

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 939

Short Title: Deter Juvenile Escapes.

(Public)

Sponsors: Senators Thomas; and Bingham.

Referred to: Judiciary II.

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO DETER JUVENILES FROM ESCAPING OR ATTEMPTING TO
ESCAPE FROM THE CUSTODY OF THE DEPARTMENT OF JUVENILE
JUSTICE AND DELINQUENCY PREVENTION AND TO ESTABLISH
CRIMINAL PENALTIES FOR AIDING OR ASSISTING JUVENILES IN
ESCAPING OR ATTEMPTING TO ESCAPE FROM THE CUSTODY OF THE
DEPARTMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 25 of Chapter 7B of the General Statutes is amended
by adding a new section to read:

"§ 7B-2513.1. Escape from and failure to return to custody of the Department.

(a) When a juvenile committed to the Department pursuant to this Article escapes or attempts to escape the custody of the Department or fails to return to the custody of the Department, the court, upon motion of the Department or upon the court's own motion, and after hearing, may extend the term of the juvenile's commitment. The juvenile:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations in the motion, including notice that the purpose of the hearing is to determine whether the juvenile has escaped or attempted to escape the custody of the Department or has failed to return to the custody of the Department pursuant to the terms of conditional release when the juvenile has been released on a conditional or temporary basis;
- (2) Shall be represented by an attorney at the hearing;
- (3) Shall have the right to confront and cross-examine witnesses; and
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of the juvenile's contentions. A record of the proceeding shall be made and preserved in the juvenile's record.

1 (b) If the court determines by the greater weight of the evidence that the juvenile
2 has escaped or attempted to escape the custody of the Department or has failed to return
3 to the custody of the Department, the court may order the term of the juvenile's
4 commitment to the Department be extended for a period of at least 90 days and no more
5 than 180 days.

6 (c) Notwithstanding G.S. 7B-2516, pursuant to this section, the juvenile may
7 remain committed to the Department up to 90 days past:

8 (1) The juvenile's nineteenth birthday if the juvenile has been committed
9 to the Department for an offense that would be a Class B1, B2, C, D,
10 or E felony if committed by an adult, other than an offense set forth in
11 G.S. 7B-1602(a).

12 (2) The juvenile's eighteenth birthday if the juvenile has been committed
13 to the Department for an offense other than an offense that would be a
14 Class A, B1, B2, C, D, or E felony if committed by an adult.

15 (d) The Department shall modify the plan of care or treatment developed
16 pursuant to G.S. 7B-2513(f) to incorporate the order of the court pursuant to this section
17 and to state the specific course of treatment or care that will be implemented to
18 rehabilitate the juvenile and ensure the safety and well-being of the public.

19 (e) This section applies to juveniles housed in county facilities or placed in
20 county programs by the Department as well as to juveniles housed in State facilities or
21 placed in State programs."

22 **SECTION 2.** Article 33 of Chapter 14 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 14-256.2. Escape from and failure to return to custody of the Department of**
25 **Juvenile Justice and Delinquency Prevention.**

26 It is unlawful for any person to aid or assist any other person from escaping or
27 attempting to escape from the custody of the Department of Juvenile Justice and
28 Delinquency Prevention. Violation of this section is a Class 1 misdemeanor."

29 **SECTION 3.** This act becomes effective December 1, 2005, and applies to
30 violations and offenses committed on or after that date.