

Article 33.

Prison Breach and Prisoners.

§ 14-254.5. Definitions.

The following definitions apply in this Article:

- (1) Employee. – Any person who is hired or contracted to work for the State or a local government.
- (2) Prisoner. – Any person in the custody of (i) the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, (ii) any law enforcement officer, or (iii) any local confinement facility as defined in G.S. 153A-217 or G.S. 153A-230.1, including persons pending trial, appellate review, or presentence diagnostic evaluation. (2018-67, s. 1.)

§ 14-256. Prison breach and escape from county or municipal confinement facilities or officers.

If any person shall break any prison, jail or lockup maintained by any county or municipality in North Carolina, being lawfully confined therein, or shall escape from the lawful custody of any superintendent, guard or officer of such prison, jail or lockup, he shall be guilty of a Class 1 misdemeanor, except that the person is guilty of a Class H felony if:

- (1) He has been charged with or convicted of a felony and has been committed to the facility pending trial or transfer to the State prison system; or
- (2) He is serving a sentence imposed upon conviction of a felony. (1 Edw. II, st. 2d; R.C., c. 34, s. 19; Code, s. 1021; Rev., s. 3657; 1909, c. 872; C.S., s. 4404; 1955, c. 279, s. 1; 1983, c. 455, s. 1; 1993, c. 539, ss. 159, 1217; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(s); 2013-389, s. 3.)

§ 14-256.1. Escape from private correctional facility.

It is unlawful for any person convicted in a jurisdiction other than North Carolina but housed in a private correctional facility located in North Carolina to escape from that facility. Violation of this section is a Class H felony. (1998-212, s. 17.23(a).)

§ 14-257: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(12).

§ 14-258. Providing forbidden articles or tools for escape; possessing tools for escape.

(a) Providing Forbidden Articles or Tools for Escape. – Any person who sells, trades, conveys, or provides any of the following to a prisoner is guilty of a Class H felony:

- (1) An article forbidden by prison rules.
- (2) A letter, oral message, weapon, tool, good, clothing, device, or instrument, to effect an escape, or aide in an assault or insurrection.

(b) Increased Penalty. – Any violation of subdivision (2) of subsection (a) of this section that does effect an escape, assault, or insurrection is a Class F felony.

(c) Possessing Tools for Escape. – Any prisoner who possesses a letter, weapon, tool, good, article of clothing, device, or instrument to do any of the following is guilty of a Class H felony:

- (1) To effect an escape.
- (2) Aide in an assault or insurrection.

(d) Application. – The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility. (1873-4, c. 158; s. 12; Code, s. 3441; Rev., s. 3662; 1911, c. 11; C.S., s. 4406; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1218; 1994, Ex. Sess., c. 24, s. 14(c); 2018-67, s. 3.)

§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities; furnishing tobacco products including vapor products; or furnishing mobile phones to inmates or delinquent juveniles.

(a) If any person shall give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, or if any person shall combine, confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure another or others to give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of any kind, or any controlled substances included in Schedules I through VI contained in Article 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner, poison or poisonous substance, except upon the prescription of a physician, he shall be punished as a Class H felon; and if he be an officer or employee of any institution of the State, or of any local confinement facility, he shall be dismissed from his position or office.

(b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any alcoholic beverages to any inmate of any such State institution or local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall bring into the buildings, grounds or other facilities of such institution any alcoholic beverages, except for medical purposes as prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or rabbi for use as part of a religious service, shall be guilty of a Class 1 misdemeanor. If such person is an officer or employee of any institution of the State, such person shall be dismissed from office.

(c) Any person who knowingly gives or sells any tobacco products, including vapor products, as defined in G.S. 148-23.1, to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any tobacco products, including vapor products, to a person who is not an inmate for delivery to an inmate in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and on the premises of a correctional facility or to an inmate in the custody of a local confinement facility, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

(d) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of

the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, to a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate or delinquent juvenile for delivery to an inmate or delinquent juvenile, is guilty of a Class H felony.

For purposes of this subsection, a delinquent juvenile in the custody of the Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall mean a juvenile confined in a youth development center or a detention facility as defined in G.S. 7B-1501, and shall include transportation of a juvenile to or from confinement.

(e) Any inmate of a local confinement facility who possesses any tobacco product, as defined in G.S. 148-23.1, other than for authorized religious purposes, is guilty of a Class 1 misdemeanor.

(f) Notwithstanding subsection (c) of this section, local confinement facilities may give or sell vapor products or FDA-approved tobacco cessation products, such as over-the-counter nicotine replacement therapies, including nicotine gum, patches, and lozenges, to inmates while in the custody of the local confinement facility.

(g) Any inmate in the custody of the Division of Adult Correction of the Department of Public Safety or an inmate of a local confinement facility who possesses a mobile telephone or other wireless communication device or a component of one of those devices is guilty of a Class H felony.

(h) The prohibitions in subsections (d) and (g) of this section shall not apply to any mobile telephone or other wireless communications device provided to or possessed by an inmate of a local confinement facility if the mobile telephone or other wireless communications device has been approved by the sheriff or other person in charge of a local confinement facility for use by inmates and is provided to the inmate in a manner consistent with the approved use of that device. (1961, c. 394, s. 2; 1969, c. 970, s. 6; 1971, c. 929; 1973, c. 1093; 1975, c. 804, ss. 1, 2; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; c. 412, s. 4; c. 747, s. 66; 1989, c. 106; 1993, c. 539, s. 160; 1994, Ex. Sess., c. 24, s. 14(c); 2009-560, s. 3; 2011-145, s. 19.1(h); 2014-3, s. 15.2(b); 2014-115, s. 23(a); 2014-119, s. 5(a); 2015-47, s. 1; 2017-186, s. 2(dd); 2020-74, s. 26(a).)

§ 14-258.2. Possession of dangerous weapon in prison.

(a) Any person while in the custody of the Section of Prisons of the Division of Adult Correction and Juvenile Justice, or any person under the custody of any local confinement facility as defined in G.S. 153A-217, who shall have in his possession without permission or authorization a weapon capable of inflicting serious bodily injuries or death, or who shall fabricate or create such a weapon from any source, shall be guilty of a Class H felony; and any person who commits any assault with such weapon and thereby inflicts bodily injury or by the use of said weapon effects an escape or rescue from imprisonment shall be punished as a Class F felon.

(b) A person is guilty of a Class H felony if he assists a prisoner in the custody of the Section of Prisons of the Division of Adult Correction and Juvenile Justice or of any local confinement facility as defined in G.S. 153A-217 in escaping or attempting to escape and:

- (1) In the perpetration of the escape or attempted escape he commits an assault with a deadly weapon and inflicts bodily injury; or

- (2) By the use of a deadly weapon he effects the escape of the prisoner. (1975, c. 316, s. 1; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 455, s. 2; 1993, c. 539, s. 1219; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(j); 2017-186, ss. 2(ee), 3(a).)

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

Any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including persons in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pending trial or appellate review or for presentence diagnostic evaluation, or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review or for any lawful purpose, who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be punished as a Class F felon. The provisions of this section apply to: (i) violations committed by any prisoner in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, whether inside or outside of the facilities of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; (ii) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217), whether inside or outside the local confinement facilities (as defined in G.S. 153A-217). (1975, c. 315; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1220; 1994, Ex. Sess., c. 24, s. 14(c); 2011-145, s. 19.1(h); 2012-83, s. 19; 2017-186, s. 2(ff).)

§ 14-258.4. Malicious conduct by prisoner.

(a) Any prisoner who knowingly and willfully throws, emits, or causes to be used as a projectile, any bodily fluids, excrement, or unknown substance at an employee, while the employee is in the performance of the employee's duties, is guilty of a Class F felony.

(b) Any prisoner who knowingly and willfully exposes genitalia to an employee while the employee is in the performance of the employee's duties is guilty of a Class I felony.

(c) The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility.

(d) Sentences imposed under this Article shall run consecutively to and shall commence at the expiration of any sentence being served by the person sentenced under this section. (2001-360, s. 1; 2011-145, ss. 19.1(h), (l); 2017-186, s. 2(gg); 2018-67, s. 2.)

§ 14-258.7. Annual reports of violations.

(a) The Department of Public Safety and Juvenile Justice shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

- (1) The number of incidents of any violation of this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) involving an employee or contractor of a detention facility operated by the State.
- (2) The nature of the resolution of every incident of any violation of this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) involving an employee or contractor of a detention facility operated by the State.

(b) The Conference of District Attorneys shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

- (1) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that resulted in trial.
- (2) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that were resolved by a plea to a lesser-included offense.
- (3) The number of criminal charges pursuant to this Article, G.S. 14-34.5(b), 14-34.7(b), or 14-34.7(c)(2) that were resolved by a voluntary dismissal or other discretionary action that effectively dismissed or reduced the original charge.

(c) The Administrative Office of the Courts shall report the following to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by March 15 of each year:

- (1) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) charged.
- (2) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) that ended in a conviction.
- (3) The number of violations of this Article, G.S. 14-34.5(b), 14-34.7(b), and 14-34.7(c)(2) that were dismissed. (2018-67, s. 1.2.)

§ 14-259. Harboring or aiding certain persons.

It shall be unlawful for any person knowing or having reasonable cause to believe, that any person has escaped from any prison, jail, reformatory, or from the criminal insane department of any State hospital, or from the custody of any peace officer who had such person in charge, or that such person is a convict or prisoner whose parole has been revoked, or that such person is a fugitive from justice or is otherwise the subject of an outstanding warrant for arrest or order of arrest, to conceal, hide, harbor, feed, clothe or otherwise aid and comfort in any manner to any such person. Fugitive from justice shall, for the purpose of this provision, mean any person who has fled from any other jurisdiction to avoid prosecution for a crime.

Every person who shall conceal, hide, harbor, feed, clothe, or offer aid and comfort to any other person in violation of this section shall be guilty of a felony, if such other person has been convicted of, or was in custody upon the charge of a felony, and shall be punished as a Class I felon; and shall be guilty of a Class 1 misdemeanor, if such other person had been convicted of, or was in custody upon a charge of a misdemeanor, and shall be punished in the discretion of the court.

The provisions of this section shall not apply to members of the immediate family of such person. For the purposes of this section "immediate family" shall be defined to be the mother, father, brother, sister, wife, husband and child of said person. (1939, c. 72; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1983, c. 564, ss. 1-3; 1993, c. 539, s. 161; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-260: Recodified as § 162-55 by Session Laws 1983, c. 631, s. 1.

§ 14-261: Recodified as § 162-56 by Session Laws 1983, c. 631, s. 2.

§ 14-262. Repealed by Session Laws 1975, c. 402.

§ 14-263. Repealed by Session Laws 1979, c. 760, s. 4.

§ 14-264: Recodified as § 162-57 by Session Laws 1983, c. 631, s. 3.

§ 14-265. Repealed by Session Laws 1977, c. 711, s. 33.