

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 141

Select Committee on Juveniles/Prevention Committee Substitute Adopted 3/10/94

Short Title: Treatment of Youthful Offenders.

(Public)

Sponsors:

Referred to: Appropriations.

February 15, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR SPECIAL TREATMENT OF YOUTHFUL  
3 OFFENDERS.

Section 1. Chapter 148 of the General Statutes is amended by adding a new Article 3C to read as follows:

"ARTICLE 3C.

"Facilities and Programs for Youthful Offenders.

"§ 148-49.17. Purposes of Article.

The purposes of this Article are to improve the chances of correction, rehabilitation, and successful return to the community of youthful offenders sentenced to imprisonment by preventing, as far as practicable, their association during their terms of imprisonment with older and more experienced criminals, and by closer coordination of the activities of sentencing and training in custody.

"§ 148-49.18. Definitions.

As used in this Article, a 'youthful offender' is a person under 21 years of age in the custody of the Secretary of Correction or a person under 25 years of age who is in the custody of the Secretary of Correction but who has not been convicted of a violent or a Class A, B, C, D, E, F, or G felony.

"§ 148-49.19. Treatment of youthful offenders.

4 (a) The Secretary of Correction shall house youthful offenders under 21 years of  
5 age in facilities separate from prisoners more than 21 years of age, unless the program  
6 needs of such youthful offender cannot be provided in facilities designated for youthful  
7 offenders. Those youthful offenders more than 21 years of age shall be housed in

1 accordance with policies established by the Secretary of Correction. Only in instances  
2 where the program needs of a youthful offender or the resources of the Department of  
3 Correction prohibit housing in facilities designated for youthful offenders may the  
4 youthful offender be assigned to any prison facility pursuant to G.S. 148-4 and G.S.  
5 148-36 as the Secretary of Correction shall deem appropriate. Facilities designated for  
6 the housing of youthful offenders shall be, to the extent feasible, adapted to the needs  
7 and treatment of youthful offenders. The Secretary shall endeavor to provide personnel  
8 specially qualified by training, experience, and personality for treatment of youthful  
9 offenders.

10 (b) The Department of Human Resources is authorized to establish and construct  
11 on any property of the State under its supervision and control modern facilities where  
12 youthful offenders committed to the custody of the Secretary of Correction may be sent  
13 for treatment, training, or work under rules and regulations jointly adopted by the  
14 Department of Human Resources and the Department of Correction. The plans,  
15 specifications, and construction of such facilities shall meet the requirements of the  
16 Secretary of Correction. The cost of the maintenance of youthful offenders assigned to  
17 such facilities by the Secretary of Correction and employed in work for the benefit of  
18 the Department of Human Resources shall be borne by the Department of Human  
19 Resources. The youthful offenders assigned to such facilities shall be under the care and  
20 supervision of agents and employees of the Department of Correction or of agents and  
21 employees of the Department of Human Resources as may be agreed upon by the two  
22 State agencies.

23 (c) Youthful offenders may be required to participate in vocational, educational,  
24 and correctional training and activities. Appropriate use may be made of other methods  
25 of treatment, including medical and psychiatric. The Secretary of Correction may  
26 extend the limits of the place of confinement of a youthful offender when there is  
27 reasonable cause to believe that the youthful offender will honor the Secretary's trust by  
28 authorizing the youthful offender, under prescribed conditions, to leave the confines of  
29 that place unaccompanied by a custodial agent for a prescribed period of time for any  
30 purpose consistent with the public interest. Willful failure to remain within the extended  
31 limits of his confinement, or to return within the time prescribed to the place of  
32 confinement designated by the Secretary of Correction, shall be deemed an escape from  
33 the custody of the Secretary as provided in G.S. 148-45.

34 (d) The Secretary of Correction may contract with any appropriate public or  
35 private agency not under the Secretary's control for treatment and training services to  
36 youthful offenders when this is the most economical or effective way to provide needed  
37 services.

"§ 148-49.20. Classification studies.

Every youthful offender shall first be sent to a diagnostic and classification center for  
study, including a mental and physical examination, to ascertain the youthful offender's  
personal traits, capabilities, pertinent circumstances of school and family life, any  
previous delinquency or criminal experience, and any mental or physical defect or other  
factor contributing to the youthful offender's delinquency and criminal activities. All  
agencies of State and local government in North Carolina shall cooperate with the

Department of Correction in supplying or verifying information helpful for diagnosis, classification, and program planning for youthful offenders. A report of the findings and recommendations of the diagnostic and classification center shall be sent to the Secretary of Correction and shall be made available to the Post-Release Supervision and Parole Commission and to the Department of Human Resources if needed.

"§ 148-49.21. Recommendation for commutation.

Upon attaining the age of 18, a youthful offender in the custody of the Secretary of Correction for an offense committed prior to the age of 16 may request from the court in the judicial district where the youthful offender was sentenced a recommendation in support of commutation if an application for commutation is made to the Governor. The court may make such recommendation only upon (i) a review of all pertinent records, including, but not limited to, the criminal, prison, medical and mental histories of the youthful offender and (ii) a finding that the youthful offender is ready to be released from the custody of the Secretary of Correction by clear and convincing evidence. The court shall forward to the Governor any recommendation in support of or in opposition to commutation for the Governor's consideration.

Notice of a hearing and opportunity to be heard at a hearing held pursuant to this section shall be given to the victim or the victim's family if the victim is deceased or incapacitated.

Nothing in this section shall be construed to limit or restrict the right of (i) the youthful offender to apply for commutation, or (ii) the Governor to exercise the power to commute sentences within the discretion of the Governor."

Sec. 2. This act becomes effective when Section 1 of Chapter 538 of the 1993 Session Laws becomes effective and applies to offenses committed on or after that date.