

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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SENATE BILL 15*

Short Title: Substance Abuse Funds.

(Public)

Sponsors: Senators Odom; Plexico, Plyler, Johnson, Conder, Forrester, Walker, Marshall, Harris, Kerr, Cooper, Kaplan, Daniel, Martin of Guilford, Speed, Gunter, Lee, Lucas, Albertson, Warren, Sands, Seymour, Ward, Parnell, and Perdue.

Referred to: Corrections/Punishment.

February 9, 1994

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE SECRETARY OF CORRECTION TO CONTRACT
3 WITH PRIVATE FOR-PROFIT OR NONPROFIT FIRMS TO PROVIDE AND
4 OPERATE TREATMENT CENTERS FOR THE CARE OF INMATES
5 DIAGNOSED AS NEEDING TREATMENT FOR ALCOHOL OR DRUG
6 ABUSE, AND TO APPROPRIATE FUNDS TO CONTRACT FOR THOSE
7 TREATMENT CENTERS.

8 The General Assembly of North Carolina enacts:

9 Section 1. Chapter 148 of the General Statutes is amended by adding a new
10 Article to read:

"ARTICLE 13.

"PRIVATE PRISON CONTRACTS.

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12
13 **"§ 148-122. Authority to contract.**

14 Notwithstanding any other provision of law, the Secretary of Correction may
15 contract with private, for-profit or nonprofit corporations or firms to provide and
16 operate treatment centers that house, care for, and maintain prisoners committed to the
17 custody of the Department of Correction who are diagnosed as needing treatment for
18 alcohol or drug abuse.

19 **"§ 148-123. Prison rules applicable.**

20 Prisoners housed in privately operated facilities pursuant to this Article shall remain
21 subject to the rules adopted for the conduct of persons committed to the State prison
22 system. The rules regarding good time and gain time, discipline, classification,

1 extension of the limits of confinement, transfers, housing arrangements, and eligibility
2 for parole shall apply to inmates housed in those private prison facilities. Private
3 contractors may promulgate any other rules as may be necessary for the operation of the
4 facilities with the written approval of the Secretary of Correction.

5 **"§ 148-124. Enforcement of rules at private treatment centers.**

6 Custodial officials employed by a private firm pursuant to this Article are agents of
7 the Secretary of Correction and may use authorized force procedures to defend
8 themselves, to enforce the observance of discipline in compliance with prison rules, to
9 secure the person of an offender, and to prevent escape.

10 **"§ 148-125. Inmate work requirement.**

11 Inmates housed in private facilities pursuant to this Article may be required to
12 perform reasonable work assignments within those facilities. The facility may award
13 gain time to those prisoners that are eligible for gain time within the applicable statutes
14 and rules."

15 Sec. 2. G.S. 148-4 reads as rewritten:

16 **"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of**
17 **confinement.**

18 (a) The Secretary of Correction shall have control and custody of all prisoners
19 serving sentence in the State prison ~~system,~~ system and in privately operated facilities,
20 and such prisoners shall be subject to all the rules and regulations legally adopted for
21 the government thereof. Any sentence to imprisonment in any unit of the State prison
22 system, or to jail to be assigned to work under the State Department of Correction, shall
23 be construed as a commitment, for such terms of imprisonment as the court may direct,
24 to the custody of the Secretary of Correction or his authorized representative, who shall
25 designate the places of confinement ~~within the State prison system~~ where the sentences of
26 all such persons shall be served. The authorized agents of the Secretary shall have all
27 the authority of peace officers for the purpose of transferring prisoners from place to
28 place in the State as their duties might require and for apprehending, arresting, and
29 returning to prison escaped prisoners, and may be commissioned by the Governor,
30 either generally or specially, as special officers for returning escaped prisoners or other
31 fugitives from justice from outside the State, when such persons have been extradited or
32 voluntarily surrendered. Employees of departments, institutions, agencies, and political
33 subdivisions of the State hiring prisoners to perform work outside prison confines may
34 be designated as the authorized agents of the Secretary of Correction for the purpose of
35 maintaining control and custody of prisoners who may be placed under the supervision
36 and control of such employees, including guarding and transferring such prisoners from
37 place to place in the State as their duties might require, and apprehending and arresting
38 escaped prisoners and returning them to prison. The governing authorities of the State
39 prison system are authorized to determine by rules and regulations the manner of
40 designating these agents and placing prisoners under their supervision and control,
41 which rules and regulations shall be established in the same manner as other rules and
42 regulations for the government of the State prison system.

43 The Secretary of Correction may extend the limits of the place of confinement of a
44 prisoner, as to whom there is reasonable cause to believe he will honor his trust, by

1 authorizing him, under prescribed conditions, to leave the confines of that place
2 unaccompanied by a custodial agent for a prescribed period of time to

- 3 (1) Contact prospective employers; or
- 4 (2) Secure a suitable residence for use when released on parole or upon
5 discharge; or
- 6 (3) Obtain medical services not otherwise available; or
- 7 (4) Participate in a training program in the community; or
- 8 (5) Visit or attend the funeral of a spouse, child (including stepchild,
9 adopted child or child as to whom the prisoner, though not a natural
10 parent, has acted in the place of a parent), parent (including a person
11 though not a natural parent, has acted in the place of a parent), brother,
12 or sister; or
- 13 (6) Participate in community-based programs of rehabilitation, including,
14 but not limited to the existing community volunteer and home-leave
15 programs, pre-release and after-care programs as may be provided for
16 and administered by the Secretary of Correction and other programs
17 determined by the Secretary of Correction to be consistent with the
18 prisoner's rehabilitation and return to society; or
- 19 (7) Be on maternity leave, for a period of time not to exceed 60 days. The
20 county departments of social services are expected to cooperate with
21 officials at the North Carolina Correctional Center for Women to
22 coordinate prenatal care, financial services, and placement of the child.

23 The willful failure of a prisoner to remain within the extended limits of his confinement,
24 or to return within the time prescribed to the place of confinement designated by the
25 Secretary of Correction, shall be deemed an escape from the custody of the Secretary of
26 Correction punishable as provided in G.S. 148-45.

27 (b) Notwithstanding any other provision of law, the Secretary of Correction may
28 contract with private corporations and entities for the housing, care, and maintenance of
29 prisoners committed to the custody of the Department of Correction who are diagnosed
30 as needing treatment for alcohol or drug abuse."

31 Sec. 3. G.S. 145-45 is amended by adding a new subsection to read:

32 "(h) For purposes of this section, persons housed in privately operated facilities
33 pursuant to Article 13 of this Chapter shall be considered persons in the custody of the
34 Department of Correction."

35 Sec. 4. G.S. 145-258.1 reads as rewritten:

36 **"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges,**
37 **ammunition or alcoholic beverages to inmates of charitable, mental or**
38 **penal institutions or local confinement facilities.**

39 (a) If any person shall give or sell to any inmate of any charitable, mental or
40 penal institution, or local confinement facility, or if any person shall combine,
41 confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage,
42 attempt to procure, or procure another or others to give or sell to any inmate of any
43 charitable, mental or penal institution, or local confinement facility, any deadly weapon,
44 or any cartridge or ammunition for firearms of any kind, or any controlled substances

1 included in Schedules I through VI contained in Article 5 of Chapter 90 of the General
2 Statutes except under the general supervision of a practitioner, poison or poisonous
3 substance, except upon the prescription of a physician, he shall be punished as a Class H
4 felon; and if he be an officer or employee of any institution of the State, or of any local
5 confinement facility, he shall be dismissed from his position or office.

6 (b) Any person who shall knowingly give or sell any alcoholic beverages to any
7 inmate of any ~~State~~ mental or penal institution, or to any inmate of any local
8 confinement facility, except for medical purposes as prescribed by a duly licensed
9 physician and except for an ordained minister or rabbi who gives sacramental wine to an
10 inmate as part of a religious service; or any person who shall combine, confederate,
11 conspire, procure, or procure another or others to give or sell any alcoholic beverages to
12 any inmate of any such ~~State~~ institution or local confinement facility, except for medical
13 purposes as prescribed by a duly licensed physician and except for an ordained minister
14 or rabbi who gives sacramental wine to an inmate as part of a religious service; or any
15 person who shall bring into the buildings, grounds or other facilities of such institution
16 any alcoholic beverages, except for medical purposes as prescribed by a duly licensed
17 physician or sacramental wine brought by an ordained minister or rabbi for use as part
18 of a religious service, shall be guilty of a misdemeanor, and on conviction thereof shall
19 be fined or imprisoned, in the discretion of the court. If such person is an officer or
20 employee of any institution of the State, such person shall be dismissed from office.

21 (c) The term 'penal institution' as used in this section includes private facilities
22 operated in accordance with Article 13 of Chapter 148 of the General Statutes."

23 Sec. 5. G.S. 14-258.3 reads as rewritten:

24 "**§ 14-258.3. Taking of hostage, etc., by prisoner.**

25 (a) Any prisoner in the custody of the Department of Correction, including
26 persons in the custody of the Department of Correction pending trial or appellate review
27 or for presentence diagnostic evaluation, or any prisoner in the custody of any local
28 confinement facility (as defined in G.S. 153A-217), or any person in the custody of any
29 local confinement facility (as defined in G.S. 153A-217) pending trial or appellate
30 review or for any lawful purpose, who by threats, coercion, intimidation or physical
31 force takes, holds, or carries away any person, as hostage or otherwise, shall be
32 punished as a Class I felon. The provisions of this section apply to: (i) violations
33 committed by any prisoner in the custody of the Department of Correction, whether
34 inside or outside of the facilities of the North Carolina Department of Correction; (ii)
35 violations committed by any prisoner or by any other person lawfully under the custody
36 of any local confinement facility (as defined in G.S. 153A-217), whether inside or
37 outside the local confinement facilities (as defined in G.S. 153A-217).

38 (b) For purposes of this section, prisoners housed in privately operated facilities
39 pursuant to Article 13 of Chapter 148 of the General Statutes shall be considered
40 persons in the custody of the Department of Correction."

41 Sec. 6. There is appropriated from the General Fund to the Department of
42 Correction the sum of five million one hundred seventy-three thousand dollars
43 (\$5,173,000) for the 1994-95 fiscal year to contract for 500 beds in private alcohol and
44 drug treatment centers in accordance with this act.

1 Sec. 7. This act is effective upon ratification.