding at least 10 days before making the finding. The notification  
34 shall set out the reason the positions are necessary to maintain the  
35 function.

36 The Office of State Budget and Management shall report to the Joint Legislative  
37 Commission on Governmental Operations and to the Fiscal Research Division of the  
38 Legislative Services Office within 30 days after the end of each quarter the General  
39 Fund Codes or Highway Fund Codes that did not result in a corresponding reduced  
40 allotment from appropriations from that Fund.

41 The Director of the Budget shall develop necessary budget controls,  
42 regulations, and systems to ensure that these funds and other State funds subject to the  
43 Executive Budget Act, are not spent in a manner that would cause a deficit in  
44 expenditures.



1 Pursuant to G.S. 143-34.2, State departments, agencies, institutions, boards,  
 2 or commissions may make application for, receive, or disburse any form of non-State  
 3 aid. All non-State monies received shall be deposited with the State Treasurer unless  
 4 otherwise provided by State law. These funds shall be expended in accordance with the  
 5 terms and conditions of the fund award that are not contrary to the laws of North  
 6 Carolina.

7  
 8 Requested by: Representatives Nesbitt and Diamont

9 **BUDGETING OF PILOT PROGRAMS**

10 Sec. 9. (a) Any program designated by the General Assembly as experimental,  
 11 model, or pilot shall be shown as a separate budget item and shall be considered as an  
 12 expansion item until a succeeding General Assembly reapproves it.

13 Any new program funded in whole or in part through a special appropriations  
 14 bill shall be designated as an experimental, model, or pilot program.

15 (b) The Governor shall submit to the General Assembly with the proposed  
 16 budget a report of which items in the proposed budget are subject to the provisions of  
 17 this section.

18  
 19 Requested by: Representatives Nesbitt and Diamont

20 **EXPENDITURES OF FUNDS IN RESERVES LIMITED**

21 Sec. 10. All funds appropriated by this act into reserves may be expended  
 22 only for the purposes for which the reserves were established.

23  
 24 Requested by: Representatives Nesbitt and Diamont

25 **STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY**

26 Sec. 11. Each private, nonprofit entity eligible to receive State funds, either  
 27 by General Assembly appropriation, or by grant, loan, or other allocation from a State  
 28 agency, before funds may be disbursed to the entity, shall file with the disbursing  
 29 agency a notarized copy of that entity's policy addressing conflicts of interest that may  
 30 arise involving the entity's management employees and the members of its board of  
 31 directors or other governing body. The policy shall address situations where any of  
 32 these individuals may directly or indirectly benefit, except as the entity's employees or  
 33 members of the board or other governing body, from the entity's disbursing of State  
 34 funds, and shall include actions to be taken by the entity or the individual, or both, to  
 35 avoid conflicts of interest and the appearance of impropriety.

36  
 37 Requested by: Representatives Nesbitt and Diamont

38 **BUDGET REFORM STATEMENTS**

39 Sec. 12. (a) The General Fund availability used in developing the budget  
 40 enacted in this Act, is shown below:

41	1993-94	1994-95	Non- Non-
42	Recurring	Recurring	Recurring

43 **AVAILABILITY**

44 Unappropriated Balance from

1	1993 Session	\$4.7	\$209.6	\$380.5
2				
3	Revenue Forecast Increase	156.0	160.0	-
4				
5	TOTAL AVAILABILITY	\$160.7	369.6	380.5
6				

7 (b) The Unappropriated Balance from the 1993 Session stated in subsection (a)  
8 of this section is included in Total Availability as stated in Section 8(b) of Chapter 561  
9 of the 1993 Session Laws.

## 11 PART 7. OFFICE OF STATE BUDGET AND MANAGEMENT

13 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

### 14 CRIMINAL JUSTICE INFORMATION NETWORK

15 Sec. 13. (a) Of the funds appropriated in this act to the Office of State Budget  
16 and Management, the sum of fifty thousand dollars (\$50,000) for the 1993-94 fiscal  
17 year shall be used to study the development of a Criminal Justice Information Network  
18 that links together data in existing databases and networks. Any of these funds  
19 unexpended at the end of the 1993-94 fiscal year shall not revert but shall remain  
20 available to complete this study. This study shall include:

- 21 (1) An assessment of the functionality of information currently used by  
22 the General Court of Justice, State and local law enforcement agencies,  
23 correction agencies, and State departments or agencies related to the  
24 criminal justice system, and an evaluation of the need for systems  
25 integration or system enhancements, in particular the need for a  
26 comprehensive DWI database and for systems integration of the  
27 Department of Correction's Offender Management Information  
28 System;
- 29 (2) A determination of the technical feasibility of incorporating all or  
30 portions of currently existing information systems and all or portions  
31 of new information systems into a comprehensive statewide Criminal  
32 Justice Information Network (CJIN);
- 33 (3) An evaluation of feasible CJIN designs at no fewer than three  
34 alternative levels of costs (both capital and future operating), and a  
35 clear description of the benefits and costs associated with each level;
- 36 (4) An estimation of a development and implementation schedule for each  
37 level of costs, showing milestones to be achieved during each phase of  
38 the schedule, costs to be incurred during each phase, and any benefits  
39 and savings expected at intermediate stages of CJIN development and  
40 implementation;
- 41 (5) An evaluation of alternative structures for CJIN management,  
42 including accountability for CJIN operations, criteria for membership  
43 or participation, procedures to prevent inappropriate or illegal access,  
44 and steps to assure data quality and accuracy;

- 1 (6) Recommendations of measures for savings, efficiency, and  
 2 effectiveness that will enable the General Assembly to gauge CJIN  
 3 performance;  
 4 (7) Assurances that the integrated CJIN shall be consistent and compatible  
 5 with a comprehensive telecommunications plan as approved by the  
 6 Information Resource Management Commission; and  
 7 (8) A plan for a statewide integrated law enforcement communications  
 8 system and a study of the costs of making that system available to  
 9 local governments.

10 (b) There is created within the Office of State Budget and Management a  
 11 Criminal Justice Information Network study committee to conduct the study required  
 12 under this section. The study committee shall be appointed by the Governor in  
 13 consultation with the Lieutenant Governor, the Attorney General, and the Chief Justice  
 14 of the North Carolina Supreme Court. The Governor shall appoint no more than nine  
 15 members to the study committee, and shall make the appointments based upon the  
 16 appointees' knowledge, expertise, and responsibility within the criminal justice system  
 17 and related areas. All State and local government agencies shall cooperate fully with  
 18 the study committee. The study committee shall provide a monthly report on its  
 19 progress (i) to the Chairs of the Senate and House Appropriations Committees, (ii) to  
 20 the Chairs of the Senate and House Justice and Public Safety Appropriations  
 21 Subcommittees, and (iii) to the Information Resources Management Commission  
 22 established by G.S. 143B-426.21 at the regularly scheduled meetings of the  
 23 Commission. The study committee shall report its final findings and recommendations  
 24 to the General Assembly on or before February 1, 1995, and shall make an interim  
 25 report by May 15, 1994.

## 27 PART 8.1. ADVANCE STRUCTURED SENTENCING

29 Requested by: Representatives Nesbitt, Diamont, Gist, Holt, Barnes

### 30 ADVANCE STRUCTURED SENTENCING/CRIMINAL JUSTICE 31 PARTNERSHIP ACT

32 Sec. 14.1. (a) G.S. 15A-1340.10, as enacted by Section 1 of Chapter 538 of  
 33 the 1993 Session Laws, reads as rewritten:

#### 34 "§ 15A-1340.10. Applicability of structured sentencing.

35 This Article applies to criminal offenses in North Carolina, other than impaired  
 36 driving under G.S. 20-138.1 that occur on or after ~~January 1, 1995.~~ July 1, 1994."

37 (b) G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of the 1993  
 38 Session Laws, reads as rewritten:

39 "(a1) A prisoner serving a term of life imprisonment is eligible for parole after  
 40 serving 25 years. This subsection applies to offenses committed on and after ~~January 1,~~  
 41 ~~1995.~~ July 1, 1994."

42 (c) Section 56 of Chapter 538 of the 1993 Session Laws reads as rewritten:

43 "Sec. 56. This act becomes effective ~~January 1, 1995,~~ July 1, 1994, and applies only  
 44 to offenses occurring on or after that date. Prosecutions for, or sentences based on,

1 offenses occurring before the effective date of this act are not abated or affected by the  
2 repeal or amendment in this act of any statute, and the statutes that would be applicable  
3 to those prosecutions or sentences but for the provisions of this act remain applicable to  
4 those prosecutions or sentences."

5 (d) Section 1359 of Chapter 539 of the 1993 Session Laws reads as rewritten:

6 "Sec. 1359. This act becomes effective ~~January 1, 1995~~, July 1, 1994, and applies to  
7 offenses occurring on or after that date. Prosecutions for offenses committed before the  
8 effective date of this act are not abated or affected by this act, and the statutes that  
9 would be applicable but for this act remain applicable to those prosecutions."

10 (e) Section 2 of Chapter 534 of the 1993 Session Laws reads as rewritten:

11 "Sec. 2. This act becomes effective January 1, 1994. Grants administered under this  
12 act shall become effective ~~July~~ January 1, 1995. The Department of Correction may use  
13 funds available to support the administration of the State-County Criminal Justice  
14 Partnership program effective January 1, 1994."

## 16 PART 9. DEPARTMENT OF CORRECTION

17  
18 Requested by: Representatives Gist and Holt

### 19 OUT-OF-STATE HOUSING OF INMATES

20 Sec. 15. (a) G.S. 148-37 reads as rewritten:

#### 21 "§ 148-37. Additional facilities authorized; contractual arrangements.

22 (a) Subject to the provisions of G.S. 143-341, the State Department of Correction  
23 may establish additional facilities for use by the Department, such facilities to be either  
24 of a permanent type of construction or of a temporary or movable type as the  
25 Department may find most advantageous to the particular needs, to the end that the  
26 prisoners under its supervision may be so distributed throughout the State as to facilitate  
27 individualization of treatment designed to prepare them for lawful living in the  
28 community where they are most likely to reside after their release from prison. For this  
29 purpose, the Department may purchase or lease sites and suitable lands adjacent thereto  
30 and erect necessary buildings thereon, or purchase or lease existing facilities, all within  
31 the limits of allotments as approved by the Department of Administration.

32 (b) The Secretary of Correction may contract with the proper official of the  
33 United States or of any county or city of this State for the confinement of federal  
34 prisoners after they have been sentenced, county, or city prisoners in facilities of the  
35 State prison system or for the confinement of State prisoners in any county or any city  
36 facility located in North Carolina, or any facility of the United States Bureau of Prisons,  
37 when to do so would most economically and effectively promote the purposes served by  
38 the Department of Correction. Any contract made under the authority of this section  
39 shall be for a period of not more than two years, and shall be renewable from time to  
40 time for a period not to exceed two years. Contracts for receiving federal, county and  
41 city prisoners shall provide for reimbursing the State in full for all costs involved. The  
42 financial provisions shall have the approval of the Department of Administration before  
43 the contract is executed. Payments received under such contracts shall be deposited in  
44 the State treasury for the use of the State Department of Correction. Such payments are

1 hereby appropriated to the State Department of Correction as a supplementary fund to  
2 compensate for the additional care and maintenance of such prisoners as are received  
3 under such contracts.

4 (c) In addition to the authority contained in subsections (a) and (b) of this  
5 section, the Secretary of Correction may enter into contracts with any public entity for  
6 the confinement and care of State prisoners in any out-of-state public correctional  
7 facility when to do so would most economically and effectively promote the purposes  
8 served by the Department of Correction. The authority contained in this subsection may  
9 be used to house a maximum of 1,000 prisoners at any one time, which maximum shall  
10 include those presently housed. Prisoners may be sent to out-of-state correctional  
11 facilities only when there are no available facilities in this State within the State prison  
12 system to appropriately house those prisoners. Any contract made under the authority  
13 of this subsection shall expire not later than June 30, 1995, and shall be approved by the  
14 Department of Administration before the contract is executed.

15 (d) Prisoners confined in out-of-state correctional facilities pursuant to subsection  
16 (c) of this section shall remain subject to the rules adopted for the conduct of persons  
17 committed to the State prison system. The rules regarding good time and gain time,  
18 discipline, classification, extension of the limits of confinement, transfers, housing  
19 arrangements, and eligibility for parole shall apply to inmates housed in those out-of-  
20 state correctional facilities. The operators of those out-of-state correctional facilities  
21 may promulgate any other rules as may be necessary for the operation of those facilities  
22 with the written approval of the Secretary of Correction. Custodial officials employed  
23 by an out-of-state correctional facility are agents of the Secretary of Correction and may  
24 use authorized force procedures to defend themselves, to enforce the observance of  
25 discipline in compliance with correctional facility rules, to secure the person of a  
26 prisoner, and to prevent escape. Prisoners confined to out-of-state correctional facilities  
27 may be required to perform reasonable work assignments within those facilities."

28 (b) Subsection (a) of this section is effective upon ratification and expires on  
29 June 30, 1995.

30  
31 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

32 **DEPARTMENT OF CORRECTION LIMITATION ON CONTRACTING FOR**  
33 **IN-STATE HOUSING OF INMATES**

34 Sec. 16. The Department of Correction shall not contract to house in non-  
35 State-owned facilities within the State more than a total of 1500 inmates at any one  
36 time, excluding any beds in private substance abuse treatment centers authorized by the  
37 General Assembly. Any number of inmates exceeding 500 will reduce from the 1000  
38 out-of-State prisoners authorized in G.S. 148-37(c).

39  
40 Requested by: Representatives Nesbitt, Diamont, Mavretic

41 **DEPARTMENT OF CORRECTION STUDY OF HOUSING OF CERTAIN**  
42 **FELONS OUTSIDE THE STATE OF NORTH CAROLINA**

43 Sec. 17. The Department of Correction shall study the issue of private, out-  
44 of-country placement of felons of 16 years of age or older who are sentenced to prison

1 for 10 or more years in correctional facilities that equal or exceed the standards for adult  
2 correctional institutions of the American Correctional Association for construction and  
3 habitation and are:

- 4 (1) Operated by any governmental unit within any U.S. state, the District  
5 of Columbia, the Commonwealth of Puerto Rico, or any territory or  
6 possession of the United States; or  
7 (2) a. Operated by any corporation or other business entity organized  
8 under the laws of any U.S. state, the District of Columbia, the  
9 Commonwealth of Puerto Rico, or any territory or possession of the  
10 United States; and  
11 b. Located within the boundaries of any U.S. state, the District of  
12 Columbia, the Commonwealth of Puerto Rico, any territory or  
13 possession of the United States, or any nation that is a signatory  
14 of the North American Free Trade Agreement (NAFTA), as  
15 approved by the United States in Pub. L. No. 103-182, 107 Stat.  
16 2057 (1993).

17 The Department shall report the results of this study to the 1993 General  
18 Assembly, Regular Session 1994.

19  
20 Requested by: Representative Ellis

21 **LRC STUDY PLACEMENT OF FELONS 16 YEARS OF AGE OR OLDER IN**  
22 **PRIVATE CORRECTIONAL FACILITIES**

23 Sec. 17.1. The Legislative Research Commission may study whether felons  
24 16 years of age or older who are sentenced to State prison may be housed in private  
25 correctional facilities that equal or exceed the standards for adult correctional  
26 institutions of the American Correctional Association for construction and habitation.  
27 The report shall be made to the 1993 General Assembly, Regular Session 1994.

28  
29 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

30 **GOVERNOR TO SET PRISON POPULATION CAP**

31 Sec. 18. (a) G.S. 148-4.1 reads as rewritten:

32 **"§ 148-4.1. Release of inmates.**

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

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

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

1 (c1) For purposes of this section only, 'prison capacity' means the number of  
2 prisoners housed in facilities located in North Carolina and owned or operated by the  
3 State of North Carolina, as set by the Governor. In setting the prison capacity for  
4 purposes of this section, the Governor shall consider the number of beds available and  
5 shall make a finding that the number set would not jeopardize the State's ability to  
6 perform its obligations under the law. In no event shall the number set by the Governor  
7 under this subsection exceed 23,500.

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

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

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

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

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

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

41 (b) Sections 7 through 9 of Chapter 91 of the 1993 Session Laws are repealed.

42  
43 Requested by: Representatives Nesbitt, Diamont, Gist, Holt

**REPORT ON PLAN FOR CONTRACTING WITH PRIVATE SUBSTANCE ABUSE TREATMENT CENTERS**

Sec. 19. The Department of Correction shall report to the General Assembly by May 1, 1994, on its plan for the use of funds appropriated to it in this act for the 1994-95 fiscal year for contracts for 500 beds in private substance abuse treatment centers, not to exceed 100 beds at any one center, including any recommended changes in legislation necessary to authorize these contracts. The Department of Human Resources shall provide any technical assistance requested by the Department of Correction on the preparation of the plan.

Requested by: Representatives Nesbitt and Diamont

**PROBATION/PAROLE STUDY**

Sec. 20. The Department of Correction shall study methods for reducing the paperwork required of probation and parole officers in order to allow more time for those officers to supervise probationers and parolees. The Department shall report its findings to the Joint Legislative Commission on Governmental Operations, to the Chairs of the House and Senate Appropriations Committees, and to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by May 1, 1994.

**PART 10. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY**

Requested by: Representatives Gist and Holt

**VICTIMS ASSISTANCE NETWORK FUNDS**

Sec. 21. (a) Of the funds appropriated in this act to the Department of Crime Control and Public Safety, the sum of one hundred fifty thousand dollars (\$150,000) for the 1994-95 fiscal year shall be used to support the Victims Assistance Network. These funds shall be used by the Victims Assistance Network to perform the following functions under the direction of and as required by the Department of Crime Control and Public Safety:

- (1) Conduct surveys and gather data on crime victims and their needs;
  - (2) Act as a clearinghouse for crime victims services;
  - (3) Provide an automated crime victims bulletin board for subscribers;
  - (4) Coordinate and support the activities of other crime victims advocacy groups;
  - (5) Identify training needs of crime victims services providers and criminal justice personnel and coordinate training efforts for those persons; and
  - (6) Provide other services as identified by the Governor's Crime Commission or the Department of Crime Control and Public Safety.
- (b) This section becomes effective July 1, 1994.

**PART 11. JUDICIAL DEPARTMENT**

Requested by: Representatives Nesbitt, Diamont, Gist, Holt



**TEEN COURT PROGRAM FUNDS**

Sec. 22. (a) Of the funds appropriated in this act to the Judicial Department, the sum of seventy-five thousand dollars (\$75,000) for the 1994-95 fiscal year shall be used to develop and implement "teen court" programs, which programs are to be made available to all junior and senior high school students in selected judicial districts for the purpose of handling problems that develop at school.

(b) The Administrative Office of the Courts shall report to the General Assembly by January 1, 1995, on its use of these funds and on the effectiveness of the programs funded.

(c) In addition to the reports required in subsection (d) of Section 80 of Chapter 561 of the 1993 Session Laws, the Administrative Office of the Courts shall make an interim report by May 15, 1994, on the effectiveness of the Cumberland County "Teen Court" Program established pursuant to Section 80 of Chapter 561 of the 1993 Session Laws.

Requested by: Representatives Nesbitt, Diamont, Gist, Holt

**RESERVE FOR COURT/DRUG TREATMENT PROGRAM**

Sec. 23. There is created in the Judicial Department a Reserve for Court/Drug Treatment Program. Of the funds appropriated in this act to the Judicial Department, the sum of eight hundred thousand dollars (\$800,000) for the 1994-95 fiscal year shall be held in this reserve. The funds in this reserve shall be allocated as prescribed by the 1993 General Assembly, Regular Session 1994.

**PART 12. DEPARTMENT OF HUMAN RESOURCES**

Requested by: Representatives Nesbitt, Diamont, Easterling, Nye

**DIVISION OF YOUTH SERVICES' COMPREHENSIVE STUDY OF THE JUVENILE JUSTICE SYSTEM**

Sec. 25. (a) The Department of Human Resources shall conduct a comprehensive study of the Division of Youth Services' juvenile justice system in order to ensure the efficacy, cost-effectiveness, and optimal utilization of the system and its continuum of services.

This study shall include:

- (1) An evaluation of the Community-Based Alternative Program;
- (2) An evaluation of vocational education in the training schools;
- (3) An evaluation of the alternatives to detention and to training schools;
- (4) Development of a plan for an early warning system in which potential youthful offenders are identified at a very early age so that intervention can be made to prevent adverse outcomes; and
- (5) Diagnostic assessment of all youth in training schools and detention centers to determine if each youth has been properly placed. The assessment criteria shall conform to standards developed by the Division of Youth Services, juvenile court counselors, and mental health/substance abuse services professionals.

1 (b) The Department shall complete this study by November 30, 1994, and shall  
2 report its findings and recommendations to the 1995 General Assembly by March 1,  
3 1995.

4 (c) Of the funds appropriated to the Department of Human Resources, Division  
5 of Youth Services, in this act, the sum of one hundred fifty thousand dollars (\$150,000)  
6 for the 1993-94 fiscal year shall be used to fund this study. Any of these funds that are  
7 unexpended at the end of the 1993-94 fiscal year shall not revert but shall remain  
8 available to complete the study required by this section.

9  
10 Requested by: Representatives Nesbitt, Diamont, Nye, Easterling

11 **DIRECTOR OF JOINT SECURITY FORCE**

12 Sec. 26. The Secretary of the Department of Human Resources shall  
13 designate the Director of the Juvenile Evaluation Center as the Director of the Joint  
14 Security Force established in G.S. 122C-421, serving the territory of the Black  
15 Mountain Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation  
16 Center, all in Buncombe County, and having the power prescribed by G.S. 7A-571(4)  
17 and G.S. 122C-421 outside the territory embraced by the named centers but within the  
18 confines of Buncombe County.

19  
20 Requested by: Representatives Nesbitt, Diamont, Nye, Easterling, Redwine, Fitch,  
21 McAllister, Berry, Balmer, Creech

22 **WELFARE REFORM STUDY**

23 Sec. 27. (a) There is created the Legislative Study Commission on Welfare  
24 Reform. The Commission shall consist of 14 members as follows:

- 25 (1) Five members of the House of Representatives appointed by the  
26 Speaker of the House of Representatives;  
27 (2) Two persons appointed by the Speaker of the House of  
28 Representatives who are not members of the General Assembly;  
29 (3) Five Senators appointed by the President Pro Tempore of the Senate;  
30 and  
31 (4) Two persons appointed by the President Pro Tempore of the Senate  
32 who are not members of the General Assembly.

33 (b) The Speaker of the House of Representatives shall designate one  
34 representative as cochair and the President Pro Tempore of the Senate shall designate  
35 one Senator as cochair.

36 (c) The Commission shall study the whole issue of the need for welfare reform in  
37 light of the current social crisis caused, in part, by the rapidly increasing incidence of  
38 violent crimes. This study shall include:

- 39 (1) A reexamination of the whole purpose of the welfare system and an  
40 identification of those disincentives to raising responsible, independent  
41 participants in society that are built into the system;  
42 (2) An analysis of the federal welfare reform proposals and of other states'  
43 initiatives; and

1 (3) A compilation and detailed examination, including detailed fiscal  
2 analysis, of proposals to reform the welfare system.

3 (d) The reexamination prescribed by subdivision (1) of this subsection shall  
4 specifically include consideration of the following bills introduced in the 1993 General  
5 Assembly, Extra Session 1994: House Bill 141, introduced by Representative Fitch,  
6 House Bill 209, introduced by Representative McAllister, House Bill 80, introduced by  
7 Representative Berry, and any other welfare reform initiatives introduced in this  
8 session.

9 (e) The Commission may submit an interim report to the General Assembly  
10 on or before the first day of the 1994 Regular Session of the 1993 General Assembly  
11 and shall submit a final report, including a complete proposal for welfare reform, to the  
12 1995 General Assembly within one week of its convening, by filing the report with the  
13 Speaker of the House of Representatives and the President Pro Tempore of the Senate.  
14 Upon filing its final report, the Commission shall terminate.

15 (f) The Commission, while in the discharge of official duties, may exercise  
16 all the powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1  
17 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of  
18 the cochairs. The Commission may meet in the Legislative Building or the Legislative  
19 Office Building.

20 (g) Members of the Commission shall receive subsistence and travel  
21 expenses at the rates set forth in G.S. 120-3.1 or G.S. 138-5, as appropriate.

22 (h) The Commission may contract for professional, clerical, or consultant  
23 services as provided by G.S. 120-32.02. The Legislative Services Commission, through  
24 the Legislative Administrative Officer, shall assign professional staff to assist in the  
25 work of the Commission. The House of Representatives' and the Senate's Supervisors  
26 of Clerks shall assign clerical staff to the Commission or committee, upon the direction  
27 of the Legislative Services Commission. The expenses relating to clerical employees  
28 shall be borne by the Commission.

29 (i) When a vacancy occurs in the membership of the Commission, the  
30 vacancy shall be filled by the same appointing officer who made the initial appointment.

31 (j) All State departments and agencies and local governments and their  
32 subdivisions shall furnish the Commission with any information in their possession or  
33 available to them.

34

### 35 **PART 13. INTERVENTION/PREVENTION INITIATIVES**

36

37 Requested by: Representatives Barnes, Black, Diamont, Easterling, Holt, H. Hunter,  
38 Nesbitt, Rogers

#### 39 **BASIC EDUCATION PROGRAM**

40 Sec. 28. Of the funds appropriated to Aid to Local School Administrative  
41 Units, the sum of twenty-five million seven hundred sixteen thousand six hundred  
42 dollars (\$25,716,600) for the 1994-95 fiscal year shall be used to fund fully all the  
43 school counselors, social workers, and psychologists required for kindergarten through  
44 grade eight by the Basic Education Program.

1 Local boards of education are encouraged to use these positions, when  
2 feasible, to implement programs funded with Intervention/Prevention Program grants.  
3 These funds are appropriated to provide school systems with personnel to reduce the  
4 incidence of juvenile crime and to provide services to students who are at risk of school  
5 failure and their families; therefore, it is the intent of the General Assembly that the  
6 Superintendent not recommend and the State Board not grant waivers pursuant to G.S.  
7 115C-238.6 pertaining to the purposes for which these funds may be used.

## 9 SCHOOL-BASED PROGRAM GRANTS

10 Sec. 29. (a) The General Assembly finds that:

- 11 (1) Growing numbers of children live in conditions that place them at risk  
12 of school failure as students;
- 13 (2) The provision of school and support services to these children and  
14 their families by public and nonprofit agencies is fragmented and does  
15 not prepare these children to learn effectively and have a successful  
16 school experience;
- 17 (3) The lack of collaboration among schools, families, local agencies, and  
18 other groups involved in family support and youth development  
19 activities results in the inefficient and ineffective use of resources to  
20 meet the needs of these children;
- 21 (4) Schools are dedicating an increasing amount of their time and  
22 resources to responding to disruptive and violent behavior rather than  
23 fulfilling their mission to challenge with high expectations each child  
24 to learn, to achieve, and to fulfill his or her potential;
- 25 (5) The relationships between school failure, disruptive and violent  
26 behavior in schools, unemployment, and criminal behavior are clear;
- 27 (6) Responding to the needs of students who are at risk of school failure  
28 and providing for a safe and secure learning environment are cost-  
29 effective because it enables the State to substitute preventive measures  
30 for expensive crisis intervention; and
- 31 (7) Differing local needs and local resources necessitate the development  
32 of locally generated, community-based plans that coordinate and  
33 leverage existing resources, not the imposition of uniform and  
34 inflexible, State-mandated plans;

35 therefore, of the funds appropriated to Aid to Local School Administrative Units, the  
36 sum of fifteen million dollars (\$15,000,000) shall be used for the 1994-95 fiscal year to  
37 implement the Intervention/Prevention Grant Program for North Carolina School  
38 Children.

39 (b) Article 16 of of Chapter 115C of the General Statutes is amended by adding a  
40 new Part to read:

41 **"PART 8. INTERVENTION/PREVENTION**  
42 **GRANT PROGRAM FOR NORTH CAROLINA SCHOOL CHILDREN.**  
43 **"§ 115C-238.40. Establishment of program; purpose.**

1 There is established the Intervention/Prevention Grant Program for North Carolina  
2 School Children. The purpose of the program is to provide grants to local school  
3 administrative units for locally designed innovative local programs that target juvenile  
4 crime by (i) enhancing educational attainment through coordinated services to respond  
5 to the needs of students who are at risk of school failure and at risk of participation in  
6 juvenile crime and (ii) providing for a safe and secure learning environment.

7 **"§ 115C-238.41. Applications for grants.**

8 (a) A local school administrative unit may apply for a grant, or up to three  
9 adjacent local school administrative units may apply jointly for a grant.

10 (b) In preparing grant applications, an applicant shall consult with a local task  
11 force appointed by the county board of commissioners and comprised of educators,  
12 parents, students, community leaders, the juvenile justice system, human services, and  
13 nongovernmental agencies providing services to children. In appointing members of the  
14 task force, the county board of commissioners shall attempt to include individuals who  
15 are representative of the racial and socioeconomic composition of the geographic area to  
16 be served by the grant. If a local school administrative unit or the geographic area  
17 covered by a grant proposal is located in more than one county, the board of  
18 commissioners of the counties shall jointly appoint the task force.

19 (c) The application shall include the following information:

20 (1) Data on the incidence of juvenile crime in the geographical area to be  
21 served by the grant. Sources of data may include the chief juvenile  
22 court counselor in the judicial district, the clerk of superior court, and  
23 local law enforcement officials.

24 (2) An assessment of local resources from all sources for, and local  
25 deficiencies with regard to, responding to the needs of children who  
26 live in conditions that place them at risk of school failure as students.  
27 This assessment shall be prepared by the local task force.

28 (3) A detailed plan for removing barriers to success in school that exist for  
29 these children and for minimizing disruptive and violent behavior  
30 among all students. This plan shall include proposed goals and  
31 anticipated outcomes, prepared after consultation with the task force.  
32 This plan shall provide for the establishment or expansion of programs  
33 that have components based on one or more of the following models or  
34 other collaborative models:

35 a. Family Resource Center Model. – A Family Resource Center is  
36 a school-based center that coordinates the delivery of  
37 comprehensive and integrated services in or near a school to  
38 children from kindergarten through the eighth grade and their  
39 families. Services are provided through broad-based  
40 collaboration among governmental and nongovernmental  
41 agencies and persons reflective of the racial and socioeconomic  
42 diversity in a community. Services are designed to (i) prepare  
43 children to attain academic and social success, (ii) enhance the  
44 ability of families to become advocates for and supporters of

1 education for the children in their families, (iii) provide  
2 parenting classes to the parents of children who are at risk of  
3 school failure, and (iv) otherwise enhance the ability of families  
4 to function as nurturing and effective family units.

- 5 b. S.O.S. Program or Other After School Program Model. – An  
6 After School Program is a program that provides high quality,  
7 educationally appropriate activities to students, especially  
8 middle school-aged students, after the regular school day.  
9 Local boards of education may permit teachers to adjust their  
10 work schedules so they can work in the program.

11 The program may follow the S.O.S. Program Model, which  
12 was developed by Governor Hunt. A program following the  
13 S.O.S. Program Model should be targeted toward providing  
14 academic support for middle school-aged students who perform  
15 significantly below their age-level peers or for students with  
16 learning disabilities. The program should rely heavily on  
17 community volunteers to provide positive adult role models for  
18 students and to help supervise the activities. The local board of  
19 education may appoint school-based Neighborhood Councils to  
20 advise it on the development of a grant proposal for a program  
21 following the S.O.S. Program Model. A Neighborhood Council  
22 may be either an existing community group, nonprofit  
23 corporation, or other governmental or nongovernmental entity,  
24 or a new entity that reflects the demographics of the community  
25 being served and includes broad representation of government,  
26 school, and community agencies.

- 27 c. Cities in Schools Program Model. – A Cities in Schools  
28 Program is a community partnership among public agencies,  
29 private nonprofit agencies, volunteer organizations, and local  
30 businesses that delivers services to students who are at risk of  
31 dropping out of school or who display discipline problems.  
32 Services offered are based on an assessment of local needs and  
33 resources.

- 34 d. Alternative Learning Program Model. – An Alternative  
35 Learning Program is a program that provides individualized  
36 programs outside of a standard classroom setting in a caring  
37 atmosphere in which students learn the skills necessary to  
38 redirect their lives and return to a standard classroom setting.  
39 The program should maintain State standards and may include  
40 smaller classes and lower student/teacher ratios, school-to-work  
41 transition activities, modification of curriculum and instruction  
42 to meet individual needs, flexible scheduling, and necessary  
43 academic, vocational, and support services for students and  
44 their families. Services may also include appropriate measures

1 to correct disruptive behavior, teach responsibility, good  
2 citizenship, and respect for rules and authority.

3 The goals of the alternative school programs should be to (i)  
4 reduce the school dropout rate through improved student  
5 attendance, behavior, and educational achievement; and (ii)  
6 increase successful school-to-work transitions for students  
7 through educationally linked job internships, mentored job  
8 shadowing experiences, and the development of personalized  
9 education and career plans for participating students.

10 e. Safe Schools Program Model. – A Safe Schools Program is a  
11 locally designed program for making schools safe for students  
12 and school employees. The program may involve peer  
13 mediation and conflict resolution activities.

14 (4) A statement of whether and to what extent the local board of education  
15 intends to contract with local, private, nonprofit 501(c)(3) corporations  
16 to staff, operate, or otherwise provide services for one or more  
17 elements of the plan. Local boards are encouraged to contract for  
18 services, when appropriate.

19 (5) A statement of (i) how the grant funds would be used to address these  
20 local problems, (ii) what other resources, including Safe Schools  
21 Grants, Chapter 1 funds, Chapter 2 block grant funds, dropout  
22 prevention funds, Basic Education Program funds, remediation funds,  
23 small school system supplemental funds, and low-wealth counties  
24 supplemental funds, would be used to address the problems, and (iii)  
25 how all available community resources and the components of the  
26 proposed plan would be coordinated to enhance the effectiveness of  
27 existing services and of services proposed in the plan.

28 (6) A statement of how the proposed plan would assist a local school  
29 administrative unit in implementing the local school improvement  
30 plan.

31 (7) A process for assessing on an annual basis the success of the local plan  
32 in addressing problems.

33 **§ 115C-238.42. Review of applications.**

34 (a) The Superintendent of Public Instruction shall appoint a State task force to  
35 assist the Superintendent in reviewing grant applications. The State task force shall  
36 include representatives of the Department of Public Instruction, the Department of  
37 Human Resources, local school administrative units, educators, parents, the juvenile  
38 justice system, social services, and governmental agencies providing services to  
39 children, and other members the Superintendent considers appropriate. In reviewing  
40 grant applications, the Superintendent and the State task force shall consider the  
41 prevalence of underserved students and families in low-income neighborhoods and in  
42 isolated rural areas in the area for which the grant is requested, the severity of the local  
43 problems with regard to children at risk of school failure and with regard to school

1 discipline, whether the proposed program meets State standards, and the likelihood that  
2 the locally designed plan will deal with the problems successfully.

3 During the review process, the Superintendent may recommend modifications in  
4 grant applications to applicants.

5 (b) The Superintendent shall submit recommendations to the State Board of  
6 Education on which applicants should receive grants and the amount they should  
7 receive.

8 **"§ 115C-238.43. Award of grants.**

9 In selecting grant recipients, the State Board of Education shall consider (i) the  
10 recommendations of the Superintendent (ii) the geographic location of the applicants  
11 and (iii) the demographic profile of the applicants. The State Board shall award grants  
12 to applicants that will serve areas that have a high incidence of juvenile crime and that  
13 propose different approaches that can serve as models for other communities.

14 The State Board shall select the grant recipients prior to July 15, 1994, for local  
15 programs that will be in operation at the beginning of the 1994-95 school year. The  
16 State Board shall select the grant recipients prior to October 1, 1994, for local programs  
17 that will be in operation after the beginning of the 1994-95 school year.

18 **"§ 115C-238.44. Requests for modifications of grants or for additional funds to**  
19 **implement grants.**

20 A grant recipient may request a modification of a grant or additional funds to  
21 implement a grant through the grant application process. The request shall be reviewed  
22 and accepted or rejected in the same manner as a grant application.

23 **"§ 115C-238.45. Administration of the grant program.**

24 The Superintendent of Public Instruction shall administer the grant program, under  
25 the direction of the State Board of Education. The Department of Public Instruction and  
26 the Department of Human Resources shall provide technical assistance to grant  
27 applicants and recipients.

28 **"§ 115C-238.46. Cooperation of State and local agencies.**

29 All agencies of the State and local government, including departments of social  
30 services, health departments, local mental health, mental retardation, and substance  
31 abuse authorities, court personnel, law enforcement agencies, The University of North  
32 Carolina, the community college system, and cities and counties, shall cooperate with  
33 the Department of Public Instruction, local boards of education, and local nonprofit  
34 corporations that receive grants in coordinating the program at the State level and in  
35 implementing the program at the local level. The Superintendent, after consultation  
36 with the Secretary of Human Resources, shall develop a plan for ensuring the  
37 cooperation of State agencies and local agencies, and encouraging the cooperation of  
38 private entities, especially those receiving State funds, in the coordination and  
39 implementation of the program.

40 **"§ 115C-238.47. Reporting requirements.**

41 The State Board of Education shall report to the General Assembly prior to June 1,  
42 1994, on grant applications received prior to June 1, 1994, and prior to January 1, 1995,  
43 on grant applications received prior to January 1, 1995.



1       The State Board of Education shall report to the Joint Legislative Education  
2 Oversight Committee prior to January 15 of each year on (i) how the funds  
3 appropriated by the General Assembly for the program are being used, (ii) additional  
4 funds required to implement the program, and (iii) any necessary modifications to the  
5 program."

6       (c) The Department of Public Instruction shall use funds within its budget for  
7 travel and for supplies and materials for the 1993-94 fiscal year to implement subsection  
8 (b) of this section of this act prior to July 1, 1994.

9       (d) Subsection (a) of this section becomes effective July 1, 1994. The remainder  
10 of this section is effective upon ratification.

### 11 12 **COMMUNITY-BASED ALTERNATIVES FUNDS**

13       Sec. 30. (a) Of the funds appropriated to the Department of Human Resources,  
14 Division of Youth Services, in this act, the sum of five million dollars (\$5,000,000) for  
15 the 1994-95 fiscal year shall be used to expand Community-Based Alternatives services.  
16 Of these funds, four million dollars (\$4,000,000) shall be allocated per capita among the  
17 counties, based on the number of children in the county between the ages of 10 and 17,  
18 and one million dollars (\$1,000,000) shall be allocated evenly among all counties.

19       To receive these funds, the county shall develop and submit to the Division of  
20 Youth Services for approval a plan for the use of these additional funds. The plan shall  
21 provide for the county to use funds appropriated in this section to purchase care or  
22 services from local, private, nonprofit 501(c)(3) corporations and housing authorities  
23 providing delinquency prevention programs or community-based services. The plan  
24 shall emphasize the provision of services for children against whom a complaint of  
25 delinquency has been made, regardless of whether the juvenile was diverted to a  
26 community resource or adjudicated delinquent.

27       As a prerequisite for receiving these additional Community-Based  
28 Alternatives funds, the county board of commissioners shall annually update the  
29 membership of the existing Community-Based Alternatives Youth Services Advisory  
30 Committee to ensure that appropriate membership is maintained.

31       The Community-Based Alternatives Youth Services Advisory Committee  
32 shall annually review the needs of troubled youth and submit a written plan of action to  
33 the county board of commissioners for approval. In those counties that have a  
34 commitment rate above one person per thousand, the plan shall describe how these  
35 funds will be used to reduce the county commitment rate. In those counties that have a  
36 commitment rate at or less than one per thousand, the plan shall specify how the funds  
37 will be used to maintain or reduce the commitment rate. The approved plan shall then  
38 be submitted to the Division of Youth Services for approval.

39       (b) As vacancies occur on Community Based Alternatives Youth Services  
40 Advisory Committees, or as new committees are appointed, the committee membership  
41 shall be reflective of the racial and socioeconomic diversity of the community.

### 42 43 **PART 14. CAPITAL IMPROVEMENT PROVISIONS**

1 Requested by: Representatives Nesbitt and Diamont

2 **RESERVE FOR ADVANCE PLANNING**

3           Sec. 31. The Office of State Budget and Management shall report to the Joint  
4 Legislative Commission on Governmental Operations and to the Fiscal Research  
5 Division on how it intends to spend funds from the Reserve for Advance Planning at  
6 least 45 days before it spends the funds.

7           The Office of State Budget and Management shall also report the results of  
8 any project on which it uses funds from the Reserve for Advance Planning to the Joint  
9 Legislative Commission on Governmental Operations and to the Fiscal Research  
10 Division.

11

12 Requested by: Representatives Nesbitt and Diamont

13 **ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUND**

14           Sec. 32. When each capital improvement project appropriated by the 1994  
15 Extra Session of the General Assembly, other than those projects under the Board of  
16 Governors of The University of North Carolina, is placed under construction contract,  
17 direct appropriations shall be encumbered to include all costs for construction, design,  
18 investigation, administration, movable equipment, and a reasonable contingency.  
19 Unencumbered direct appropriations remaining in the project budget shall be placed in a  
20 project reserve fund credited to the Office of State Budget and Management. Funds in  
21 the project reserve may be used for emergency repair and renovation projects at State  
22 facilities with the approval of the Director of the Budget. The project reserve fund may  
23 be used, at the discretion of the Director of the Budget, to allow for award of contracts  
24 where bids exceed appropriated funds, if those projects supplemented were designed  
25 within the scope intended by the applicable appropriation or any authorized change in it,  
26 and if, in the opinion of the Director of the Budget, all means to award contracts within  
27 the appropriation were reasonably attempted. At the discretion of the Director of the  
28 Budget, any balances in the project reserve fund shall revert to the original source.

29

30 Requested by: Representatives Nesbitt and Diamont

31 **PROJECT COST INCREASE**

32           Sec. 33. Upon the request of the administration of a State department or  
33 institution, the Director of the Budget may, when in the Director's opinion it is in the  
34 best interest of the State to do so, increase the cost of a capital improvement project.  
35 Provided, however, that if the Director of the Budget increases the cost of a project, the  
36 Director shall report that action to the Joint Legislative Commission on Governmental  
37 Operations at its next meeting. The increase may be funded from gifts, federal or  
38 private grants, special fund receipts, excess patient receipts above those budgeted at  
39 University of North Carolina Hospitals at Chapel Hill, or direct capital improvement  
40 appropriations to that department or institution.

41

42 Requested by: Representatives Nesbitt and Diamont

43 **NEW PROJECT AUTHORIZATION**

1           Sec. 34. Upon the request of the administration of any State department or  
2 institution, the Director of the Budget may authorize the construction of a capital  
3 improvement project not specifically authorized by the General Assembly if this project  
4 is to be funded by gifts, federal or private grants, special fund receipts, excess patient  
5 receipts above those budgeted at University of North Carolina Hospitals at Chapel Hill,  
6 or self-liquidating indebtedness. If the Director of the Budget authorizes the  
7 construction of such a capital improvement project, the Director shall report that action  
8 to the Joint Legislative Commission on Governmental Operations at its next meeting.

9  
10 Requested by: Representatives Nesbitt and Diamont

#### 11 **ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS**

12           Sec. 35. Funds that become available by gifts, excess patient receipts above  
13 those budgeted at University of North Carolina Hospitals at Chapel Hill, federal or  
14 private grants, receipts becoming a part of special funds by act of the General  
15 Assembly, or any other funds available to a State department or institution may be  
16 utilized for advance planning through the working-drawing phase of capital  
17 improvement projects, upon approval of the Director of the Budget. The Director of the  
18 Budget may make allocations from the Advance Planning Fund for advance planning  
19 through the working-drawing phase of capital improvement projects, except that this  
20 revolving fund may not be utilized by the Board of Governors of The University of  
21 North Carolina or the State Board of Community Colleges.

22  
23 Requested by: Representatives Nesbitt and Diamont

#### 24 **APPROPRIATIONS LIMITS/REVERSION OR LAPSE**

25           Sec. 36. Except as permitted in previous sections of this act, the  
26 appropriations for capital improvements made by the 1994 Extra Session of the 1993  
27 General Assembly may be expended only for specific projects set out by the 1994 Extra  
28 Session of 1993 the General Assembly and for no other purpose. Construction of all  
29 capital improvement projects enumerated by the 1994 Extra Session of the 1993  
30 General Assembly shall be commenced, or self-liquidating indebtedness with respect to  
31 them shall be incurred no later than the end of the 1993-95 biennium. If construction  
32 contracts on those projects have not been awarded or self-liquidating indebtedness has  
33 not been incurred within that period, the direct appropriation for those projects shall  
34 revert to the original source, and the self-liquidating appropriation shall lapse; except  
35 that direct appropriations may be placed in a reserve fund as authorized in this act. This  
36 deadline with respect to both direct and self-liquidating appropriations may be extended  
37 with the approval of the Director of the Budget up to an additional 12 months if  
38 circumstances and conditions warrant such extension.

39  
40 Requested by: Representatives Nesbitt and Diamont

#### 41 **CONSTRUCTION FUND LIMITATIONS**

42           Sec. 37. (a) With respect to funds appropriated in this act for construction of  
43 additional prison beds at Piedmont, Lumberton, Pender, Wayne, and Brown Creek, the

1 Director of the Budget may increase or decrease the amount allocated to a particular  
2 institution within the aggregate amount of construction funds available.

3 (b) With respect to funds appropriated to the Department of Administration for  
4 capital improvements and to the Department of Human Resources for construction of a  
5 detention center, the Office of State Construction of the Department of Administration  
6 may contract for and supervise all aspects of administration, technical assistance,  
7 design, construction, or demolition of facilities in order to implement the providing of  
8 facilities under the provisions of this act.

9 The facilities authorized under this act shall be constructed in accordance  
10 with the provisions of general law applicable to the construction of State facilities. If  
11 the Secretary of Administration, after consultation with the Secretary of Correction, or  
12 with the Secretary of Human Resources, as applicable, finds that the delivery of  
13 facilities must be expedited for good cause, the Office of State Construction of the  
14 Department of Administration shall be exempt from the following statutes and rules  
15 implementing those statutes, to the extent necessary to expedite delivery: G.S. 143-  
16 135.26, 143-128, 143-129, 143-131, 143-132, 143-134, 113A-1 through 113A-10,  
17 113A-50 through 113A-66, 133-1.1(g), and 143-408.1 through 143-408.7.

18 Prior to exercising the exemptions allowable under this section, the Secretary  
19 of Administration shall give reasonable notice in writing of the Department's intent to  
20 exercise the exemptions to the Speaker of the House of Representatives, the President  
21 Pro Tempore of the Senate, the Chairs of the House and Senate Appropriations  
22 Committees, the Chairs of the House and Senate Appropriations Subcommittees on  
23 Justice and Public Safety, and the Fiscal Research Division. The written notice shall  
24 contain at least the following information: (i) the specific statutory requirement or  
25 requirements from which the Department intends to exempt itself; (ii) the reason the  
26 exemption is necessary to expedite delivery of facilities; (iii) the way in which the  
27 Department anticipates the exemption will expedite the delivery of facilities; and (iv) a  
28 brief summary of the proposed contract for the project that is to be exempted.

29 The Office of State Construction of the Department of Administration shall  
30 have a verifiable ten percent (10%) goal for participation by minority- and women-  
31 owned businesses. All contracts for the design, construction, or demolition of facilities  
32 shall include a penalty for failure to complete the work by a specified date.

33 The Office of State Construction of the Department of Administration shall  
34 involve the Department of Correction or the Department of Human Resources, as  
35 applicable, in all aspects of the projects to the extent that such involvement relates to the  
36 appropriate Department's program needs and to its responsibility for the care of the  
37 prison or juvenile population.

38 (c) The Office of State Construction of the Department of Administration shall  
39 provide quarterly reports to the Chairs of the Appropriations Committee and the Base  
40 Budget Committee in the Senate, the Chairs of the Appropriations Committee in the  
41 House of Representatives, the Joint Legislative Commission on Governmental  
42 Operations, and the Fiscal Research Division as to any changes in projects and  
43 allocations made under this act. The report shall include any changes in the projects and  
44 allocations made pursuant to this act, information on which contractors have been

1 selected, what contracts have been entered into, the projected and actual occupancy  
2 dates of facilities contracted for, the number of beds to be constructed on each project,  
3 the location of each project, and the projected and actual cost of each project.

4 The Department of Insurance and the Department of Correction shall report  
5 quarterly to the Joint Legislative Commission on Governmental Operations on their  
6 involvement in the construction program.

7  
8 **PART 15. MISCELLANEOUS PROVISIONS**

9  
10 Requested by: Representatives Nesbitt and Diamont

11 **EFFECT OF HEADINGS**

12 Sec. 38. The headings to the Parts and sections of this act are a convenience  
13 to the reader and are for reference only. The headings do not expand, limit, or define  
14 the text of this act.

15  
16 Requested by: Representatives Nesbitt and Diamont

17 **EXECUTIVE BUDGET ACT REFERENCE**

18 Sec. 39. The provisions of the Executive Budget Act, Chapter 143, Article 1  
19 of the General Statutes, are reenacted and shall remain in full force and effect and are  
20 incorporated in this act by reference.

21  
22 Requested by: Representatives Nesbitt and Diamont

23 **MOST TEXT APPLIES ONLY TO 1993-95 BIENNIUM**

24 Sec. 40. Except for statutory changes or other provisions that clearly indicate  
25 an intention to have effects beyond the 1993-95 biennium, the textual provisions of this  
26 act shall apply only to funds appropriated for and activities occurring during the 1993-  
27 95 biennium.

28  
29 Requested by: Representatives Nesbitt and Diamont

30 **SEVERABILITY CLAUSE**

31 Sec. 41. If any section or provision of this act is declared unconstitutional or  
32 invalid by the courts, it does not affect the validity of the act as a whole or any part  
33 other than the part so declared to be unconstitutional or invalid.

34  
35 Requested by: Representatives Nesbitt and Diamont

36 **1993-94 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY**

37 Sec. 42. Except where expressly repealed or amended by this act, the  
38 provisions of Chapters 321 and 561 of the 1993 Session Laws remain in effect. Section  
39 9 of Chapter 321 of the 1993 Session Laws does not apply to this act.

40  
41 **PART 16. BRUTAL RAPE SENTENCES (3)**

42  
43 Sec. 116.1. G.S. 14-27.2(b) reads as rewritten:

1       "(b) Any person who commits an offense defined in this section is guilty of a  
2 Class ~~B-B1~~ felony."

3               Sec. 116.2. G.S. 14-27.4(b) reads as rewritten:

4       "(b) Any person who commits an offense defined in this section is guilty of a  
5 Class ~~B-B1~~ felony."

6               Sec. 116.3. G.S. 14-17, as amended by Section 1127 of Chapter 539 of the  
7 1993 Session Laws, reads as rewritten:

8 **"§ 14-17. Murder in the first and second degree defined; punishment.**

9       A murder which shall be perpetrated by means of poison, lying in wait,  
10 imprisonment, starving, torture, or by any other kind of willful, deliberate, and  
11 premeditated killing, or which shall be committed in the perpetration or attempted  
12 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other  
13 felony committed or attempted with the use of a deadly weapon shall be deemed to be  
14 murder in the first degree, a Class A felony, and any person who commits such murder  
15 shall be punished with death or imprisonment in the State's prison for life as the court  
16 shall determine pursuant to G.S. 15A-2000, except that any such person who was under  
17 17 years of age at the time of the murder shall be punished with imprisonment in the  
18 State's prison for life. Provided, however, any person under the age of 17 who commits  
19 murder in the first degree while serving a prison sentence imposed for a prior murder or  
20 while on escape from a prison sentence imposed for a prior murder shall be punished  
21 with death or imprisonment in the State's prison for life as the court shall determine  
22 pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be  
23 proximately caused by the unlawful distribution of opium or any synthetic or natural  
24 salt, compound, derivative, or preparation of opium, or cocaine or other substance  
25 described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of  
26 the user, shall be deemed murder in the second degree, and any person who commits  
27 such murder shall be punished as a Class ~~B-B2~~ felon."

28               Sec. 116.4. G.S. 14-20, as amended by Section 1129 of Chapter 539 of the  
29 1993 Session Laws, read as rewritten:

30 **"§ 14-20. Killing adversary in duel; aiders and abettors declared accessories.**

31       If any person fight a duel in consequence of a challenge sent or received, and either  
32 of the parties shall be killed, then the survivor, on conviction thereof, shall be punished  
33 as a Class ~~B-B2~~ felon. All their aiders and abettors shall be considered accessories  
34 before the fact.

35       Any person charged with killing an adversary in a duel may enter a plea of guilty to  
36 said charge in the same way and manner and under the conditions and restrictions set  
37 forth in G.S. 15-162.1 relating to pleas of guilty for first degree murder, first degree  
38 burglary, arson and rape."

39               Sec. 116.5. G.S. 14-5.2 reads as rewritten:

40 **"§ 14-5.2. Accessory before fact punishable as principal felon.**

41       All distinctions between accessories before the fact and principals to the commission  
42 of a felony are abolished. Every person who heretofore would have been guilty as an  
43 accessory before the fact to any felony shall be guilty and punishable as a principal to  
44 that felony. However, if a person who heretofore would have been guilty and punishable

1 as an accessory before the fact is convicted of a capital felony, and the jury finds that his  
2 conviction was based solely on the uncorroborated testimony of one or more principals,  
3 coconspirators, or accessories to the crime, he shall be guilty of a Class ~~B~~B2 felony."

4 Sec. 116.6. G.S. 15A-1371(a1), as amended by Section 22 of Chapter 538 of  
5 the 1993 Session Laws, reads as rewritten:

6 "(a1) A prisoner serving a term of life imprisonment for a Class A felony is eligible  
7 for parole after serving 25 years. A prisoner serving a term of life imprisonment for  
8 first degree rape or first degree sexual offense shall be imprisoned for the remainder of  
9 the prisoner's natural life. This subsection applies to offenses committed on and after  
10 January 1, 1995."

11 Sec. 116.7. G.S. 15A-1340.17, as enacted by Section 1 of Chapter 538 of the  
12 1993 Session Laws and as amended by Sections 20 and 21 of Chapter 14 of the Session  
13 Laws of the 1994 Extra Session, reads as rewritten:

14 "**§ 15A-1340.17. Punishment limits for each class of offense and prior record level.**

15 (a) Offense Classification; Default Classifications. – The offense classification is  
16 as specified in the offense for which the sentence is being imposed. If the offense is a  
17 felony for which there is no classification, it is a Class I felony.

18 (b) Fines. – Any judgment that includes a sentence of imprisonment may also  
19 include a fine. If a community punishment is authorized, the judgment may consist of a  
20 fine only. Additionally, when the defendant is other than an individual, the judgment  
21 may consist of a fine only. Unless otherwise provided, the amount of the fine is in the  
22 discretion of the court.

23 (c) Punishments for Each Class of Offense and Prior Record Level; Punishment  
24 Chart Described. – The authorized punishment for each class of offense and prior record  
25 level is as specified in the chart below. Prior record levels are indicated by the Roman  
26 numerals placed horizontally on the top of the chart. Classes of offense are indicated by  
27 the letters placed vertically on the left side of the chart. Each cell on the chart contains  
28 the following components:

29 (1) A sentence disposition or dispositions: 'C' indicates that a community  
30 punishment is authorized; 'I' indicates that an intermediate punishment  
31 is authorized; ~~and 'A' indicates that an active punishment is authorized.~~  
32 authorized; and 'Life Imprisonment Without Parole' indicates that the  
33 defendant shall be imprisoned for the remainder of the prisoner's  
34 natural life.

35 (2) A presumptive range of minimum durations, if the sentence of  
36 imprisonment is neither aggravated or mitigated; any minimum term of  
37 imprisonment in that range is permitted unless the court finds pursuant  
38 to G.S. 15A-1340.16 that an aggravated or mitigated sentence is  
39 appropriate. The presumptive range is the middle of the three ranges  
40 in the cell.

41 (3) A mitigated range of minimum durations if the court finds pursuant to  
42 G.S. 15A-1340.16 that a mitigated sentence of imprisonment is  
43 justified; in such a case, any minimum term of imprisonment in the

mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

**PRIOR RECORD LEVEL**

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts		9-14 Pts	15-18 Pts	19+ Pts

**A Life Imprisonment or Death as Established by Statute**

	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>
	<u>240-300</u>	<u>288-360</u>		<u>336-420</u>	<u>384-480</u>		<u>Life Imprisonment</u> <u>Aggravated</u>
							<u>Without Parole</u>
<b>B1</b>	<u>192-240</u>	<u>230-288</u>	<u>269-336</u>	<u>307-384</u>	<u>346-433</u>	<u>384-480</u>	<u>PRESUMPTIVE</u>
	<u>144-192</u>	<u>173-230</u>	<u>202-269</u>	<u>230-307</u>	<u>260-346</u>	<u>288-384</u>	
		<u>Mitigated</u>					

	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>
	<u>135-169</u>	<u>163-204</u>		<u>190-238</u>	<u>216-270</u>	<u>243-304</u>	<u>270-338</u>
							<u>Aggravated</u>
<b>BB2</b>	<u>108-135</u>	<u>130-163</u>	<u>152-190</u>	<u>173-216</u>	<u>194-243</u>	<u>216-270</u>	<u>PRESUMPTIVE</u>
	<u>81-108</u>	<u>98-130</u>	<u>114-152</u>	<u>130-173</u>	<u>146-194</u>	<u>162-216</u>	
		<u>Mitigated</u>					

	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>
	<u>63-79</u>	<u>86-108</u>	<u>100-125</u>	<u>115-144</u>	<u>130-162</u>	<u>145-181</u>	<u>Aggravated</u>
<b>C</b>	<u>50-63</u>	<u>69-86</u>	<u>80-100</u>	<u>92-115</u>	<u>104-130</u>	<u>116-145</u>	<u>PRESUMPTIVE</u>
	<u>38-50</u>	<u>52-69</u>	<u>60-80</u>	<u>69-92</u>	<u>78-104</u>	<u>87-116</u>	<u>Mitigated</u>

	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>
	<u>55-69</u>	<u>66-82</u>	<u>89-111</u>	<u>101-126</u>	<u>115-144</u>	<u>126-158</u>	<u>Aggravated</u>
<b>D</b>	<u>44-55</u>	<u>53-66</u>	<u>71-89</u>	<u>81-101</u>	<u>92-115</u>	<u>101-126</u>	<u>PRESUMPTIVE</u>
	<u>33-44</u>	<u>40-53</u>	<u>53-71</u>	<u>61-81</u>	<u>69-92</u>	<u>76-101</u>	<u>Mitigated</u>

	<u>I/A</u>	<u>I/AA</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>DISPOSITION</u>	
	<u>25-31</u>	<u>29-36</u>	<u>34-42</u>	<u>46-58</u>	<u>53-66</u>	<u>59-74</u>	<u>Aggravated</u>
<b>E</b>	<u>20-25</u>	<u>23-29</u>	<u>27-34</u>	<u>37-46</u>	<u>42-53</u>	<u>47-59</u>	<u>PRESUMPTIVE</u>
	<u>15-20</u>	<u>17-23</u>	<u>20-27</u>	<u>28-37</u>	<u>32-42</u>	<u>35-47</u>	<u>Mitigated</u>



1  
2

	I/A	I/AI/A	A	A	A	DISPOSITION
3	16-20	19-24	21-26	25-31	34-42	39-49 Aggravated
4	F 13-16	15-19	17-21	20-25	27-34	31-39 PRESUMPTIVE
5	10-13	11-15	13-17	15-20	20-27	23-31 Mitigated

6  
7

	I/A	I/AI/A	I/A	A	A	DISPOSITION
8	13-16	15-19	16-20	20-25	21-26	29-36 Aggravated
9	G 10-13	12-15	13-16	16-20	17-21	23-29 PRESUMPTIVE
10	8-10	9-12	10-13	12-16	13-17	17-23 Mitigated

11  
12

	C/I	I	I/A	I/A	I/A	A	DISPOSITION
13	6-8	8-10	10-12	11-14	15-19	20-25 Aggravated	
14	H 5-6	6-8	8-10	9-11	12-15	16-20 PRESUMPTIVE	
15	4-5	4-6	6-8	7-9	9-12	12-16 Mitigated	

16  
17

	C	C/II	I/A	I/A	I/A	DISPOSITION
18	6-8	6-8	6-8	8-10	9-11	10-12 Aggravated
19	I 4-6	4-6	5-6	6-8	7-9	8-10 PRESUMPTIVE
20	3-4	3-4	4-5	4-6	5-7	6-8 Mitigated

21 (d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless  
22 provided otherwise in a statute establishing a punishment for a specific crime, for each  
23 minimum term of imprisonment in the chart in subsection (c) of this section, expressed  
24 in months, the corresponding maximum term of imprisonment, also expressed in  
25 months, is as specified in the table below for Class F through Class I felonies. The first  
26 figure in each cell in the table is the minimum term and the second is the maximum  
27 term.

28

29	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
30	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
31	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
32	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
33	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
34	43-52	44-53	45-54	46-56	47-57	48-58	49-59	

35  
36 (e) Maximum Sentences Specified for Class ~~B~~B1 through Class E  
37 ~~Felonies~~Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise  
38 in a statute establishing a punishment for a specific crime, for each minimum term of  
39 imprisonment in the chart in subsection (c) of this section, expressed in months, the  
40 corresponding maximum term of imprisonment, also expressed in months, is as  
41 specified in the table below for Class ~~B~~B1 through Class E felonies. The first figure in  
42 each cell of the table is the minimum term and the second is the maximum term.

43  
44

15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
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1	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
2	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
3	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
4	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
5	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
6	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
7	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
8	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
9	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
10	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
11	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
12	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
13	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
14	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
15	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
16	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
17	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
18	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
19	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
20	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
21	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
22	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
23	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
24	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
25	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
26	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
27	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
28	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
29	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
30	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
31	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
32	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
33	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
34	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
35	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
36	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
37	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
38	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
39	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
40	335-411	336-413	337-414	338-415	339-416			

41

42 (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for  
43 Minimum Terms of 340 Months or More. – Unless provided otherwise in a statute  
44 establishing a punishment for a specific crime, when the minimum sentence is 340

1 months or more, the corresponding maximum term of imprisonment shall be equal to  
2 the sum of the minimum term of imprisonment and twenty percent (20%) of the  
3 minimum term of imprisonment, rounded to the next highest month, plus nine additional  
4 months."

5 Sec. 116.8. G.S. 15A-1368.1, as enacted by Section 20.1 of Chapter 538 of  
6 the 1993 Session Laws and as amended by Section 26 of Chapter 14 of the Session  
7 Laws of the 1994 Extra Session, reads as rewritten:

8 **"§ 15A-1368.1. Applicability of Article 84A.**

9 This Article applies to all felons in Class ~~B~~B1 through Class E sentenced to an  
10 active punishment under Article 81B of this ~~Chapter~~Chapter, but does not apply to  
11 felons in Class B1 sentenced to life imprisonment without parole. Prisoners subject to  
12 Articles 85 and 85A of this Chapter are excluded from this Article's coverage."

13 Sec. 116.9. G.S. 15A-1340.13(h), as enacted by Section 1 of Chapter 538 of  
14 the 1993 Session Laws and as amended by Section 19 of Chapter 14 of the Session  
15 Laws of the 1994 Extra Session, reads as rewritten:

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

- 18 (1) The offense is a Class A or Class B1 felony;
- 19 (2) The offense is a drug trafficking offense under G.S. 90-95(h); or
- 20 (3) The defendant has five or more points as determined by G.S. 15A-  
21 1340.14."

22 Sec. 116.10. G.S. 15A-1340.14(b), as enacted by Section 1 of Chapter 538 of  
23 the 1993 Session Laws, reads as rewritten:

24 "(b) Points. – Points are assigned as follows:

- 25 (1) For each prior felony Class A conviction, 10 points.
- 26 (1a) For each prior felony Class B1 conviction, 9 points.
- 27 (2) For each prior felony Class ~~B~~B2, C, or D conviction, 6 points.
- 28 (3) For each prior felony Class E, F, or G conviction, 4 points.
- 29 (4) For each prior felony Class H or I conviction, 2 points.
- 30 (5) For each prior Class 1 misdemeanor conviction, 1 point~~point~~, except  
31 that convictions for Class 1 misdemeanor offenses under Chapter 20 of  
32 the General Statutes, other than conviction for misdemeanor death by  
33 vehicle (G.S. 20-141.4(a2)), shall not be assigned any points for  
34 purposes of determining a person's prior record for felony sentencing.
- 35 (6) If all the elements of the present offense are included in the prior  
36 offense, 1 point.
- 37 (7) If the offense was committed while the offender was on probation or  
38 parole, or while the offender was serving a sentence of imprisonment,  
39 or while the offender was on escape from a correctional institution  
40 while serving a sentence of imprisonment, 1 point."

41 Sec. 116.11. G.S. 15A-1372(a), as amended by Section 23 of Chapter 538 of  
42 the 1993 Session Laws, reads as rewritten:

43 "(a) Term of Parole. – The term of parole for any person released from  
44 imprisonment may be no greater than:

- 1 (1) One year for a conviction for impaired driving under G.S. 20-138.1; or  
2 (2) Three years for a sentence of life ~~imprisonment~~ imprisonment for  
3 which parole is allowed."

4 Sec. 116.12. G.S. 143B-266(a), as amended by Section 42 of Chapter 538 of  
5 the 1993 Session Laws, reads as rewritten:

6 "(a) There is hereby created a Post-Release Supervision and Parole Commission  
7 of the Department of Correction with the authority to grant paroles, including both  
8 regular and temporary paroles, to persons held by virtue of any final order or judgment  
9 of any court of this State as provided in Chapter 148 of the General Statutes and laws of  
10 the State of North Carolina, except that for persons sentenced under Article 81B of  
11 Chapter 15A of the General Statutes, only those sentenced to life imprisonment for first  
12 degree murder are eligible for parole. The Commission shall also have authority to  
13 revoke, terminate, and suspend paroles of such persons (including persons placed on  
14 parole on or before the effective date of the Executive Organization Act of 1973) and to  
15 assist the Governor in exercising his authority in granting reprieves, commutations, and  
16 pardons, and shall perform such other services as may be required by the Governor in  
17 exercising his powers of executive clemency. The Commission shall also have  
18 authority to revoke and terminate persons on post-release supervision, as provided in  
19 Article 84A of Chapter 15A of the General Statutes."

20 Sec. 116.13. G.S. 14-2.5, as enacted by Section 6 of Chapter 538 of the 1993  
21 Session Laws, reads as rewritten:

22 "**§ 14-2.5. Punishment for attempt to commit a felony or misdemeanor.**

23 Unless a different classification is expressly stated, an attempt to commit a  
24 misdemeanor or a felony is punishable under the next lower classification as the offense  
25 which the offender attempted to commit. An attempt to commit a Class A or Class B1  
26 felony is a Class B2 felony, an attempt to commit a Class B2 felony is a Class C felony,  
27 an attempt to commit a Class I felony is a Class 1 misdemeanor, and an attempt to  
28 commit a Class 3 misdemeanor is a Class 3 misdemeanor."

29 Sec. 116.14. G.S. 14-2.4(a), as amended by Section 5 of Chapter 538 of the  
30 1993 Session Laws, reads as rewritten:

31 "(a) Unless a different classification is expressly stated, a person who is convicted  
32 of a conspiracy to commit a felony is guilty of a felony that is one class lower than the  
33 felony he or she conspired to commit, except that a conspiracy to commit a Class A or  
34 Class B1 felony is a Class B2 felony, a conspiracy to commit a Class B2 felony is a  
35 Class C felony, and a conspiracy to commit a Class I felony is a Class 1 misdemeanor."

36 Sec. 116.15. G.S. 14-2.6(a), as enacted by Section 6.1 of Chapter 538 of the  
37 1993 Session Laws, reads as rewritten:

38 "(a) Unless a different classification is expressly stated, a person who solicits  
39 another person to commit a felony is guilty of a felony that is two classes lower than the  
40 felony the person solicited the other person to commit, except that a solicitation to  
41 commit a Class A or Class B1 felony is a Class C felony, a solicitation to commit a  
42 Class B2 felony is a Class D felony, a solicitation to commit a Class H felony is a Class  
43 1 misdemeanor, and a solicitation to commit a Class I felony is a Class 2 misdemeanor."

1           Sec. 116.16. This Part becomes effective on the same date that Chapter 538  
2 of the 1993 Session Laws becomes effective except that Sections 116.6, 116.11, and  
3 116.12 of this act shall not become effective if Senate Bill 2 of the 1994 Extra Session is  
4 ratified. This Part applies to offenses occurring on or after the effective date of this  
5 Part. Prosecutions for offenses committed before the effective date of this Part are not  
6 abated or affected by this Part, and the statutes that would be applicable but for this Part  
7 remain applicable to those prosecutions.

## 9 **PART 17. MODIFY HABITUAL FELON LAW (6)**

11           Sec. 117.1. G.S. 14-7.6 reads as rewritten:

### 12 **"§ 14-7.6. Sentencing of habitual felons.**

13           When an habitual felon as defined in this Article ~~shall commit~~ commits any felony  
14 under the laws of the State of North Carolina, ~~he the felon~~ must, upon conviction or plea  
15 of guilty under indictment as ~~herein provided~~ provided in this Article (except where the  
16 death penalty or a sentence of life imprisonment is imposed) be sentenced as a Class C  
17 felon. In determining the prior record level, convictions used to establish a person's  
18 status as an habitual felon shall not be used. Notwithstanding any other provision of  
19 law, a person sentenced under this Article shall serve a term of not less than seven years  
20 in prison, excluding gain time granted under G.S. 148-13. A person sentenced under  
21 this Article shall receive a sentence of at least 14 years in the State's prison and shall be  
22 entitled to credit for good behavior under G.S. 15A-1340.7. The sentencing judge may  
23 not suspend the sentence and may not place the person sentenced on probation.  
24 Sentences imposed under this Article shall run consecutively with and shall commence  
25 at the expiration of any sentence being served by the person sentenced ~~hereunder.~~ under  
26 this section."

27           Sec. 117.2. Section 9 of Chapter 538 of the 1993 Session Laws is repealed.

28           Sec. 117.3. This Part becomes effective on the same date that Chapter 538 of  
29 the 1993 Session Laws becomes effective, and applies to offenses committed on or after  
30 that date. Prosecutions for, or sentences based on, offenses committed before the  
31 effective date of this Part are not abated or affected by this Part, and the statutes that  
32 would be applicable to those prosecutions or sentences but for the provisions of this Part  
33 remain applicable to those prosecutions or sentences.

## 35 **PART 18. AMEND FELONY FIREARMS ACT (8)**

37           Sec. 118.1. G.S. 14-415.1 reads as rewritten:

### 38 **"§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

39           (a) ~~(Effective until January 1, 1995)~~ Except as provided in subsection (a1), and  
40 notwithstanding any restoration of citizenship, it shall be is unlawful for any person  
41 who has been convicted of any crime set out in subsection (b) of this section, to  
42 purchase, own, possess, or have in ~~his~~ the person's custody, care, or control any  
43 ~~handgun or other~~ firearm with a barrel length of less than 18 inches or an overall length  
44 of less than 26 inches, or any weapon of mass death and destruction as defined in G.S.

1 ~~14-288.8(c), within five years from the date of such conviction, or the unconditional~~  
2 ~~discharge from a correctional institution, or termination of a suspended sentence,~~  
3 ~~probation, or parole upon such conviction, whichever is later. G.S. 14-288.8(c).~~

4 Every person violating the provisions of this section shall be ~~punished as is~~ a Class F  
5 H felon.

6 ~~Nothing in this subsection would prohibit the right of any person to have possession~~  
7 ~~of a firearm within his own home or on his lawful place of business.~~

8 Any firearm or weapon of mass death and destruction lawfully seized for a violation  
9 of this section shall be forfeited to the State and disposed of as provided in G.S. 14-  
10 269.1.

11 (a1) After a period of 10 years from the date of conviction, unconditional  
12 discharge from a correctional institution, or termination of parole, probation, or  
13 suspension of sentence, whichever is later, a person subject to the provisions of  
14 subsection (a) may petition the superior court in the jurisdiction in which the person  
15 resides for a permit to purchase, own, possess, or control a firearm, other than a weapon  
16 of mass death and destruction. The court may, for good cause shown and upon a  
17 finding that public safety would not be jeopardized, grant the petition and issue a  
18 permit. If the court grants the petition, it shall decide the places and circumstances  
19 under which the person may purchase, own, possess, or control the firearm, and the  
20 permit shall specify those places and circumstances. However, under no circumstances  
21 shall the court issue a permit to purchase, own, possess or control a handgun to a person  
22 who has previously been convicted of a Class A, B, C, D or E felony.

23 (b) Prior convictions which cause disenfranchisement under this section shall ~~only~~  
24 ~~include:~~ include only:

- 25 (1) ~~Felonious violations of Articles 3, 4, 6, 7A, 8, 10, 13, 14, 15, 17, 30,~~  
26 ~~33, 36, 36A, 52A, or 53 of Chapter 14 of the General Statutes, or of~~  
27 ~~Article 5 of Chapter 90 of the General Statutes; Felonies; and~~
- 28 (2) ~~Common law robbery and common law maim; and~~
- 29 (3) Violations of criminal laws of other states or of the United States  
30 substantially similar to the crimes covered in ~~subdivisions (1) and (2)~~  
31 subdivision (1) which are punishable where committed by  
32 imprisonment for a term exceeding two years.

33 When a person is charged under this section, records of prior convictions of any offense,  
34 whether in the courts of this State, or in the courts of any other state or of the United  
35 States, shall be admissible in evidence for the purpose of proving a violation of this  
36 section. The term 'conviction' is defined as a final judgment in any case in which felony  
37 punishment, or imprisonment for a term exceeding two years, as the case may be, is  
38 permissible, without regard to the plea entered or to the sentence imposed. A judgment  
39 of a conviction or a plea of guilty to such an offense certified to a superior court of this  
40 State from the custodian of records of any state or federal court under the same name as  
41 that by which the defendant is charged shall be **prima facie** evidence that the identity of  
42 such person is the same as the defendant so charged and shall be **prima facie** evidence  
43 of the facts so certified.

1 (c) The indictment charging the defendant under the terms of this section shall be  
2 separate from any indictment charging him with other offenses related to or giving rise  
3 to a charge under this section. An indictment which charges the person with violation  
4 of this section must set forth the date that the prior offense was committed, the type of  
5 offense and the penalty therefor, and the date that the defendant was convicted or plead  
6 guilty to such offense, the identity of the court in which the conviction or plea of guilty  
7 took place and the verdict and judgment rendered therein.

8 (d) The provisions of this section shall not apply to a conviction of a crime  
9 covered in subdivision (1) of subsection (b) of this section after the person has received  
10 a pardon for that conviction from the Governor, unless the purchase, ownership,  
11 possession, custody, care, or control of a firearm would violate a condition of the  
12 pardon. The provisions of this section shall not apply to a conviction of a crime under  
13 the laws of the United States covered in subdivision (3) of subsection (b) of this section  
14 after the person has received a pardon for that conviction from the President of the  
15 United States, unless the purchase, ownership, possession, custody, care, or control of a  
16 firearm would violate a condition of the pardon.

17 (e) Any person certified as of May 1, 1994, as a criminal justice officer under  
18 Chapter 17C of the General Statutes or any person issued a firearm registration permit  
19 on or before May 1, 1994, by the Private Protection Services Board under Chapter 74C  
20 of the General Statutes is exempt from this section."

21 Sec. 118.2. Section 1245 of Chapter 539 of the 1993 Session Laws is  
22 repealed.

23 Sec. 118.3. Section 118.2 of this act is effective upon ratification. The  
24 remainder of this Part becomes effective May 1, 1994, and applies to offenses  
25 committed on or after that date.

## 27 PART 19. INCREASE FIREARM PENALTY (9)

29 Sec. 119.1. G.S. 14-2.2 reads as rewritten:

### 30 "~~§ 14-2.2. Sentencing of person convicted of repeated felony using deadly weapon.~~

31 ~~Notwithstanding any other provision of law, any person who has been previously~~  
32 ~~convicted in the courts of this State within seven years of a felony in which a deadly~~  
33 ~~weapon was used, provided that the previous felony did not occur within 10 days of the~~  
34 ~~second or subsequent felony, in which a deadly weapon was used, shall serve a term for~~  
35 ~~the second or subsequent felony of not less than seven years in prison, excluding gain~~  
36 ~~time granted under G.S. 148-13. Any person sentenced under this section shall receive a~~  
37 ~~sentence of at least 14 years in the State's prison and shall be entitled to credit for good~~  
38 ~~behavior under G.S. 15A-1340.7. The sentencing judge may not sentence a person~~  
39 ~~sentenced under this section as a committed youthful offender and may not suspend the~~  
40 ~~sentence and place the person sentenced on probation. Sentences imposed pursuant to~~  
41 ~~this section shall run consecutively with and shall commence at the expiration of any~~  
42 ~~sentence being served by the person sentenced hereunder.~~

43 ~~For the purpose of this section, the record or records of the prior felony conviction~~  
44 ~~shall be admissible in evidence after conviction and before sentencing, but only for the~~

1 purpose of proving that the person has been convicted of a previous felony. A judgment  
2 of a conviction or plea of guilty or no contest to such felony offense certified to a  
3 superior court in this State from the custodian of records of any other court of this State  
4 under the same name as that by which the defendant is charged shall be **prima facie**  
5 evidence that the identity of such person is the same as the defendant so charged and  
6 shall be **prima facie** evidence of the facts so certified.

7 For the purposes of this section, a felony committed before a person attains the age  
8 of 18 years does not constitute a previous felony conviction.

9 Pleas of guilty or no contest to or convictions of felony offenses prior to September  
10 1, 1977, are not felony offenses within the meaning of this section. Any felony offense  
11 to which a pardon has been extended does not for the purpose of this section constitute a  
12 felony. The burden of proving a pardon rests with the defendant and the State is not  
13 required to disprove a pardon.

14 **Sentencing of a person convicted of a Class A, B, C, D, or E felony who used,**  
15 **displayed, or threatened to use or display a firearm during the commission of the**  
16 **crime; confiscation and disposition of a firearm used in a felony.**

17 (a) If a person is convicted of a Class A, B, C, D, or E felony and the person  
18 used, displayed, or threatened to use or display a firearm during the commission of the  
19 felony, the person shall, in addition to the punishment for the underlying felony, be  
20 sentenced to imprisonment for five years.

21 The court shall not sentence a person sentenced under this section as a committed  
22 youthful offender. The court shall not suspend any sentence imposed under this section  
23 and shall not place a person sentenced under this section on probation for the sentence  
24 imposed under this section. Sentences imposed pursuant to this section shall be  
25 consecutive to all other sentences imposed and shall begin at the expiration of any other  
26 sentence being served by the person.

27 (b) Subsection (a) of this section does not apply in any of the following  
28 circumstances:

29 (1) The person is not sentenced to an active term of imprisonment.

30 (2) The evidence of the use, display, or threatened use or display of a  
31 firearm is needed to prove an element of the underlying Class A, B, C,  
32 D, or E felony.

33 (3) The person did not actually possess a firearm about his or her person.

34 (c) When a person is found to have personally used a firearm in the commission  
35 or attempted commission of a felony and the firearm is owned by that person, or the  
36 serial number on the firearm has been defaced such that ownership is not traceable, the  
37 court shall order that the firearm be confiscated and disposed of in any of the ways  
38 provided by G.S. 14-269.1 that the court in its discretion deems appropriate.

39 (d) Subsection (a) of this section does not apply to the following felonies:

40 (1) G.S. 14-49(b). Malicious use of explosive or incendiary.

41 (2) G.S. 14-59. Burning of certain public buildings.

42 (3) G.S. 14-60. Burning of schoolhouses or buildings of educational  
43 institutions.

44 (4) G.S. 14-61. Burning of certain bridges and buildings.



- 1           (5) G.S. 14-62. Burning of churches and certain other buildings.  
2           (6) G.S. 14-62.1. Burning of building or structure in process of  
3           construction.  
4           (7) G.S. 53-129. Misapplication of bank funds by officer or employee."

5           Sec. 119.2. (a) G.S. 14-2.2(a), as amended by Section 119.1 of this act, reads  
6 as rewritten:

7           "(a) If a person is convicted of a Class A, B, C, D, or E felony and the person  
8 used, displayed, or threatened to use or display a firearm during the commission of the  
9 felony, the person shall, in addition to the punishment for the underlying felony, be  
10 sentenced to ~~imprisonment for five years.~~ a minimum term of imprisonment for 60  
11 months as provided by G.S. 15A-1340.16A. Evidence of the use, display, or threatened  
12 use or display of a firearm that is needed to prove an element of the underlying felony  
13 shall not be used to establish the enhancement under this section.

14           ~~The court shall not sentence a person sentenced under this section as a committed~~  
15 ~~youthful offender.~~ The court shall not suspend any sentence imposed under this section  
16 and shall not place a person sentenced under this section on probation for the sentence  
17 imposed under this section. Sentences imposed pursuant to this section shall be  
18 consecutive to all other sentences imposed and shall begin at the expiration of any other  
19 sentence being served by the person."

20           (b) G.S. 14-2.2(d), as amended by Section 119.1 of this act, is repealed.

21           (c) Section 4 of Chapter 538 of the 1993 Session Laws is repealed.

22           Sec. 119.3. Part 2 of Article 81B of Chapter 15A of the General Statutes is  
23 amended by adding a new section to read:

24 **"§ 15A-1340.16A. Enhanced sentence if defendant is convicted of a Class A, B, C,**  
25 **D, or E felony and the defendant used, displayed, or threatened to use or**  
26 **display a firearm during the commission of the felony.**

27           (a) If a person is convicted of a Class A, B, C, D, or E felony and the court finds  
28 that the person used, displayed, or threatened to use or display a firearm at the time of  
29 the felony, the court shall increase the minimum term of imprisonment to which the  
30 person is sentenced by 60 months. The court shall not suspend the 60-month minimum  
31 term of imprisonment imposed as an enhanced sentence under this section and shall not  
32 place any person sentenced under this section on probation for the enhanced sentence.

33           (b) Subsection (a) of this section does not apply in any of the following  
34 circumstances:

- 35           (1) The person is not sentenced to an active term of imprisonment.  
36           (2) The evidence of the use, display, or threatened use or display of a  
37 firearm is needed to prove an element of the underlying Class A, B, C,  
38 D, or E felony.  
39           (3) The person did not actually possess a firearm about his or her person."

40           Sec. 119.4. G.S. 15A-1340.4(a)(1) reads as rewritten:

41           "(1) Aggravating factors:

- 42           a. The defendant induced others to participate in the commission  
43 of the offense or occupied a position of leadership or  
44 dominance of other participants.

- 1           b.     The offense was committed for the purpose of avoiding or  
2           preventing a lawful arrest or effecting an escape from custody.  
3           c.     The defendant was hired or paid to commit the offense.  
4           d.     The offense was committed to disrupt or hinder the lawful  
5           exercise of any governmental function or the enforcement of  
6           laws.  
7           e.     The offense was committed against a present or former: law  
8           enforcement officer, employee of the Department of Correction,  
9           jailer, fireman, emergency medical technician, ambulance  
10          attendant, justice or judge, clerk or assistant or deputy clerk of  
11          court, magistrate, prosecutor, juror, or witness against the  
12          defendant, while engaged in the performance of his official  
13          duties or because of the exercise of his official duties.  
14          f.     The offense was especially heinous, atrocious, or cruel.  
15          g.     The defendant knowingly created a great risk of death to more  
16          than one person by means of a weapon or device which would  
17          normally be hazardous to the lives of more than one person.  
18          h.     The defendant held public office at the time of the offense and  
19          the offense related to the conduct of the office.  
20          i.     The defendant was armed with or used a deadly weapon at the  
21          time of the crime.  
22          j.     The victim was very young, or very old, or mentally or  
23          physically infirm.  
24          k.     The defendant committed the offense while on pretrial release  
25          on another felony charge.  
26          l.     The defendant involved a person under the age of 16 in the  
27          commission of the crime.  
28          m.     The offense involved an attempted or actual taking of property  
29          of great monetary value or damage causing great monetary loss,  
30          or the offense involved an unusually large quantity of  
31          contraband.  
32          n.     The defendant took advantage of a position of trust or  
33          confidence to commit the offense.  
34          o.     The defendant has a prior conviction or convictions for criminal  
35          offenses punishable by more than 60 days' confinement. Such  
36          convictions include those occurring in North Carolina courts  
37          and courts of other states, the District of Columbia, and the  
38          United States, provided that any crime for which the defendant  
39          was convicted in a jurisdiction other than North Carolina would  
40          have been a crime if committed in this State. Such prior  
41          convictions do not include any crime that is joinable, under G.S.  
42          Chapter 15A, with the crime or crimes for which the defendant  
43          is currently being sentenced.

- 1 p. The offense involved the sale or delivery of a controlled  
2 substance to a minor.
- 3 q. The offense was committed because of the race, color, religion,  
4 nationality, or country of origin of another person.
- 5 r. The offense for which the defendant stands convicted was  
6 committed against a victim because of the victim's race, color,  
7 religion, nationality, or country of origin.

8 Evidence necessary to prove an element of the offense may not be used to prove any  
9 factor in aggravation, and the same item of evidence may not be used to prove more  
10 than one factor in aggravation. Evidence necessary to establish that an enhanced  
11 sentence is required under G.S. 14-2.2 may not be used to prove any factor in  
12 aggravation.

13 The judge may not consider as an aggravating factor the fact that the defendant  
14 exercised his right to a jury trial."

15 Sec. 119.5. G.S. 15A-1340.16(d) reads as rewritten:

16 "(d) Aggravating Factors. – The following are aggravating factors:

- 17 (1) The defendant induced others to participate in the commission of the  
18 offense or occupied a position of leadership or dominance of other  
19 participants.
- 20 (2) The defendant joined with more than one other person in committing  
21 the offense and was not charged with committing a conspiracy.
- 22 (3) The offense was committed for the purpose of avoiding or preventing a  
23 lawful arrest or effecting an escape from custody.
- 24 (4) The defendant was hired or paid to commit the offense.
- 25 (5) The offense was committed to disrupt or hinder the lawful exercise of  
26 any governmental function or the enforcement of laws.
- 27 (6) The offense was committed against a present or former: law  
28 enforcement officer, employee of the Department of Correction, jailer,  
29 fireman, emergency medical technician, ambulance attendant, justice  
30 or judge, clerk or assistant or deputy clerk of court, magistrate,  
31 prosecutor, juror, or witness against the defendant, while engaged in  
32 the performance of that person's official duties or because of the  
33 exercise of that person's official duties.
- 34 (7) The offense was especially heinous, atrocious, or cruel.
- 35 (8) The defendant knowingly created a great risk of death to more than  
36 one person by means of a weapon or device which would normally be  
37 hazardous to the lives of more than one person.
- 38 (9) The defendant held public office at the time of the offense and the  
39 offense related to the conduct of the office.
- 40 (10) The defendant was armed with or used a deadly weapon at the time of  
41 the crime.
- 42 (11) The victim was very young, or very old, or mentally or physically  
43 infirm, or handicapped.

- 1 (12) The defendant committed the offense while on pretrial release on  
2 another charge.
- 3 (13) The defendant involved a person under the age of 16 in the  
4 commission of the crime.
- 5 (14) The offense involved an attempted or actual taking of property of great  
6 monetary value or damage causing great monetary loss, or the offense  
7 involved an unusually large quantity of contraband.
- 8 (15) The defendant took advantage of a position of trust or confidence to  
9 commit the offense.
- 10 (16) The offense involved the sale or delivery of a controlled substance to a  
11 minor.
- 12 (17) The offense for which the defendant stands convicted was committed  
13 against a victim because of the victim's race, color, religion,  
14 nationality, or country of origin.
- 15 (18) The defendant does not support the defendant's family.
- 16 (19) The serious injury inflicted upon the victim is permanent and  
17 debilitating.
- 18 (20) Any other aggravating factor reasonably related to the purposes of  
19 sentencing.

20 Evidence necessary to prove an element of the offense shall not be used to prove any  
21 factor in aggravation, and the same item of evidence shall not be used to prove more  
22 than one factor in aggravation. Evidence necessary to establish that an enhanced  
23 sentence is required under G.S. 14-2.2 may not be used to prove any factor in  
24 aggravation.

25 The judge shall not consider as an aggravating factor the fact that the defendant  
26 exercised the right to a jury trial."

27 Sec. 119.6. G.S. 14-269.1 reads as rewritten:

28 "**§ 14-269.1. Confiscation and disposition of deadly weapons.**

29 Upon conviction of any person for violation of G.S. 14-2.2, 14-269, ~~G.S.~~14-269.7,  
30 or any other offense involving the use of a deadly weapon of a type referred to in G.S.  
31 14-269, the deadly weapon with reference to which the defendant shall have been  
32 convicted shall be ordered confiscated and disposed of by the presiding judge at the trial  
33 in one of the following ways in the discretion of the presiding judge.

- 34 (1) By ordering the weapon returned to its rightful owner, but only when  
35 such owner is a person other than the defendant and has filed a petition  
36 for the recovery of such weapon with the presiding judge at the time of  
37 the defendant's conviction, and upon a finding by the presiding judge  
38 that petitioner is entitled to possession of same and that he was  
39 unlawfully deprived of the same without his consent.
- 40 (2) By ordering the weapon turned over to a law-enforcement agency in  
41 the county of trial for the official use of such agency, but only upon the  
42 written request by the head or chief of such agency. The clerk of the  
43 superior court of such county shall maintain a record of such weapons  
44 and the law-enforcement agency receiving them.

- 1           (3) By ordering the weapon turned over to the sheriff of the county in  
2           which the trial is held to be sold as herein provided. Under the  
3           direction of the sheriff, the weapon shall be sold at public auction after  
4           one advertisement in a newspaper having general circulation in the  
5           county which advertisement shall be at least seven days prior to sale.  
6           The proceeds of such sale shall go to the general fund of the county in  
7           which such weapons are sold. The sheriff shall maintain a record and  
8           inventory of all such weapons received and sold by him. Sales of such  
9           weapons by the sheriff shall be held at least once each year.
- 10          (4) By ordering such weapon turned over to the sheriff of the county in  
11          which the trial is held or his duly authorized agent to be destroyed.  
12          The sheriff shall maintain a record of the destruction thereof.
- 13          (5) By ordering such weapon turned over to the North Carolina State  
14          Bureau of Investigation's Crime Laboratory Weapons Reference  
15          Library for official use by that agency. The State Bureau of  
16          Investigation shall maintain a record and inventory of all such  
17          weapons received.
- 18          (6) By ordering such weapons turned over to the North Carolina Justice  
19          Academy for official use by that agency. The North Carolina Justice  
20          Academy shall maintain a record and inventory of all such weapons  
21          received."

22           Sec. 119.7. Sections 119.1, 119.4, and 119.6 of this act become effective  
23    May 1, 1994, and apply to offenses committed on or after the date of ratification. The  
24    remainder of this Part becomes effective on the date that Section 56 of Chapter 538 of  
25    the 1993 Session Laws provides that that act becomes effective, and applies to offenses  
26    committed on or after that date. Prosecutions for, or sentences based on, offenses  
27    committed before the effective dates of this Part are not abated or affected by this Part,  
28    and the statutes that would be applicable to those prosecutions or sentences but for the  
29    provisions of this Part remain applicable to those prosecutions or sentences.

## 30    31    **PART 20. TRANSFER JUVENILES 13 YEARS OF AGE (28)**

32           33           Sec. 120.1. G.S. 7A-608 reads as rewritten:

### 34    **"§ 7A-608. Transfer of jurisdiction of juvenile to superior court.**

35           The court after notice, hearing, and a finding of probable cause may transfer  
36    jurisdiction over a juvenile ~~14 years of age or older~~ to superior court if the juvenile was  
37    ~~14-13~~ years of age or older at the time ~~he~~ the juvenile allegedly committed an offense  
38    ~~which that~~ would be a felony if committed by an adult. If the alleged felony constitutes  
39    a Class A felony and the ~~judge court~~ finds probable cause, the ~~judge court~~ shall transfer  
40    the case to the superior court for trial as in the case of adults."

41           Sec. 120.2. G.S. 7A-609(a) reads as rewritten:

42           "(a) The ~~judge court~~ shall conduct a hearing to determine probable cause in all  
43    felony cases in which a juvenile was ~~14-13~~ years of age or older when the offense was  
44    allegedly ~~committed committed~~ unless counsel Counsel for the juvenile ~~waives may~~

1 ~~waive in writing his~~ the right to the hearing and ~~stipulates~~ stipulate to a finding of  
2 probable cause. The ~~judge~~ court may exclude the public from the hearing unless the  
3 juvenile moves that the hearing be open, which motion shall be granted."

4 Sec. 120.3. G.S. 7A-610(a) reads as rewritten:

5 "(a) If probable cause is ~~found~~, found and transfer to superior court is not required  
6 by G.S. 7A-608, the prosecutor or the juvenile may move that the case be transferred to  
7 the superior court for trial as in the case of adults. ~~If the alleged felony does not~~  
8 ~~constitute a capital offense, the~~ The judge may proceed to determine whether the needs  
9 of the juvenile or the best interest of the State will be served by transfer of the case to  
10 superior court for trial as in the case of adults. When the case is transferred to superior  
11 court, the superior court has jurisdiction over that felony, any offense based on the same  
12 act or transaction or on a series of acts or transactions connected together or constituting  
13 parts of a single scheme or plan of that felony, and any greater or lesser included  
14 offense of that felony."

15 Sec. 120.4. G.S. 7A-601 reads as rewritten:

16 **"§ 7A-601. Destruction of records resulting from nontestimonial identification**  
17 **procedures.**

18 The results of any nontestimonial identification procedures shall be retained or  
19 disposed of as follows:

- 20 (1) If a petition is not filed against a juvenile who has been the subject of  
21 nontestimonial identification procedures, all records of ~~such~~ the  
22 evidence shall be destroyed.
- 23 (2) If in the district court or superior court pursuant to a transfer a juvenile  
24 is found not guilty, all records resulting from a nontestimonial order  
25 shall be destroyed. Further, in the case of a juvenile who is under ~~14~~  
26 13 years of age and who is adjudicated to have committed a delinquent  
27 act, which would be less than a felony had the juvenile been an adult,  
28 all records shall be destroyed.
- 29 (3) If a juvenile ~~14-13~~ years of age or older is found to have committed a  
30 delinquent act ~~which~~ that would be a felony if committed by an adult,  
31 all records resulting from a nontestimonial order may be retained in the  
32 court file. Special precautions shall be taken to ensure that these  
33 records will be maintained in such a manner and under such safeguards  
34 as to limit their use to inspection for comparison purposes by law-  
35 enforcement officers only in the investigation of a crime.
- 36 (4) If the juvenile is transferred to superior court, all records resulting  
37 from nontestimonial identification procedures shall be processed as in  
38 the case of an adult.
- 39 (5) Any evidence seized pursuant to a nontestimonial order shall be  
40 retained by law-enforcement officers until further order is entered by  
41 the court.
- 42 (6) Destruction of nontestimonial identification records pursuant to this  
43 section shall be performed by the law-enforcement agency having  
44 possession of such records. Following destruction, the law-

1 enforcement agency shall make written certification to the court of  
2 ~~such the~~ destruction."

3 Sec. 120.5. The Juvenile Code Committee of the Legislative Research  
4 Commission is authorized to study the issue of whether district courts should be  
5 mandated to transfer jurisdiction of juveniles who have committed certain serious or  
6 violent felony offenses to superior court for trial as in the case of adults upon a finding  
7 of probable cause. The Committee may also study the issue of the proper age of  
8 juveniles mandatorily transferred to superior court for trial as in the case of adults. The  
9 Committee may submit an interim report of its findings and recommendations to the  
10 1994 Regular Session of the 1993 General Assembly and shall submit a final report to  
11 the 1995 General Assembly.

12 Sec. 120.6. Sections 120.1 through 120.4 of this act become effective May 1,  
13 1994, and apply to offenses committed on or after that date. The remainder of this Part  
14 is effective upon ratification.

## 15 16 **PART 21. THREE STRIKES YOU'RE IN (39)**

17  
18 Sec. 121.1. Chapter 14 of the General Statutes is amended by adding a new  
19 Article to read:

### 20 **"ARTICLE 2B.**

#### 21 **"VIOLENT HABITUAL FELONS.**

##### 22 **"§ 14-7.7. Persons defined as violent habitual felons.**

23 (a) Any person who has been convicted of two violent felonies in any federal  
24 court, in a court of this or any other state of the United States, or in a combination of  
25 these courts is declared to be a violent habitual felon. For purposes of this Article,  
26 'convicted' means the person has been adjudged guilty of or has entered a plea of guilty  
27 or no contest to the violent felony charge, and judgment has been entered thereon when  
28 such action occurred on or after July 6, 1967. This Article does not apply to a second  
29 violent felony unless it is committed after the conviction or plea of guilty or no contest  
30 to the first violent felony. Any felony to which a pardon has been extended shall not,  
31 for the purposes of this Article, constitute a felony. The burden of proving a pardon  
32 shall rest with the defendant, and this State shall not be required to disprove a pardon.  
33 Conviction as an habitual felon shall not, for purposes of this Article, constitute a  
34 violent felony.

35 (b) For purposes of this Article, 'violent felony' includes the following offenses:

36 (1) a. Murder in the first and second degrees, G.S. 14-17.

37 b. Voluntary manslaughter, G.S. 14-18.

38 c. Killing an adversary in a duel, G.S. 14-30.

39 d. First degree rape, G.S. 14-27.2.

40 e. Second degree rape, G.S. 14-27.3.

41 f. First degree sexual offense, G.S. 14-27.4.

42 g. Second degree sexual offense, G.S. 14-27.5.

43 h. Intercourse and sexual offense by a parent or custodian, G.S.  
44 14-27.7.

- 1 i. Malicious castration, G.S. 14-28.  
2 j. Castration or maiming without malice aforethought, G.S. 14-29.  
3 k. Malicious maiming, G.S. 14-30.  
4 l. Malicious throwing of acid or alkali, G.S. 14-30.1.  
5 m. Malicious assaulting in a secret manner, G.S. 14-31.  
6 n. Any felony assault set forth in G.S. 14-32.  
7 o. Felony assault on a handicapped person, G.S. 14-32.  
8 p. Patient abuse and neglect, negligent or intentional, G.S. 14-  
9 32.2.  
10 q. Discharging firearm in occupied property, G.S. 14-34.1.  
11 r. Adulterated or misbranded foods or drugs, G.S. 14-34.4.  
12 s. Kidnapping in the first or second degree, G.S. 14-39.  
13 t. Malicious use of explosive or incendiary devices, G.S. 14-49.  
14 u. Malicious damage of occupied property by the use of explosive,  
15 G.S. 14-49.1.  
16 v. Burglary in the first or second degree, G.S. 14-51.  
17 w. Breaking out of a dwelling house, G.S. 14-53.  
18 x. Burglary with explosives, G.S. 14-57.  
19 y. Arson in the first or second degree, G.S. 14-58.  
20 z. Burning of a mobile home, manufactured housing, or  
21 recreational trailer, G.S. 14-58.2.  
22 aa. Burning of public building, G.S. 14-59.  
23 bb. Burning of a schoolhouse or building of an educational  
24 institution, G.S. 14-60.  
25 cc. Burning of bridges and buildings, G.S. 14-61.  
26 dd. Burning of churches and other buildings, G.S. 14-62.  
27 ee. Burning of building or structure in the process of construction,  
28 G.S. 14-62.1.  
29 gg. Robbery with a firearm or dangerous weapon, G.S. 14-87.  
30 hh. Train robbery, G.S. 14-88.  
31 ii. Contaminating a public water supply, G.S. 14-159.1.  
32 jj. Felonious child abuse, G.S. 14-318.4.  
33 kk. First degree sexual exploitation of a minor, G.S. 14-190.16.  
34 ll. Distribution of adulterated food, G.S. 14-401.11.  
35 mm. Manufacture, sale, or delivery or possess with intent to  
36 manufacture, sell, or deliver a controlled substance within 300  
37 feet of a school, G.S. 90-95(e)(8).  
38 nn. Selling and delivery of controlled substance by a person 18 or  
39 over to a person under 16, G.S. 90-95.  
40 oo. Discharge of oil or hazardous substance placing another in  
41 danger of death or serious bodily injury, G.S. 143-225.88(b).  
42 (2) Any repealed or superseded offense substantially equivalent to the  
43 offenses listed in subdivision (1).



1           (3) Any offense committed in another jurisdiction substantially equivalent  
2           to the offenses set forth in subdivision (1) or (2).

3 **"§ 14-7.8. Punishment.**

4           When a person is charged by indictment with the commission of a violent felony and  
5 is also charged with being a violent habitual felon as defined in G.S. 14-7.7, the person  
6 must, upon conviction, be sentenced in accordance with this Article, except in those  
7 cases where the death penalty is imposed.

8 **"§ 14-7.9. Charge of violent habitual felon.**

9           An indictment that charges a person who is a violent habitual felon within the  
10 meaning of G.S. 14-7.7 with the commission of any violent felony must, in order to  
11 sustain a conviction of violent habitual felon, also charge that the person is a violent  
12 habitual felon. The indictment charging the defendant as a violent habitual felon shall  
13 be separate from the indictment charging the defendant with the principal violent  
14 felony. An indictment that charges a person with being a violent habitual felon must set  
15 forth the date that prior violent felonies were committed, the name of the state or other  
16 sovereign against whom the violent felonies were committed, the dates of convictions of  
17 the violent felonies, and the identity of the court in which the convictions took place. A  
18 defendant charged with being a violent habitual felon in a bill of indictment shall not be  
19 required to go to trial on that charge within 20 days after the finding of a true bill by the  
20 grand jury unless the defendant waives this 20-day period.

21 **"§ 14-7.10. Evidence of prior convictions of violent felonies.**

22           In all cases where a person is charged under this Article with being a violent habitual  
23 felon, the records of prior convictions of violent felonies shall be admissible in  
24 evidence, but only for the purpose of proving that the person has been convicted of  
25 former violent felonies. A prior conviction may be proved by stipulation of the parties  
26 or by the original or a certified copy of the court record of the prior conviction. The  
27 original or certified copy of the court record, bearing the same name as that by which  
28 the defendant is charged, shall be **prima facie** evidence that the defendant named  
29 therein is the same as the defendant before the court, and shall be **prima facie** evidence  
30 of the facts set out therein.

31 **"§ 14-7.11. Verdict and judgment.**

32           When an indictment charges a violent habitual felon with a violent felony as  
33 provided in this Article and an indictment also charges that the person is a violent  
34 habitual felon as provided in this Article, the defendant shall be tried for the principal  
35 violent felony as provided by law. The indictment that the person is a violent habitual  
36 felon shall not be revealed to the jury unless the jury finds that the defendant is guilty of  
37 the principal violent felony or another violent felony with which the defendant is  
38 charged. If the jury finds the defendant guilty of a violent felony, the bill of indictment  
39 charging the defendant as a violent habitual felon may be presented to the same jury.  
40 Except that the same jury may be used, the proceedings shall be as if the issue of violent  
41 habitual felon were a principal charge. If the jury finds that the defendant is a violent  
42 habitual felon, the trial judge shall enter judgment according to the provisions of this  
43 Article. If the jury finds that the defendant is not a violent habitual felon, the trial judge  
44 shall pronounce judgment on the principal violent felony or felonies as provided by law.

1 **"§ 14-7.12. Sentencing of violent habitual felons.**

2 A person who is convicted of a violent felony and of being a violent habitual felon  
3 must, upon conviction (except where the death penalty is imposed), be sentenced to life  
4 in the State's prison, without parole. Life without parole means that the person will  
5 spend the remainder of the person's natural life in prison. The sentencing judge may not  
6 suspend the sentence and may not place the person sentenced on probation. Sentences  
7 for violent habitual felons imposed under this Article shall run consecutively with and  
8 shall commence at the expiration of any other sentence being served by the person."

9 Sec. 121.2. Effective on the date Chapter 538 of the 1993 Session Laws  
10 becomes effective, G.S. 14-7.7(b), as enacted by Section 121.1 of this act, reads as  
11 rewritten:

12 "(b) For purposes of this Article, 'violent felony' includes the following offenses:

- 13 (1) a. ~~Murder in the first and second degrees, G.S. 14-17.~~  
14 b. ~~Voluntary manslaughter, G.S. 14-18.~~  
15 c. ~~Killing an adversary in a duel, G.S. 14-30.~~  
16 d. ~~First degree rape, G.S. 14-27.2.~~  
17 e. ~~Second degree rape, G.S. 14-27.3.~~  
18 f. ~~First degree sexual offense, G.S. 14-27.4.~~  
19 g. ~~Second degree sexual offense, G.S. 14-27.5.~~  
20 h. ~~Intercourse and sexual offense by a parent or custodian, G.S.~~  
21 ~~14-27.7.~~  
22 i. ~~Malicious castration, G.S. 14-28.~~  
23 j. ~~Castration or maiming without malice aforethought, G.S. 14-29.~~  
24 k. ~~Malicious maiming, G.S. 14-30.~~  
25 l. ~~Malicious throwing of acid or alkali, G.S. 14-30.1.~~  
26 m. ~~Malicious assaulting in a secret manner, G.S. 14-31.~~  
27 n. ~~Any felony assault set forth in G.S. 14-32.~~  
28 o. ~~Felony assault on a handicapped person, G.S. 14-32.~~  
29 p. ~~Patient abuse and neglect, negligent or intentional, G.S. 14-~~  
30 ~~32.2.~~  
31 q. ~~Discharging firearm in occupied property, G.S. 14-34.1.~~  
32 r. ~~Adulterated or misbranded foods or drugs, G.S. 14-34.4.~~  
33 s. ~~Kidnapping in the first or second degree, G.S. 14-39.~~  
34 t. ~~Malicious use of explosive or incendiary devices, G.S. 14-49.~~  
35 u. ~~Malicious damage of occupied property by the use of explosive,~~  
36 ~~G.S. 14-49.1.~~  
37 v. ~~Burglary in the first or second degree, G.S. 14-51.~~  
38 w. ~~Breaking out of a dwelling house, G.S. 14-53.~~  
39 x. ~~Burglary with explosives, G.S. 14-57.~~  
40 y. ~~Arson in the first or second degree, G.S. 14-58.~~  
41 z. ~~Burning of a mobile home, manufactured housing, or~~  
42 ~~recreational trailer, G.S. 14-58.2.~~  
43 aa. ~~Burning of public building, G.S. 14-59.~~

- 1 bb. ~~Burning of a schoolhouse or building of an educational~~  
 2 ~~institution, G.S. 14-60.~~  
 3 ee. ~~Burning of bridges and buildings, G.S. 14-61.~~  
 4 dd. ~~Burning of churches and other buildings, G.S. 14-62.~~  
 5 ee. ~~Burning of building or structure in the process of construction,~~  
 6 ~~G.S. 14-62.1.~~  
 7 gg. ~~Robbery with a firearm or dangerous weapon, G.S. 14-87.~~  
 8 hh. ~~Train robbery, G.S. 14-88.~~  
 9 ii. ~~Contaminating a public water supply, G.S. 14-159.1.~~  
 10 jj. ~~Felonious child abuse, G.S. 14-318.4.~~  
 11 kk. ~~First degree sexual exploitation of a minor, G.S. 14-190.16.~~  
 12 ll. ~~Distribution of adulterated food G.S. 14-401.11.~~  
 13 mm. ~~Manufacture, sale, or delivery or possess with intent to~~  
 14 ~~manufacture, sale, or deliver a controlled substance within 300~~  
 15 ~~feet of a school, G.S. 90-90.~~  
 16 nn. ~~Selling and delivery of controlled substance by a person 18 or~~  
 17 ~~over to a person under 16, G.S. 90-95.~~  
 18 oo. ~~Discharge of oil or hazardous substance placing another in~~  
 19 ~~danger of death or serious bodily injury, G.S. 143-225.88(b).~~  
 20 (2) ~~Any repealed or superseded offense substantially equivalent to the~~  
 21 ~~offenses listed in subdivision (1).~~  
 22 (3) ~~Any offense committed in another jurisdiction substantially equivalent~~  
 23 ~~to the offenses set forth in subdivision (1) or (2).~~  
 24 (b) For purposes of this Article, 'violent felony' includes the following offenses:  
 25 (1) All Class A through E felonies.  
 26 (2) Any repealed or superseded offense substantially equivalent to the  
 27 offenses listed in subdivision (1).  
 28 (3) Any offense committed in another jurisdiction substantially equivalent  
 29 to the offenses set forth in subdivision (1) or (2)."

30 Sec. 121.3. G.S. 15A-1370.1 reads as rewritten:

31 **"§ 15A-1370.1. Applicability of Article 85.**

32 This Article ~~is applicable~~ applies to all sentenced prisoners, including Class A and  
 33 Class B felons, and Class C felons who receive a sentence of life imprisonment, who are  
 34 not subject to Article 85A of this ~~Chapter~~ Chapter, but shall not apply to prisoners who  
 35 receive life imprisonment without parole. A person serving a sentence of life  
 36 imprisonment without parole shall not be eligible for parole at any time."

37 Sec. 121.4. G.S. 15A-1370.1, as amended by Section 21 of Chapter 538 of  
 38 the 1993 Session Laws, reads as rewritten:

39 **"§ 15A-1370.1. Applicability of Article 85.**

40 This Article is applicable to all prisoners serving sentences of imprisonment for  
 41 convictions of impaired driving under G.S. 20-138.1 and prisoners serving sentences of  
 42 life imprisonment. This Article does not apply to a person serving a sentence of life  
 43 imprisonment without parole. A person serving a sentence of life imprisonment without  
 44 parole shall not be eligible for parole at any time."

1           Sec. 121.5. G.S. 15A-1340.10, as amended by Section 1 of Chapter 538 of  
2 the 1993 Session Laws, reads as rewritten:

3 **"§ 15A-1340.10. Applicability of structured sentencing.**

4           This Article applies to criminal offenses in North Carolina, other than impaired  
5 driving under G.S. 20-138.1 that occur on or after January 1, 1995. This Article does  
6 not apply to violent habitual felons sentenced under Article 2B of Chapter 14 of the  
7 General Statutes."

8           Sec. 121.6. Sections 121.1 and 121.6 of this act become effective May 1,  
9 1994. Section 121.3 of this act becomes effective May 1, 1994, and expires on the date  
10 that Chapter 538 of the 1993 Session Laws becomes effective, but prosecution for, or  
11 sentences based on, offenses occurring before that date are not abated or affected by the  
12 expiration of that section. Sections 121.2, 121.4, and 121.5 of this act become effective  
13 on the date that Chapter 538 of the 1993 Session Laws becomes effective. Prosecution  
14 for, or sentences based on, offenses occurring before the effective date of this Part are  
15 not abated or affected by the repeal or amendment in this Part of any statute, and the  
16 statutes that would be applicable to those prosecutions or sentences but for the  
17 provisions of this Part remain applicable to those prosecutions or sentences.

18  
19 Requested by: Representatives Nesbitt and Diamont

20 **EFFECTIVE DATE**

21           Sec. 122. Except as otherwise provided, this act is effective upon ratification.