

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1766

Short Title: Victims' Rights/Study/Funds.

(Public)

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Sponsors: Representatives Eddins; Cansler, Gillespie, and Justus.

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Referred to: Rules, Calendar, and Operations of the House.

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May 25, 2000

A BILL TO BE ENTITLED

1 AN ACT TO IMPROVE VICTIMS' RIGHTS IN NORTH CAROLINA AND TO  
2 APPROPRIATE FUNDS FOR A STUDY OF VICTIMS' RIGHTS AND  
3 HABITUAL FELON LAWS BY THE LEGISLATIVE RESEARCH COMMISSION.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 7A-1351(f) reads as rewritten:

6 "(f) Work Release. – When sentencing a person convicted of a ~~felony~~, felony other  
7 than murder or manslaughter, the sentencing court may recommend that the sentenced  
8 offender be granted work release as authorized in G.S. 148-33.1. When sentencing a  
9 person convicted of a misdemeanor, the sentencing court may recommend or, with the  
10 consent of the person sentenced, order that the sentenced offender be granted work  
11 release as authorized in G.S. 148-33.1."

12 Section 2. G.S. 148-33.1(a) reads as rewritten:

13 "(a) Whenever a person convicted of an offense other than murder or manslaughter  
14 is sentenced to imprisonment for a term to be served in the State prison system or a local  
15 confinement facility, the Secretary of the Department of Correction may authorize the  
16 Director of Prisons or the custodian of the local confinement facility to grant work-  
17 release privileges to any inmate who is eligible for work release and who has not been  
18 granted work-release privileges by order of the sentencing court. The Secretary of  
19 Correction shall authorize immediate work-release privileges for any person serving a  
20

1 sentence not exceeding five years in the State prison system and for whom the presiding  
2 judge shall have recommended work-release privileges when (i) it is verified that  
3 appropriate employment for the person is available in an area where, in the judgment of  
4 the Secretary, the Department of Correction has facilities to which the person may  
5 suitably be assigned, and (ii) custodial and correctional considerations would not be  
6 adverse to releasing the person without supervision into the free community."

7 Section 3. G.S. 148-33.2 reads as rewritten:

8 **"§ 148-33.2. Restitution by prisoners with work-release privileges.**

9 (a) Repealed by Session Laws 1985, c. 474, s. 4.

10 (b) As a rehabilitative measure, the Secretary of the Department of Correction is  
11 ~~authorized to~~ shall require any prisoner granted work-release privileges to make restitution  
12 or reparation to an aggrieved party from any earnings gained by the defendant while on  
13 work release when the sentencing court ~~recommends~~ orders that restitution or reparation  
14 be paid by the defendant out of any earnings gained by the defendant if he is granted  
15 work-release privileges and out of other resources of the defendant, including all real and  
16 personal property owned by the defendant and the income derived from such property.  
17 ~~The Secretary shall not be bound by such recommendation, but if they elect not to implement the~~  
18 ~~recommendation, they shall state in writing the reasons therefor, and shall forward the same to~~  
19 ~~the sentencing court.~~

20 (c) When an active sentence is imposed, unless the court finds that it would not  
21 serve the interests of justice to do so, the court shall ~~consider whether, as a rehabilitative~~  
22 ~~measure, it should recommend to the Secretary of Correction order~~ that restitution or  
23 reparation be made by the defendant out of any earnings gained by the defendant if he is  
24 granted work-release privileges and out of other resources of the defendant, including all  
25 real and personal property owned by the defendant, and income derived from such  
26 property. ~~If the court determines that restitution or reparation should not be recommended, it~~  
27 ~~shall so indicate on the commitment. If, however, the court determines that restitution or~~  
28 ~~reparation should be recommended, the~~ The court shall make its ~~recommendation order~~ a part  
29 of the order committing the defendant to custody. The ~~recommendation order~~ shall be in  
30 accordance with the applicable provisions of G.S. 15A-1343(d) and Article 81C of  
31 Chapter 15A of the General Statutes. If the offense is one in which there is evidence of  
32 physical, mental or sexual abuse of a minor, the court ~~may~~ shall order the defendant to  
33 pay from work release earnings the cost of rehabilitative treatment for the minor. The  
34 Administrative Office of the Courts shall prepare and distribute forms which provide  
35 ~~ample space to make restitution or reparation recommendations orders incident to~~  
36 ~~commitments, which forms shall be conveniently structured to enable the sentencing court to~~  
37 ~~make its recommendation commitments.~~

38 (d) The Secretary of the Department of Correction shall establish rules and  
39 regulations to implement this section, which shall include adequate notice to the prisoner  
40 that the payment of restitution or reparation from any earnings gained by the prisoner  
41 while on work release is ~~being considered~~ required as a condition of any work-release  
42 privileges granted the prisoner, and opportunity for the prisoner to be heard. Such rules

1 and regulations shall also provide additional methods whereby facts may be obtained to  
2 supplement the ~~recommendation order~~ of the sentencing court."

3 Section 4. G.S. 148-10.2 reads as rewritten:

4 "**§ 148-10.2. Policy: Death row visitation; death row inmates not to contact family**  
5 **members of victims.**

6 (a) Death row inmates are entitled to receive visits from family members, clergy,  
7 and attorneys representing them. The Department of Correction shall develop a  
8 screening process for all other persons requesting to visit death row inmates to ensure that  
9 each person has either a personal or professional relationship with the inmate. It shall be  
10 the policy of the Department of Correction to disallow visits to death row inmates by  
11 persons seeking to use those inmates to further an agenda or to otherwise engage in any  
12 activity that risks further traumatizing the families of the inmate's victims.

13 (b) It shall be the policy of the Department of Correction to prohibit death row  
14 inmates from contacting the surviving family members of the victims without the written  
15 consent of the family members being contacted. For purposes of this section, the term  
16 "contact" includes arranging for a third party to forward communications from the inmate  
17 to the surviving family members of the victim."

18 Section 5. Article 1 of Chapter 148 of the General Statutes is amended by  
19 adding a new section to read:

20 "**§ 148-5.1. Housing inmates away from victims.**

21 In determining where to assign inmates within the State prison system, the Secretary  
22 of Correction shall ensure that inmates convicted of violent offenses are not housed in  
23 facilities located within a 100-mile radius of the victim or the victim's immediate family."

24 Section 6. Article 1 of Chapter 148 of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 148-10.3. Electronic listings of death row inmates.**

27 Except as otherwise provided in this section, if the Department of Correction  
28 publishes an electronic listing of information on death row inmates, that list shall include  
29 the names of the victim or victims of each inmate, a description of the nature of the  
30 murder or murders committed by each inmate, and the status of the inmate's appeal.  
31 However, the Department shall not include information in such a listing if a victim or the  
32 family of a victim requests that the information not be included."

33 Section 7. G.S. 15A-836(a) reads as rewritten:

34 "(a) When a form is included with the final judgment and commitment pursuant to  
35 G.S. 15A-832(g), or when the victim has otherwise filed a written request for notification  
36 with the custodial agency, the custodial agency shall notify the victim of:

37 (1) The projected date by which the defendant can be released from  
38 custody. The calculation of the release date shall be as exact as possible,  
39 including earned time and disciplinary credits if the sentence of  
40 imprisonment exceeds 90 days.

41 (2) An inmate's assignment to a minimum custody unit and the address of  
42 the unit. This notification shall include notice that the inmate's  
43 minimum custody status may lead to the inmate's participation in one or

1 more community-based programs such as work release or supervised  
2 leaves in the community.

3 (3) The victim's right to submit any concerns to the agency with custody  
4 and the procedure for submitting such concerns.

5 (4) The defendant's escape from custody, within 72 ~~hours-~~hours, except that  
6 if a victim has notified the agency that the defendant has issued a  
7 specific threat against the victim, the agency shall notify the victim as  
8 soon as possible and within 24 hours at the latest.

9 (5) The defendant's capture, within 72 hours.

10 (6) The date the defendant is scheduled to be released from the facility.  
11 Whenever practical, notice shall be given 60 days before release. In no  
12 event shall notice be given less than seven days before release.

13 (7) The defendant's death."

14 Section 8.(a) The Legislative Research Commission may study methods of  
15 improving victims' rights and enhancing the effectiveness of habitual felon laws in North  
16 Carolina, including:

17 (1) More effective limitations on inmate contact with the families of their  
18 victims;

19 (2) Reforming of work-release programs to focus on restitution and  
20 reparations;

21 (3) Development of a "Son of Sam" law for North Carolina to provide crime  
22 victims with a means of recovering profits received as a result of the  
23 crimes committed against them;

24 (4) Improvements to the effectiveness of the habitual felon law in Article  
25 2A of Chapter 14 of the General Statutes, the violent habitual felon law  
26 in Article 2B of Chapter 14 of the General Statutes, and related criminal  
27 laws; and

28 (5) Any other methods of improving the rights of victims in North Carolina  
29 and protecting the public from habitual felons.

30 Section 8.(b) The Legislative Research Commission may report its findings and  
31 any recommendations to the 2001 General Assembly.

32 Section 9. There is appropriated from the General Fund to the General  
33 Assembly the sum of twenty thousand dollars (\$20,000) for the 2000-2001 fiscal year to  
34 fund the study authorized in Section 8 of this act.

35 Section 10. This act becomes effective July 1, 2000.