

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1936*

Short Title: Criminal Technical Corrections.

(Public)

Sponsors: Representative Barnes.

Referred to: Judiciary III.

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND TO MAKE CLARIFYING
AND CONFORMING CHANGES TO VARIOUS CRIMINAL STATUTES, AND
TO REPEAL VARIOUS CRIMINAL LAWS THAT ARE OBSOLETE OR
REDUNDANT.

The General Assembly of North Carolina enacts:

PART 1. EARNED TIME FOR MISDEMEANOR OFFENDERS

Section 1. G.S. 15A-1340.20(d) reads as rewritten:

"(d) Earned Time Authorization. – An offender sentenced to a term of imprisonment that is activated is eligible to receive earned time credit for misdemeanor offenders awarded by the Department of Correction or the custodian of a local confinement facility, pursuant to rules adopted in accordance with ~~law~~ law and pursuant to G.S. 162-60. These rules and statute combined shall not award misdemeanor offenders more than four days of earned time credit per month of incarceration."

Sec. 2. G.S. 162-60 reads as rewritten:

"§ 162-60. Reduction in sentence allowed for work.

~~In addition to any earned time credit a prisoner may be awarded under G.S. 15A-1340.20, a~~
A prisoner who has faithfully performed the duties assigned to him pursuant to G.S. 162-58 is entitled to a reduction in his sentence of four days for each 30 days of work performed. The person having custody of the prisoner, as defined in G.S. 162-59, shall be the sole judge as to whether the prisoner has faithfully performed his duties. A prisoner who escapes or attempts to escape while performing work pursuant to G.S.

1 162-58 shall forfeit any reduction in sentence that he would have been entitled to under
2 this section."

3 Sec. 3. G.S. 153A-230.3(b) reads as rewritten:

4 "(b) Operation of Satellite Jail/Work Release Unit. – A county or group
5 of counties operating a satellite jail/work release unit shall comply with the following
6 requirements concerning operation of the unit:

7 (1) The county shall make every effort to ensure that at least eighty
8 percent (80%) of the unit occupants shall be employed and on work
9 release, and that the remainder shall earn their keep by working at the
10 unit on maintenance and other jobs related to the upkeep and operation
11 of the unit or by assignment to community service work, and that
12 alcohol and drug rehabilitation be available through community
13 resources.

14 (2) The county shall require the occupants to give their earnings, less
15 standard payroll deductions required by law and premiums for group
16 health insurance coverage, to the Sheriff. The county may charge a
17 per day charge from those occupants who are employed or otherwise
18 able to pay from other resources available to the occupants. The per
19 day charge shall be calculated based on the following formula: The
20 charge shall be either the amount that the Department of Correction
21 deducts from a prisoner's work-release earnings to pay for the cost of
22 the prisoner's keep or fifty percent (50%) of the occupant's net weekly
23 income, whichever is greater, but in no event may the per day charge
24 exceed an amount that is twice the amount that the Department of
25 Correction pays each local confinement facility for the cost of
26 providing food, clothing, personal items, supervision, and necessary
27 ordinary medical expenses. The per day charge may be adjusted on an
28 individual basis where restitution and/or child support has been
29 ordered, or where the occupant's salary or resources are insufficient to
30 pay the charge.

31 The county also shall accumulate a reasonable sum from the
32 earnings of the occupant to be returned to him when he is released
33 from the unit. The county also shall follow the guidelines established
34 for the Department of Correction in G.S. 148-33.1(f) for determining
35 the amount and order of disbursements from the occupant's earnings.

36 (3) Any and all proceeds from daily fees shall belong to the county's
37 General Fund to aid in offsetting the operation and maintenance of the
38 satellite unit.

39 (4) The unit shall be operated on a full-time basis, i.e., seven days/nights a
40 week, but weekend leave may be granted by the Sheriff. In granting
41 weekend leave, the Sheriff shall follow the policies and procedures of
42 the Department of Correction for granting weekend leave for Level 3
43 minimum custody inmates.

1 (5) ~~Good time and gain~~ Earned time shall be applied to these county
2 prisoners in the same manner as prescribed in G.S. ~~15A-1340.7-15A-~~
3 ~~1340.20~~ and G.S. 148-13 for State prisoners.

4 (6) The Sheriff shall maintain complete and accurate records on each
5 inmate. These records shall contain the same information as required
6 for State prisoners that are housed in county local confinement
7 facilities."

8 Sec. 4. G.S. 15A-1368.2(a) reads as rewritten:

9 "(a) A prisoner to whom this Article applies shall be released from prison for
10 post-release supervision on the date equivalent to his maximum imposed prison term
11 less nine months, less any earned time awarded by the Department of Correction or the
12 custodian of a local confinement facility under G.S. ~~15A-1340(d)-15A-1340.13(d)~~. If a
13 prisoner has not been awarded any earned time, the prisoner shall be released for post-
14 release supervision on the date equivalent to his maximum prison term less nine
15 months."

16 Sec. 5. G.S. 15A-1368.3(c) reads as rewritten:

17 "(c) Effect of Violation. – If the supervisee violates a condition, described in G.S.
18 15A-1368.4, at any time before the termination of the supervision period, the
19 Commission may continue the supervisee on the existing supervision, with or without
20 modifying the conditions, or if continuation or modification is not appropriate, may
21 revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the
22 supervisee for a term consistent with the following requirements:

23 (1) The supervisee will be returned to prison up to the time remaining on
24 his maximum imposed term.

25 (2) The supervisee shall not receive any credit for days on post-release
26 supervision against the maximum term of imprisonment imposed by
27 the court under G.S. 15A-1340.13.

28 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction
29 shall award a prisoner credit against any term of reimprisonment for all
30 time spent in custody as a result of revocation proceedings under G.S.
31 15A-1368.6.

32 (4) The prisoner is eligible to receive earned time credit against the
33 maximum prison term as provided in G.S. ~~15A-1340(d)-15A-~~
34 ~~1340.13(d)~~ for time served in prison after the revocation."

36 PART 2. LENGTHS OF PROBATION PERIODS

37
38 Sec. 6. G.S. 15A-1342(a) reads as rewritten:

39 "(a) Period. – The court may place a convicted offender on probation for the
40 appropriate period as specified in G.S. 15A-1343.2(d), not to exceed a maximum of five
41 years. The court may place a defendant as to whom prosecution has been deferred on
42 probation for a maximum of two years. The probation remains conditional and subject
43 to revocation during the period of probation imposed, unless terminated as provided in
44 subsection (b) or G.S. 15A-1341(c).

1 Extension. – The court with the consent of the defendant may extend the period of
2 probation beyond ~~five years~~ the original period (i) for the purpose of allowing the
3 defendant to complete a program of restitution, or (ii) to allow the defendant to continue
4 medical or psychiatric treatment ordered as a condition of the probation. The period of
5 extension shall not exceed three years beyond the original period of probation. The
6 special extension authorized herein may be ordered only in the last six months of the
7 ~~probation term.~~ original period of probation. Any probationary judgment form provided
8 to a defendant on supervised probation shall state that probation may be extended
9 pursuant to this subsection."

10 Sec. 7. G.S. 15A-1351(a) reads as rewritten:

11 "(a) The judge may sentence to special probation a defendant convicted of a
12 criminal offense other than impaired driving under G.S. 20-138.1, if based on the
13 defendant's prior record or conviction level as found pursuant to Article 81B of this
14 Chapter, an intermediate punishment is authorized for the class of offense of which the
15 defendant has been convicted. A defendant convicted of impaired driving under G.S.
16 20-138.1 may also be sentenced to special probation. Under a sentence of special
17 probation, the court may suspend the term of imprisonment and place the defendant on
18 probation as provided in Article 82, Probation, and in addition require that the defendant
19 submit to a period or periods of imprisonment in the custody of the Department of
20 Correction or a designated local confinement or treatment facility at whatever time or
21 intervals within the period of probation, consecutive or nonconsecutive, the court
22 determines. In addition to any other conditions of probation which the court may
23 impose, the court shall impose, when imposing a period or periods of imprisonment as a
24 condition of special probation, the condition that the defendant obey the Rules and
25 Regulations of the Department of Correction governing conduct of inmates, and this
26 condition shall apply to the defendant whether or not the court imposes it as a part of the
27 written order. If imprisonment is for continuous periods, the confinement may be in the
28 custody of either the Department of Correction or a local confinement facility.
29 Noncontinuous periods of imprisonment under special probation may only be served in
30 a designated local confinement or treatment facility. Except for probationary sentences
31 of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed
32 as an incident of special probation, but not including an activated suspended sentence,
33 may not exceed six months or one fourth the maximum sentence of imprisonment
34 imposed for the offense, whichever is less, and no confinement other than an activated
35 suspended sentence may be required beyond two years of conviction. For probationary
36 sentences for impaired driving under G.S. 20-138.1, the total of all periods of
37 confinement imposed as an incident of special probation, but not including an activated
38 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.
39 In imposing a sentence of special probation, the judge may credit any time spent
40 committed or confined, as a result of the charge, to either the suspended sentence or to
41 the imprisonment required for special probation. The original period of probation,
42 including the period of imprisonment required for special probation, shall be as
43 specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except

1 as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special
2 probation as otherwise provided for probationary sentences."

3 Sec. 8. G.S. 15A-1343.2(d) reads as rewritten:

4 "(d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court
5 makes specific findings that longer or shorter periods of probation are necessary, the
6 length of the ~~term~~original period of probation for offenders sentenced under Article 81B
7 shall be as follows:

8 (1) For misdemeanants sentenced to community punishment, not less than
9 six nor more than 18 months;

10 (2) For misdemeanants sentenced to intermediate punishment, not less
11 than 12 nor more than 24 months;

12 (3) For felons sentenced to community punishment, not less than 12 nor
13 more than 30 months; and

14 (4) For felons sentenced to intermediate punishment, not less than 18 nor
15 more than 36 months.

16 If the court finds at the time of sentencing that a longer period of probation is necessary,
17 that period may not exceed a maximum of five years, as specified in G.S. 15A-1342 and
18 G.S. 15A-1351.

19 Extension. – The court may with the consent of the offender extend the original ~~term~~
20 period of the probation if necessary to complete a program of restitution or to complete
21 medical or psychiatric treatment ordered as a condition of probation. This extension
22 may be for no more than three years, and may only be ordered in the last six months of
23 the original ~~probation term~~period of probation."

24
25 PART 3. EXTEND LENGTH OF CONFINEMENT ON SPECIAL PROBATION FOR
26 SENTENCES TO IMPACT

27
28 Sec. 9. G.S. 15A-1344(e) reads as rewritten:

29 "(e) Special Probation in Response to Violation. – When a defendant has violated
30 a condition of probation, the court may modify his probation to place him on special
31 probation as provided in this subsection. In placing him on special probation, the court
32 may continue or modify the conditions of his probation and in addition require that he
33 submit to a period or periods of imprisonment, either continuous or noncontinuous, at
34 whatever time or intervals within the period of probation the court determines. In
35 addition to any other conditions of probation which the court may impose, the court
36 shall impose, when imposing a period or periods of imprisonment as a condition of
37 special probation, the condition that the defendant obey the Rules and Regulations of
38 the Department of Correction governing conduct of inmates, and this condition shall
39 apply to the defendant whether or not the court imposes it as a part of the written order.
40 If imprisonment is for continuous periods, the confinement may be in either the custody
41 of the Department of Correction or a local confinement facility. Noncontinuous periods
42 of imprisonment under special probation may only be served in a designated local
43 confinement or treatment facility. Except for probationary sentences for impaired
44 driving under G.S. ~~20-138.1~~20-138.1 and probationary sentences which include a

1 period of imprisonment in the Intensive Motivational Program of Alternative
2 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all
3 periods of confinement imposed as an incident of special probation, but not including an
4 activated suspended sentence, may not exceed six months or one fourth the maximum
5 sentence of imprisonment imposed for the offense, whichever is less. For probationary
6 sentences for impaired driving under G.S. 20-138.1, the total of all periods of
7 confinement imposed as an incident of special probation, but not including an activated
8 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.
9 For probationary sentences which include a period of imprisonment in the Intensive
10 Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S.
11 15A-1343(b1)(2a), the total of all periods of confinement imposed as an incident of
12 special probation, but not including an activated suspended sentence, shall not exceed
13 six months or one-half the maximum term of the suspended sentence of imprisonment,
14 whichever is less. No confinement other than an activated suspended sentence may be
15 required beyond the period of probation or beyond two years of the time the special
16 probation is imposed, whichever comes first."

17 Sec. 10. G.S. 15A-1351(a), as amended by Section 7 of this act, reads as
18 rewritten:

19 "(a) The judge may sentence to special probation a defendant convicted of a
20 criminal offense other than impaired driving under G.S. 20-138.1, if based on the
21 defendant's prior record or conviction level as found pursuant to Article 81B of this
22 Chapter, an intermediate punishment is authorized for the class of offense of which the
23 defendant has been convicted. A defendant convicted of impaired driving under G.S.
24 20-138.1 may also be sentenced to special probation. Under a sentence of special
25 probation, the court may suspend the term of imprisonment and place the defendant on
26 probation as provided in Article 82, Probation, and in addition require that the defendant
27 submit to a period or periods of imprisonment in the custody of the Department of
28 Correction or a designated local confinement or treatment facility at whatever time or
29 intervals within the period of probation, consecutive or nonconsecutive, the court
30 determines. In addition to any other conditions of probation which the court may
31 impose, the court shall impose, when imposing a period or periods of imprisonment as a
32 condition of special probation, the condition that the defendant obey the Rules and
33 Regulations of the Department of Correction governing conduct of inmates, and this
34 condition shall apply to the defendant whether or not the court imposes it as a part of the
35 written order. If imprisonment is for continuous periods, the confinement may be in the
36 custody of either the Department of Correction or a local confinement facility.
37 Noncontinuous periods of imprisonment under special probation may only be served in
38 a designated local confinement or treatment facility. Except for probationary sentences
39 of impaired driving under G.S. ~~20-138.1~~, 20-138.1 and probationary sentences which
40 include a period of imprisonment in the Intensive Motivational Program of Alternative
41 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all
42 periods of confinement imposed as an incident of special probation, but not including an
43 activated suspended sentence, may not exceed six months or one fourth the maximum
44 sentence of imprisonment imposed for the offense, whichever is less, and no

1 confinement other than an activated suspended sentence may be required beyond two
2 years of conviction. For probationary sentences for impaired driving under G.S. 20-
3 138.1, the total of all periods of confinement imposed as an incident of special
4 probation, but not including an activated suspended sentence, shall not exceed one-
5 fourth the maximum penalty allowed by law. For probationary sentences which include
6 a period of imprisonment in the Intensive Motivational Program of Alternative
7 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all
8 periods of confinement imposed as an incident of special probation, but not including an
9 activated suspended sentence, shall not exceed six months or one-half of the maximum
10 term of the suspended sentence, whichever is less. In imposing a sentence of special
11 probation, the judge may credit any time spent committed or confined, as a result of the
12 charge, to either the suspended sentence or to the imprisonment required for special
13 probation. The original period of probation, including the period of imprisonment
14 required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not
15 exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court
16 may revoke, modify, or terminate special probation as otherwise provided for
17 probationary sentences."
18

19 PART. 4. COUNTING MULTIPLE PRIOR CONVICTIONS

20

21 Sec. 11. G.S. 15A-1340.14(d) reads as rewritten:

22 "(d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of
23 determining the prior record level, if an offender is convicted of more than one offense
24 in a single superior court during one calendar week, only the conviction for the offense
25 with the highest point total is used. If an offender is convicted of more than one offense
26 in a single session of district court, only one of the convictions is used."
27

28 PART 5. CLASSIFYING PRIOR MISDEMEANOR CONVICTIONS FROM OTHER 29 JURISDICTIONS

30

31 Sec. 12. G.S. 15A-1340.14(e) reads as rewritten:

32 "(e) Classification of Prior Convictions From Other Jurisdictions. – Except as
33 otherwise provided in this subsection, a conviction occurring in a jurisdiction other than
34 North Carolina is classified as a Class I felony if the jurisdiction in which the offense
35 occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if
36 the jurisdiction in which the offense occurred classifies the offense as a misdemeanor.
37 If the offender proves by the preponderance of the evidence that an offense classified as
38 a felony in the other jurisdiction is substantially similar to an offense that is a
39 misdemeanor in North Carolina, the conviction is treated as ~~a that class of misdemeanor~~
40 for assigning prior record level points. If the State proves by the preponderance of the
41 evidence that an offense classified as either a misdemeanor or a felony in the other
42 jurisdiction is substantially similar to an offense in North Carolina that is classified
43 ~~higher than a Class I felony, as a Class I felony or higher,~~ the conviction is treated as ~~the~~
44 ~~higher that class of felony~~ for assigning prior record level points. If the State proves by

1 the preponderance of the evidence that an offense classified as a misdemeanor in the
2 other jurisdiction is substantially similar to an offense classified as a Class 1
3 misdemeanor in North Carolina, the conviction is treated as a Class 1 misdemeanor for
4 assigning prior record level points."

5
6 PART 6. DEPARTMENT OF CORRECTION TO PAY FOR LOCAL
7 CONFINEMENT OF OFFENDERS FOUND IN CONTEMPT FOR PROBATION
8 VIOLATIONS

9
10 Sec. 13. G.S. 15A-1344(e1) reads as rewritten:

11 "(e1) Criminal Contempt in Response to Violation. – If a defendant willfully
12 violates a condition of probation, the court may hold the defendant in criminal contempt
13 as provided in Article 1 of Chapter 5A of the General Statutes. A finding of criminal
14 contempt by the court shall not revoke the probation. If the defendant serves a sentence
15 for contempt in a local confinement facility pursuant to this statute, the Department of
16 Correction shall pay for the confinement at the standard rate set by the General
17 Assembly pursuant to G.S. 148-32.1(a), regardless of whether the defendant would be
18 eligible under the terms of that subsection."

19
20 PART 7. REVISE COMMUNITY PENALTIES ELIGIBILITY CRITERIA

21
22 Sec. 14. G.S. 7A-771 reads as rewritten:

23 **"§ 7A-771. Definitions.**

24 As used in this Article:

- 25 (1) 'Community penalties program' means an agency within the judicial
26 district which shall (i) prepare community penalty plans; (ii) arrange or
27 contract with public and private agencies for necessary services for
28 offenders; and (iii) monitor the progress of offenders placed on
29 community penalty plans.
- 30 (2) 'Community penalty plan' means a plan presented in writing to the
31 sentencing judge which provides a detailed description of the targeted
32 offender's proposed community penalty.
- 33 (2a) 'Director' means the Director of the Administrative Office of the
34 Courts.
- 35 (3) 'Judicial district' means a district court district as defined in G.S. 7A-
36 133.
- 37 (4) Repealed by Session Laws 1991, c. 566, s. 4, effective July 1, 1991.
- 38 (5) 'Targeted offenders' means persons convicted of ~~misdemeanors, Class~~
39 ~~H felonies other than involuntary manslaughter, or Class I or J~~
40 ~~felonies, who would be eligible for intensive probation or house arrest,~~
41 misdemeanors or felonies who are eligible to receive an intermediate
42 punishment based on their class of offense and prior record level and
43 who are facing an imminent and substantial threat of imprisonment."

44 Sec. 15. G.S. 7A-773 reads as rewritten:

1 **"§ 7A-773. Responsibilities of a community penalties program.**

2 A community penalties program shall be responsible for:

- 3 (1) Targeting offenders who are eligible to receive an intermediate
4 punishment based on their class of offense and prior record level and
5 who face an imminent and substantial threat of imprisonment.
6 (2) Preparing detailed community penalty plans for presentation to the
7 sentencing judge by the offender's attorney.
8 (3) Contracting or arranging with public or private agencies for services
9 described in the community penalty plan.
10 (4) Monitoring the progress of offenders under community penalty plans."

11
12 PART 8. REVISE HABITUAL FELON LAW

13
14 Sec. 16. G.S 14-7.6 reads as rewritten:

15 **"§ 14-7.6. Sentencing of habitual felons.**

16 When an habitual felon as defined in this Article commits any felony under the laws
17 of the State of North Carolina, the felon must, upon conviction or plea of guilty under
18 indictment as provided in this Article (~~except where the death penalty or a sentence of life~~
19 ~~imprisonment is imposed~~) the felon has been sentenced as a Class A, B1, or B2 felon be
20 sentenced as a Class C felon. In determining the prior record level, convictions used to
21 establish a person's status as an habitual felon shall not be used. Sentences imposed
22 under this Article shall run consecutively with and shall commence at the expiration of
23 any sentence being served by the person sentenced under this section."
24

25 PART 9. PUNISH FAILURE TO COMPLY WITH CONTROL CONDITIONS BY
26 PERSONS WITH COMMUNICABLE DISEASES

27
28 Sec. 17. G.S. 15A-1340.10 reads as rewritten:

29 **"§ 15A-1340.10. Applicability of structured sentencing.**

30 This Article applies to criminal offenses in North Carolina, other than impaired
31 driving under G.S. 20-138.1 and failure to comply with control measures under G.S.
32 130A-25, that occur on or after October 1, 1994. This Article does not apply to violent
33 habitual felons sentenced under Article 2B of Chapter 14 of the General Statutes."
34

35 Sec. 18. G.S. 130A-25 reads as rewritten:

36 **"§ 130A-25. Misdemeanor.**

37 (a) A person who violates a provision of this Chapter or the rules adopted by the
38 Commission or a local board of health shall be guilty of a ~~Class 4~~ misdemeanor.

39 (b) A person convicted under this section ~~for failure to obtain the treatment required~~
40 ~~by Part 3 or Part 5 of Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S.~~
41 130A-145 shall not be sentenced under Article 81B of Chapter 15A of the General
42 Statutes but shall instead be sentenced to a term of imprisonment of no more than two
43 years and shall serve any prison sentence in McCain Hospital, Division of Prisons,
44 Department of Correction, McCain, North Carolina; the North Carolina Correctional
Center for Women, Division of Prisons, Department of Correction, Raleigh, North

1 Carolina; or any other confinement facility designated for this purpose by the Secretary
2 of Correction after consultation with the State Health Director. The Secretary of
3 Correction shall consult with the State Health Director concerning the medical
4 management of these persons.

5 (c) Notwithstanding G.S. 148-4.1, G.S. 148-13, or any other contrary provision
6 of law, a person imprisoned ~~for failure to obtain the treatment required by Part 3 or Part 5 of~~
7 ~~Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S. 130A-145 shall not~~
8 be released prior to the completion of the person's term of imprisonment unless and
9 until a determination has been made by the District Court that release of the person
10 would not create a danger to the public health. This determination shall be made only
11 after the medical consultant of the confinement facility and the State Health Director, in
12 consultation with the local health director of the person's county of residence, have
13 made recommendations to the Court."

14
15 PART 10. CLASSIFY CERTAIN OFFENSES

16
17 Sec. 19. G.S. 7A-456 reads as rewritten:

18 "**§ 7A-456. False statements; penalty.**

19 (a) A false material statement made by a person under oath or affirmation in
20 regard to the question of his indigency constitutes ~~perjury, and upon conviction thereof, the~~
21 ~~defendant may be punished as provided in G.S. 14-209. a Class I felony.~~

22 (b) A judicial official making the determination of indigency shall notify the
23 person of the provisions of subsection (a) of this ~~section and shall explain to him the~~
24 ~~meaning of and the consequences of committing the crime of perjury. section.~~

25 (c) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1100, s. 11.1."

26 Sec. 20. G.S. 14-253 reads as rewritten:

27 "**§ 14-253. Failure of certain railroad officers to account with successors.**

28 If the president and directors of any railroad company, and any person acting under
29 them, shall, upon demand, fail or refuse to account with the president and directors
30 elected or appointed to succeed them, and to transfer to them forthwith all the money,
31 books, papers, choses in action, property and effects of every kind and description
32 belonging to such company, they shall be guilty of a Class I felony. ~~All persons~~
33 ~~conspiring with any such president, directors or their agents to defeat, delay or hinder the~~
34 ~~execution of this section shall be guilty of a Class 1 misdemeanor.~~—The Governor is hereby
35 authorized, at the request of the president, directors and other officers of any railroad
36 company, to make requisition upon the governor of any other state for the apprehension
37 of any such president failing to comply with this section."

38 Sec. 21. G.S. 14-277.4(b) reads as rewritten:

39 "(b) No person shall injure ~~or attempt~~ or threaten to injure a person who is or has
40 been:

- 41 (1) Obtaining health care services;
- 42 (2) Lawfully aiding another to obtain health care services; or
- 43 (3) Providing health care services."

44 Sec. 22. G.S. 54C-64 reads as rewritten:

1 **"§ 54C-64. Prohibited practices.**

2 A person who engages in any of the following acts or practices is guilty of a Class 1
3 ~~misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the~~
4 ~~discretion of the court:~~ misdemeanor:

5 (1) Defamation: Making, publishing, disseminating, or circulating,
6 directly or indirectly, or aiding, abetting, or encouraging the making,
7 publishing, disseminating, or circulating of any oral, written, or printed
8 statement that is false regarding the financial condition of any savings
9 bank.

10 (2) False information and advertising: Making, publishing, disseminating,
11 circulating, or otherwise placing before the public in any publication,
12 media, notice, pamphlet, letter, poster, or any other way, an
13 advertisement, announcement, or statement containing any assertion,
14 representation, or statement with respect to the savings bank business
15 or with respect to any person in the conduct of the savings bank
16 business that is untrue, deceptive, or misleading.

17 (3) Misleading advertising: Use of a name or designation by a savings
18 bank in advertisements, announcements, or statements concerning the
19 savings bank that does not include the words 'savings bank' and the
20 designation 'SSB' in type that is equally prominent with the other terms
21 in the name or designation of the savings bank."

22 Sec. 23. G.S. 58-2-180 reads as rewritten:

23 **"§ 58-2-180. Punishment for making false statement.**

24 If any person in any financial or other statement required by this Chapter willfully
25 misstates information, that person making oath to or subscribing the statement is guilty
26 of ~~perjury under G.S. 14-209, a Class I felony;~~ and the entity on whose behalf the person
27 made the oath or subscribed the statement is subject to a fine imposed by the court of
28 not less than two thousand dollars (\$2,000) nor more than ten thousand dollars
29 (\$10,000)."

30 Sec. 24. G.S. 58-8-1 reads as rewritten:

31 **"§ 58-8-1. Mutual insurance companies organized; requisites for doing business.**

32 No policy may be issued by a mutual company until the president and the secretary
33 of the company have certified under oath that every subscription for insurance in the list
34 presented to the Commissioner for approval is genuine, and made with an agreement
35 with every subscriber for insurance that he will take the policies subscribed for by him
36 within 30 days after the granting of a license to the company by the Commissioner to
37 issue policies. Any person making a false oath in respect to the certificate is guilty of
38 ~~perjury under G.S. 14-209, a Class I felony.~~"

39 Sec. 25. G.S. 58-24-180(d) reads as rewritten:

40 "(d) Any person violating the provisions of G.S. 58-24-65 shall be guilty of a
41 ~~felony, and upon conviction shall be liable to a fine of not more than fifteen thousand~~
42 ~~dollars (\$15,000), or to imprisonment for not more than five years, or to both fine and~~
43 ~~imprisonment.~~ Class I felony."

44 Sec. 26. G.S. 74E-13(a) reads as rewritten:

1 "(a) No private person, firm, association, or corporation, and no public institution,
2 agency, or other entity shall engage in, perform any services as, or in any way hold
3 itself out as a company police agency or engage in the recruitment or hiring of company
4 police officers without having first complied with the provisions of this Chapter. Any
5 person, firm, association, or corporation, or their agents and employees violating any of
6 the provisions of this Chapter shall be guilty of a ~~misdemeanor and punishable by a fine,
7 imprisonment for a term not to exceed two years, or both, in the discretion of the court. Class 1~~
8 misdemeanor."

9 Sec. 27. G.S. 77-57(b) reads as rewritten:

10 "(b) Violation of any regulation of the Commission commanding or prohibiting an
11 act shall be a ~~misdemeanor punishable by a fine not to exceed two hundred dollars
12 (\$200.00) or imprisonment for not more than 30 days. Class 3 misdemeanor.~~"

13 Sec. 28. G.S. 90-210.70(b) reads as rewritten:

14 "(b) Any person who willfully violates any other provision of this Article shall be
15 guilty of a ~~misdemeanor and shall be fined not less than five hundred dollars (\$500.00),
16 or shall be imprisoned for not less than 30 days nor more than two years, or both. Class~~
17 1 misdemeanor. Each such violation shall constitute a separate offense and may be
18 prosecuted individually."

19 20 PART 11. REPEAL CERTAIN OFFENSES

21
22 Sec. 29. The following statutes which contain felony offenses are repealed:

23 (1) G.S. 14-20. Killing adversary in duel; aiders and abettors declared
24 accessories.

25 (2) G.S. 14-43. Abduction of married women.

26 Sec. 30. The following statutes which contain misdemeanor offenses are
27 repealed:

28 (1) G.S. 14-111.1. Obtaining ambulance services without intending to pay
29 therefor - Buncombe, Haywood and Madison Counties.

30 (2) G.S. 14-111.2. Obtaining ambulance services without intending to pay
31 therefor - certain named counties.

32 (3) G.S. 14-116. Fraudulent entry of horses at fairs.

33 (4) G.S. 14-133. Erecting artificial islands and lumps in public waters.

34 (5) G.S. 14-140. Certain fires to be guarded by watchman.

35 (6) G.S. 14-170. "Rental battery" defined; identification of rental storage
36 batteries.

37 (7) G.S. 14-171. Defacing word "rental" prohibited.

38 (8) G.S. 14-172. Sale, etc., of rental battery prohibited.

39 (9) G.S. 14-173. Repairing another's rental battery prohibited.

40 (10) G.S. 14-174. Time limit on possession of rental battery without written
41 consent.

42 (11) G.S. 14-175. Violation made misdemeanor.

43 (12) G.S. 14-176. Rebuilding storage batteries out of old parts and sale of,
44 regulated.

- 1 (13) G.S. 14-195. Using profane or indecent language on passenger trains.
 2 (14) G.S. 14-222. Refusal of witness to appear or to testify in investigations
 3 of lynchings.
 4 (15) G.S. 14-310. Dance marathons and walkathons prohibited.
 5 (16) G.S. 14-311. Penalty for violation.
 6 (17) G.S. 14-312. Each day made separate offense.
 7 (18) G.S. 14-356. Conspiring to blacklist employees.
 8 (19) G.S. 14-389. Sale of Jamaica ginger.
 9 (20) G.S. 14-396. Dogs on "Capitol Square" worrying squirrels.
 10 (21) G.S. 14-397. Use of name of denominational college in connection
 11 with dance hall.

12 Sec. 31. G.S. 14-32.1 reads as rewritten:

13 **"§ 14-32.1. Assaults on handicapped persons; punishments.**

14 (a) For purposes of this section, a 'handicapped person' is a person who has:

- 15 (1) A physical or mental disability, such as decreased use of arms or legs,
 16 blindness, deafness, mental retardation or mental illness; or
 17 (2) Infirmary

18 which would substantially impair that person's ability to defend himself.

19 ~~(b) Any person who assaults a handicapped person with a deadly weapon with~~
 20 ~~intent to kill and inflicts serious injury is guilty of a Class C felony.~~

21 ~~(c) Any person who assaults a handicapped person with a deadly weapon and~~
 22 ~~inflicts serious injury is guilty of a Class E felony.~~

23 ~~(d) Any person who assaults a handicapped person with a deadly weapon with~~
 24 ~~intent to kill is guilty of a Class E felony.~~

25 (e) Unless his conduct is covered under some other provision of law providing
 26 greater punishment, any person who commits any aggravated assault or assault and
 27 battery on a handicapped person is guilty of a Class F felony. A person commits an
 28 aggravated assault or assault and battery upon a handicapped person if, in the course of
 29 the assault or assault and battery, that person:

- 30 (1) Uses a deadly weapon or other means of force likely to inflict serious
 31 injury or serious damage to a handicapped person; or
 32 (2) Inflicts serious injury or serious damage to a handicapped person; or
 33 (3) Intends to kill a handicapped person.

34 (f) Any person who commits a simple assault or battery upon a handicapped
 35 person is guilty of a Class 1 misdemeanor."

36 Sec. 32. Section 4 of Chapter 15 of the Session Laws of the 1994 Extra
 37 Session reads as rewritten:

38 "Sec. 4. Effective ~~January 1, 1995,~~ October 1, 1994, G.S. 148-4.1(g1) reads as
 39 rewritten:

40 '(g1) Notwithstanding any other provision of ~~law,~~ law except for subsection (h) of
 41 this section, whenever the Post-Release Supervision and Parole Commission is required
 42 to release inmates in order to meet the requirements of this section, the Post-Release
 43 Supervision and Parole Commission may parole nonviolent inmates who would not
 44 otherwise be eligible for parole instead of paroling violent inmates who are eligible for

1 parole. This subsection does not apply to sentences under Article 81B of Chapter 15A
2 of the General Statutes."

3 Sec. 33. Section 13 of this act is effective upon ratification. The remaining
4 sections of this act become effective October 1, 1994. Prosecution for, or sentences
5 based on, offenses occurring before the effective date of this act are not abated or
6 affected by the repeal or amendment in this act of any statute, and the statutes that
7 would be applicable to those prosecutions or sentences but for the provisions of this act
8 remain applicable to those prosecutions or sentences.