

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

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HOUSE BILL 73

Short Title: Abolish Parole/Repeal Prison Cap.

(Public)

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Sponsors: Representatives Decker; Hall, Creech, and Lemmond.

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Referred to: Judiciary III.

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February 10, 1994

A BILL TO BE ENTITLED

1 AN ACT TO ABOLISH PAROLE AND TO REPEAL THE PRISON POPULATION  
2 CAP.  
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4 The General Assembly of North Carolina enacts:

5 Section 1. Articles 85 and 85A of Chapter 15A of the General Statutes are  
6 repealed.

7 Sec. 2. G.S. 148-4.1 reads as rewritten:

8 **"§ 148-4.1. Release of inmates.**

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

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

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

20 ~~(d) If the number of prisoners housed in facilities owned or operated by the State~~  
21 ~~of North Carolina for the Division of Prisons exceeds ninety-eight percent (98%) of~~  
22 ~~21,400 for 15 consecutive days, the Secretary of Correction shall notify the Governor~~  
23 ~~and the Chairman of the Parole Commission of this fact. Upon receipt of this~~  
24 ~~notification, the Parole Commission shall within 90 days release on parole a number of~~

1 inmates sufficient to reduce the prison population to ninety seven percent (97%) of  
2 21,400.

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

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

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

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

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

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

28 Sec. 3. G.S. 148-32.1(b) reads as rewritten:

29 "(b) In the event that the custodian of the local confinement facility certifies in  
30 writing to the clerk of the superior court in the county in which said local confinement  
31 facility is located that the local confinement facility is filled to capacity, or that the  
32 facility cannot reasonably accommodate any more prisoners due to segregation  
33 requirements for particular prisoners, or that the custodian anticipates, in light of local  
34 experiences, an influx of temporary prisoners at that time, or if the local confinement  
35 facility does not meet the minimum standards published pursuant to G.S. 153A-221, any  
36 judge of the district court in the district court district as defined in G.S. 7A-133 where  
37 the facility is located, or any superior court judge who has jurisdiction pursuant to G.S.  
38 7A-47.1 or 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the  
39 facility is located may order that the prisoner be transferred to any other qualified local  
40 confinement facility within that district or within another such district where space is  
41 available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the  
42 prisoner is a non-violent misdemeanor, which local facility shall accept the transferred  
43 prisoner, if the prison population has exceeded the limits established in G.S. 148-4.1(d).  
44 misdemeanant. If no such local confinement facility is available, then any such judge

1 may order the prisoner transferred to such camp or facility as the proper authorities of  
2 the Department of Correction shall designate, notwithstanding that the term of  
3 imprisonment of the prisoner is 180 days or less. In no event, however, shall a prisoner  
4 whose term of imprisonment is less than 30 days be assigned or ordered transferred to  
5 any such camp or facility."

6           Sec. 4. Chapter 91 of the 1993 Session Laws is repealed.

7           Sec. 5. Section 1 of this act becomes effective 30 days after ratification, and  
8 applies to offenses occurring on or after that date. Prosecutions for, or sentences based  
9 on, offenses occurring before the effective date of Section 1 of this act are not affected  
10 by Section 1 of this act, and the statutes that would be applicable to those prosecutions  
11 or sentences but for the provisions of this act remain applicable to those prosecutions or  
12 sentences. The remainder of this act is effective upon ratification.