

## **Chapter 148.**

### **State Prison System.**

#### Article 1.

#### Organization and Management.

#### **§ 148-1. Repealed by Session Laws 1973, c. 1262, s. 10.**

#### **§ 148-2. Prison moneys and earnings.**

(a) Persons authorized to collect or receive the moneys and earnings of the State prison system shall enter into bonds payable to the State of North Carolina in penal sums and with security approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, conditioned upon the faithful performance by these persons of their duties in collecting, receiving, and paying over prison moneys and earnings to the State Treasurer. Only corporate security with sureties licensed to do business in North Carolina shall be accepted.

(b) Repealed by Session Laws 2007-280, s. 2, effective August 1, 2007.

(c) Notwithstanding G.S. 147-77, Article 6A of Chapter 147 of the General Statutes, or any other provision of law, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may deposit revenue from prison canteens in local banks. The profits from prison canteens shall be deposited with the State Treasurer on a monthly basis in a fund denominated as the Correction Inmate Welfare Fund. Once the operating budget for the Correction Inmate Welfare Fund has been met, an amount equal to the funds allocated to each prison unit on a per inmate per year basis shall be credited to the Crime Victims Compensation Fund established in G.S. 15B-23G as soon as practicable after the total amount paid to each unit per inmate per year has been determined. (1901, c. 472, s. 7; Rev., s. 5389; C.S., s. 7704; 1923, c. 156; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 2; 1967, c. 996, s. 14; 1973, c. 1262, s. 10; 1985 (Reg. Sess., 1986), c. 1014, s. 203; 1991 (Reg. Sess., 1992), c. 902, s. 4; 1993 (Reg. Sess., 1994), c. 769, s. 21.5(a); 2007-280, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(ttttt).)

#### **§ 148-3. Prison property.**

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall subject to the provisions of G.S. 143-341, have control and custody of all unexpended surplus highway funds previously allocated for prison purposes and all property of every kind and description now used by or considered a part of units of the State prison system, except vehicles used on a rental basis. The property coming within the provisions of this section shall be identified and agreed upon by the executive heads of the highway and prison systems, or by their duly authorized representatives. The Governor shall have final authority to decide whether or not particular property shall be transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in event the executive heads of the two systems are unable to agree.

(b) Property, both real and personal, deemed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to be necessary or convenient in the operation of the State prison system may, subject to the provisions of G.S. 143-341, be acquired by gift, devise, purchase, or lease. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may, subject to the provisions of G.S. 143-341, dispose of any prison property, either real or personal, or any interest or estate therein. (1901, c. 472, ss. 2, 6; Rev., s. 5392; C.S.,

s. 7705; 1925, c. 163; 1933, c. 172, s. 18; 1943, c. 409; 1957, c. 349, s. 3; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(uuuuuu).)

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

The Secretary of Public Safety shall have control and custody of all prisoners serving sentence in the State prison system, and such prisoners shall be subject to all the rules and regulations legally adopted for the government thereof. Any sentence to imprisonment in any unit of the State prison system, or to jail to be assigned to work under the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be construed as a commitment, for such terms of imprisonment as the court may direct, to the custody of the Secretary of Public Safety or his authorized representative, who shall designate the places of confinement within the State prison system where the sentences of all such persons shall be served. The authorized agents of the Secretary shall have all the authority of peace officers for the purpose of transferring prisoners from place to place in the State as their duties might require and for apprehending, arresting, and returning to prison escaped prisoners, and may be commissioned by the Governor, either generally or specially, as special officers for returning escaped prisoners or other fugitives from justice from outside the State, when such persons have been extradited or voluntarily surrendered. Employees of departments, institutions, agencies, and political subdivisions of the State hiring prisoners to perform work outside prison confines may be designated as the authorized agents of the Secretary of Public Safety for the purpose of maintaining control and custody of prisoners who may be placed under the supervision and control of such employees, including guarding and transferring such prisoners from place to place in the State as their duties might require, and apprehending and arresting escaped prisoners and returning them to prison. The governing authorities of the State prison system are authorized to determine by rules and regulations the manner of designating these agents and placing prisoners under their supervision and control, which rules and regulations shall be established in the same manner as other rules and regulations for the government of the State prison system.

The Secretary of Public Safety may extend the limits of the place of confinement of a prisoner, as to whom there is reasonable cause to believe he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to

- (1) Contact prospective employers; or
- (2) Secure a suitable residence for use when released on parole or upon discharge;  
or
- (3) Obtain medical services not otherwise available; or
- (4) Participate in a training program in the community; or
- (5) Visit or attend the funeral of a spouse, child (including stepchild, adopted child or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person though not a natural parent, has acted in the place of a parent), brother, or sister; or
- (6) Participate in community-based programs of rehabilitation, including, but not limited to the existing community volunteer and home-leave programs, pre-release and after-care programs as may be provided for and administered by the Secretary of Public Safety and other programs determined by the

- Secretary of Public Safety to be consistent with the prisoner's rehabilitation and return to society; or
- (7) Be on maternity leave, for a period of time not to exceed 60 days. The county departments of social services are expected to cooperate with officials at the North Carolina Correctional Center for Women to coordinate prenatal care, financial services, and placement of the child; or
  - (8) Receive palliative care, only in the case of a terminally ill inmate or a permanently and totally disabled inmate that the Secretary finds no longer poses a significant public safety risk, and only after consultation with any victims of the inmate or the victims' families. For purposes of this subdivision, the term "terminally ill" describes an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that was unknown at the time of sentencing and was not diagnosed upon entry to prison, that will likely produce death within six months, and that is so debilitating that it is highly unlikely that the inmate poses a significant public safety risk. For purposes of this subdivision, the term "permanently and totally disabled" describes an inmate who, as determined by a licensed physician, suffers from permanent and irreversible physical incapacitation as a result of an existing physical or medical condition that was unknown at the time of sentencing and was not diagnosed upon entry to prison, and that is so incapacitating that it is highly unlikely that the inmate poses a significant public safety risk. The Department's medical director shall notify the Secretary immediately when an inmate has been classified as terminally ill and shall provide regular reports on inmates classified as permanently and totally disabled. The Secretary shall act expeditiously in determining whether to extend the limits of confinement under this subdivision upon receiving notice that an inmate has been classified as terminally ill or permanently and totally disabled and, in the case of a terminally ill inmate, the Secretary shall make a good faith effort to reach a determination within 30 days of receiving notice of the inmate's terminal condition.

The willful failure of a prisoner to remain within the extended limits of his confinement, or to return within the time prescribed to the place of confinement designated by the Secretary of Public Safety, shall be deemed an escape from the custody of the Secretary of Public Safety punishable as provided in G.S. 148-45. (1901, c. 472, s. 4; Rev., s. 5390; C.S., s. 7706; 1925, c. 163; 1933, c. 172, ss. 5, 18; 1935, c. 257, s. 2; 1943, c. 409; 1955, c. 238, s. 2; 1957, c. 349, s. 10; 1959, c. 109; 1965, c. 1042; 1967, c. 996, ss. 13, 15; 1973, c. 902; c. 1262, s. 10; 1977, c. 704, s. 5; 1985, c. 483; 2001-424, s. 25.9(a); 2005-276, s. 17.13; 2011-145, ss. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(vvvvvv).)

#### **§ 148-4.1. Release of inmates.**

(a) Whenever the Secretary of Public Safety determines from data compiled by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that it is necessary to reduce the prison population to a more manageable level or to meet the State's obligations under law, he shall direct the Post-Release Supervision and Parole Commission to release on parole over a reasonable period of time a number of prisoners sufficient to that purpose. From the time the Secretary directs the Post-Release Supervision and Parole Commission until the prison population has been reduced to a more manageable level, the Secretary may not accept any

inmates ordered transferred from local confinement facilities to the State prison system under G.S. 148-32.1(b). Further, the Secretary may return any inmate housed in the State prison system under an order entered pursuant to G.S. 148-32.1(b) to the local confinement facility from which the inmate was transferred. In order to meet the requirements of this section, the Parole Commission shall not parole any person convicted under Article 7B of Chapter 14 of a sex offense, under G.S. 14-39, 14-41, or 14-43.3, under G.S. 90-95(h) of a drug trafficking offense, or under G.S. 14-17, or any other violent felon as defined in subsection (a1) of this section. The Parole Commission may continue to consider the suitability for release of such persons in accordance with the criteria set forth in Articles 85 and 85A of Chapter 15A.

(a1) Notwithstanding any other provision of this section, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall at all times secure the necessary prison space to house any violent felon or habitual felon for the full active sentence imposed by the court. For purposes of this subsection, the term "violent felon" means any person convicted of the following felony offenses: first or second degree murder, voluntary manslaughter, first or second degree rape, first or second degree sexual offense, any sexual offense involving a minor, robbery, kidnapping, or assault, or attempting, soliciting, or conspiring to commit any of those offenses.

(b) Except as provided in subsection (c), only inmates who are otherwise eligible for parole pursuant to Article 85 of Chapter 15A or pursuant to Article 3B of this Chapter may be released under this section.

(c) Persons eligible for parole under Article 85A of Chapter 15A shall be eligible for early parole under this section nine months prior to the discharge date otherwise applicable, and six months prior to the date of automatic 90-day parole authorized by G.S. 15A-1380.2.

(c1) through (g). Repealed by 1995 Session Laws, c. 324, s. 19.9(e).

(g1) Expired July 1, 1996.

(h) A person sentenced under Article 81B of Chapter 15A of the General Statutes shall not be released pursuant to this section.

(i) This section does not apply to inmates released pursuant to G.S. 148-64.1. (1983, c. 557, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 197(a); 1987, c. 7, ss. 1, 3, 4; c. 879, s. 1.2; 1989, c. 1, s. 1; 1990, Ex. Sess., c. 1, ss. 1-3.3; 1989 (Reg. Sess., 1990), c. 933, ss. 10-13; 1991, c. 187, s. 2; c. 217, ss. 6, 7; c. 437, ss. 1-9; 1991 (Reg. Sess., 1992), c. 1036, ss. 5-7; 1993, c. 91, ss. 1-9; c. 538, s. 31; 1994, Ex. Sess., c. 14, s. 64; c. 15, ss. 1-4; c. 24, s. 14(b), (e); 1995, c. 324, s. 19.9(a)-(e); 2008-199, s. 1; 2011-145, ss. 19.1(h), (i); 2015-181, s. 47; 2017-186, s. 2(wwwwww).)

#### **§ 148-5. Secretary to manage prison property.**

The Secretary of Public Safety shall manage and have charge of all the property and effects of the State prison system, and conduct all its affairs subject to the provisions of this Chapter and the rules and regulations legally adopted for the government thereof. (1933, c. 172, s. 4; 1955, c. 238, s. 3; 1967, c. 996, s. 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(i).)

#### **§ 148-5.1. Confining inmates away from victims.**

If a victim or immediate family member of a victim requests that, for the safety of the victim or family member, an inmate be confined outside the county where the victim or family member resides or is employed, the Department shall make a reasonable effort to house the inmate in a facility in another county. If the inmate is not so housed in another county, the Department shall notify the victim or family member in writing. (2001-433, s. 10; 2001-487, s. 120.)

**§ 148-6. Custody, employment and hiring out of convicts.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide for receiving, and keeping in custody until discharged by law, all such convicts as may be now confined in the prison and such as may be hereafter sentenced to imprisonment therein by the several courts of this State. The Division shall have full power and authority to provide for employment of such convicts, either in the prison or on farms leased or owned by the State of North Carolina, or elsewhere, or otherwise; and may contract for the hire or employment of any able-bodied convicts upon such terms as may be just and fair, but such convicts so hired, or employed, shall remain under the actual management, control and care of the Division. (1895, c. 194, s. 5; 1897, c. 270; 1901, c. 472, ss. 5, 6; Rev., s. 5391; C.S., s. 7707; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2007-398, s. 2; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(xxxxxx).)

**§ 148-7: Repealed by Session Laws 1995, c. 233, s. 1.**

**§ 148-8. Transferred to § 66-58(b)(15) by Session Laws 1975, c. 730, s. 2.**

**§ 148-8.1. Transferred to § 66-58(b)(16) by Session Laws 1975, c. 730, s. 3.**

**§ 148-9. Repealed by Session Laws 1973, c. 476, s. 138.**

**§ 148-10. Department of Environmental Quality to supervise sanitary and health conditions of prisoners.**

The Department of Environmental Quality shall have general supervision over the sanitary and health conditions of the central prison, over the prison camps, or other places of confinement of prisoners under the jurisdiction of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and shall make periodic examinations of the same and report to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the conditions found there with respect to the sanitary and hygienic care of such prisoners. (1917, c. 286, s. 8; 1919, c. 80, s. 4; C.S., s. 7714; 1925, c. 163; 1933, c. 172, s. 22; 1943, c. 409; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1973, c. 476, s. 128; 1989, c. 727, s. 219(37); 1997-443, s. 11A.111; 2011-145, s. 19.1(h); 2012-83, s. 61; 2015-241, s. 14.30(u); 2017-186, s. 2(yyyyyy).)

**§ 148-10.1. Employment of clinical chaplains for inmates.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is authorized and directed to employ clinical chaplains to provide moral, spiritual and social counselling and ministerial services to inmates in the custody of the Secretary of Public Safety. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall seek to employ a diversity of qualified persons having differing faiths which are to the extent practicable reflective of the professed religious composition of the inmate population. (1977, c. 950, s. 1; 2011-145, ss. 19.1(h), (i); 2017-186, s. 2(zzzzzz).)

**§ 148-10.2. Policy: Certain inmates not to contact family members of victims.**

(a) It shall be the policy of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to prohibit death row inmates from contacting the surviving family

members of the victims without the written consent of the family members being contacted. For purposes of this subsection, the term "contact" includes arranging for a third party to forward communications from the inmate to the surviving family members of the victim.

(b) At the request of the victim or a family member of the victim, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall prohibit an inmate convicted of an offense listed in G.S. 15A-830(a)(7) from contacting the requesting party. For purposes of this subsection, the term "contact" includes arranging for a third party to forward communications from the inmate to the victim or family member.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall develop and impose sanctions against any inmate who violates the provisions of this section. (1999-358, s. 1; 2001-433, s. 9; 2001-487, s. 120; 2011-145, s. 19.1(h); 2017-186, s. 2(aaaaaa).)

### **§ 148-10.3. Electronic monitoring costs.**

Personnel, equipment, and other costs of providing electronic monitoring of pretrial or sentenced offenders shall be reimbursed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by the State or local agency requesting the service in an amount not exceeding the actual costs. (2002-126, s. 17.10(a); 2011-145, s. 19.1(h); 2017-186, s. 2(bbbbbbb).)

### **§ 148-10.4. Statewide Misdemeanant Confinement Fund.**

(a) Definitions. – The following definitions apply in this section:

- (1) Division. – Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Fund. – The Statewide Misdemeanant Confinement Fund established by this section.
- (3) Program. – Statewide Misdemeanant Confinement Program established under G.S. 148-32.1(b3) [G.S. 148-32.1(b2)].
- (4) Sheriffs' Association. – North Carolina Sheriffs' Association, Inc.

(b) Intent and Purpose. – It is the intent of the General Assembly that the funds in the Fund established by this section be used to reimburse local governments for expenses incurred for housing misdemeanants under the Program, and other related expenses; and to cover administrative costs incurred by the Sheriffs' Association for services provided by it regarding the housing of these misdemeanants.

(c) Statewide Misdemeanant Confinement Fund established. – There is created within the Division of Adult Correction and Juvenile Justice a special nonreverting fund called the Statewide Misdemeanant Confinement Fund.

(d) Fund Uses. – Moneys in the Fund may be used for the following:

- (1) Reimbursements by the Sheriffs' Association to counties for the costs of housing misdemeanants under the Program, including the care, supervision, and transportation of those misdemeanants.
- (2) Reimbursements to the Division of Adult Correction and Juvenile Justice for the cost of housing misdemeanants transferred to the Division pursuant to G.S. 148-32.1(b3), including the care, supervision, and transportation of those misdemeanants.

- (3) To pay the Sheriffs' Association for administrative and operating expenses pursuant to subsection (e) of this section.
- (4) To pay the Division of Adult Correction and Juvenile Justice for administrative and operating expenses pursuant to subsection (e) of this section.
- (e) Repealed by Session Laws 2016-94, s. 17C.1(b), effective July 1, 2016.
- (f) Upon notification from the Division of Adult Correction and Juvenile Justice that an amount owed by a county for safekeeper reimbursements authorized under G.S. 162-39 is more than 120 days overdue, the Sheriffs' Association shall withhold funds from any reimbursements due to a county under this section and transmit those funds to the Division until that overdue safekeeper reimbursement is satisfied. (2011-145, s. 19.1(h), (i); 2011-192, s. 7(h); 2013-360, s. 16C.6(a); 2015-241, ss. 16C.6(c), 16C.12; 2016-94, s. 17C.1(b); 2017-186, ss. 2(cccccc), 3(a).)

**§ 148-10.5. Facilitation of reentry.**

In order to facilitate successful reentry and improve judicial efficiency, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall work with law enforcement, the district attorneys' offices, and the courts to develop a process by which, both at intake and before release, effort is made, for each inmate in custody, to identify all outstanding warrants on the inmate. The plan should seek to resolve inmates' outstanding warrants while in custody, whenever feasible. In the course of resolving an outstanding warrant while in custody, an inmate shall be notified of the outstanding warrant and his or her right to counsel if such a right exists. (2015-48, s. 2; 2017-186, s. 2(dddddd).)

Article 2.

Prison Regulations.

**§ 148-11. Authority to adopt rules; authority to designate uniforms.**

(a) The Secretary shall adopt rules for the government of the State prison system. The Secretary shall have the rules that pertain to enforcing discipline read to every prisoner when received in the State prison system and a printed copy of these rules made available to the prisoners.

(b) The Secretary of Public Safety has sole authority to designate the uniforms worn by inmates confined in the Section of Prisons of the Division of Adult Correction and Juvenile Justice. (1873-4, c. 158, s. 15; Code, s. 3444; Rev., s. 5401; C.S., s. 7721; 1925, c. 163; 1933, c. 172, s. 18; 1955, c. 238, s. 4; 1957, c. 349, s. 4; 1967, c. 996, ss. 14, 15; 1973, c. 1262, s. 10; 1983, c. 147, s. 1; 1987, c. 827, s. 1; 1991, c. 418, s. 15; c. 477, ss. 6, 8; 1995, c. 507, s. 27.8(u); 1999-109, s. 2; 2011-145, s. 19.1(i), (j); 2017-186, s. 2(eeeeeee).)

**§ 148-12. Diagnostic and classification programs.**

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall, as soon as practicable, establish diagnostic centers to make social, medical, and psychological studies of persons committed to the Division. Full diagnostic studies shall be made before initial classification in cases where such studies have not been made.

(b) Repealed by Session Laws 1977, c. 711, s. 33, effective July 1, 1978.

(c) Any prisoner confined in the State prison system while under a sentence of imprisonment imposed upon conviction of a felony shall be classified and treated as a convicted

felon even if, before beginning service of the felony sentence, such prisoner has time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors. (1917, c. 278, s. 2; 1919, c. 191, s. 2; C.S., s. 7750; 1925, c. 163; 1933, c. 172, s. 18; 1955, c. 238, s. 5; 1959, c. 50; 1967, c. 996, s. 2; 1973, c. 1446, s. 27; 1977, c. 711, s. 33; 1977, 2nd Sess., c. 1147, s. 32; 2011-145, s. 19.1(h); 2017-186, s. 2(ffffff).)

**§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.**

(a) The Secretary of Public Safety may issue regulations regarding the grades of custody in which State prisoners are kept, the privileges and restrictions applicable to each custody grade, and the amount of cash, clothing, etc., to be awarded to State prisoners after their discharge or parole. The amount of cash awarded to a prisoner upon discharge or parole after being incarcerated for two years or longer shall be at least forty-five dollars (\$45.00).

(a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.

(b) With respect to prisoners who are serving sentences for impaired driving offenses under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(c), (d) Repealed by Session Laws 1993, c. 538, s. 32, effective January 1, 1995.

(e) The Secretary's regulations concerning earned time and good time credits authorized by this section shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.

(f) The provisions of this section do not apply to persons sentenced to a term of special probation under G.S. 15A-1344(e) or G.S. 15A-1351(a). (1933, c. 172, s. 23; 1935, c. 414, s. 15; 1937, c. 88, s. 1; 1943, c. 409; 1955, c. 238, s. 6; 1979, c. 760, s. 4; 1979, 2nd Sess., c. 1316, ss. 43-47; 1981, c. 63, s. 1; c. 179, s. 14; c. 662, ss. 8, 9; 1983, c. 560, s. 3; 1985, c. 310, ss. 1-4; 1987 (Reg. Sess., 1988), c. 1086, s. 120(a); 1991, c. 187, s. 3; 1993, c. 538, s. 32; 1994, Ex. Sess., c. 24, s. 14(b); 2011-145, s. 19.1(i); 2014-100, s. 16C.1(e).)

**§§ 148-14 through 148-17. Repealed by Session Laws 1943, c. 409.**

**§ 148-18. Wages, allowances and loans.**

(a) Prisoners employed by Correction Enterprises shall be compensated as set forth in Article 14 of this Chapter. Prisoners participating in work assignments established by the Section of Prisons of the Division of Adult Correction and Juvenile Justice shall be compensated at rates fixed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety's rules and regulations; provided, that no prisoner so paid shall receive more than one dollar (\$1.00) per day, unless the Secretary determines that the work assignment requires special skills or training. Upon approval of the Secretary, inmates working in job assignments requiring special skills or training may be paid up to three dollars (\$3.00) per day. The Correction Enterprises Fund shall be the source of wages and allowances provided to inmates who are employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in work assignments established by the Section of Prisons of the Division of Adult Correction and Juvenile Justice.



(b) A prisoner shall be required to contribute to the support of any of his dependents residing in North Carolina who may be receiving public assistance during the period of commitment if funds available to the prisoner are adequate for such purpose. The dependency status and need shall be determined by the department of social services in the county of North Carolina in which such dependents reside.

(c) Repealed by Session Laws 1995, c. 233, s. 2. (1935, c. 414, s. 19; 1967, c. 996, s. 3; 1969, c. 982; 1973, c. 1262, s. 10; 1975, c. 506, s. 3; c. 716, s. 7; 1991 (Reg. Sess., 1992), c. 902, s. 5; 1993, c. 321, s. 175; 1995, c. 233, s. 2; 2007-280, s. 3; 2011-145, s. 19.1(h), (j); 2017-186, ss. 2(ggggggg), 3(a).)

#### **§ 148-18.1. Confiscation of unauthorized articles.**

Any item of personal property which a prisoner in any correctional facility is prohibited from possessing by State law or which is not authorized by rules adopted by the Secretary of Public Safety shall, when found in the possession of a prisoner, be confiscated and destroyed or otherwise disposed of as the Secretary may direct. Any unauthorized funds confiscated under this section or funds from the sale of confiscated property shall be deposited to Inmate Welfare Fund maintained by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1983, c. 289, s. 1; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(hhhhhh).)

#### **§ 148-19. Health services.**

(a) The general policies, rules and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall prescribe standards for health services to prisoners, which shall include preventive, diagnostic, and therapeutic measures on both an outpatient and a hospital basis, for all types of patients. A prisoner may be taken, when necessary, to a medical facility outside the State prison system. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall seek the cooperation of public and private agencies, institutions, officials and individuals in the development of adequate health services to prisoners.

(b) Upon request of the Secretary of Public Safety, the Secretary of Health and Human Services may detail personnel employed by the Department of Health and Human Services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the purpose of supervising and furnishing medical, psychiatric, psychological, dental, and other technical and scientific services to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The compensation, allowances, and expenses of the personnel detailed under this section may be paid from applicable appropriations to the Department of Health and Human Services, and reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Secretary of Public Safety may make similar arrangements with any other agency of State government able and willing to aid the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to meet the needs of prisoners for health services.

(c) Each prisoner committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall receive a physical and mental examination by a health care professional authorized by the North Carolina Medical Board to perform such examinations as soon as practicable after admission and before being assigned to work. The prisoner's work and other assignments shall be made with due regard for the prisoner's physical and mental condition.

(d) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall adopt standards for the delivery of mental health and mental retardation services to inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall give the Secretary of Public Safety an opportunity to review and comment on proposed standards prior to promulgation of such standards; however, final authority to determine such standards remains with the Commission. The Secretary of the Department of Health and Human Services shall designate an agency or agencies within the Department of Health and Human Services to monitor the implementation by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety of these standards and of substance abuse standards adopted by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1917, c. 286, s. 22; C.S., s. 7727; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 4; 1973, c. 476, s. 133; c. 1262, s. 10; 1977, c. 332; c. 679, s. 7; 1981, c. 51, s. 6; c. 707, ss. 1, 2; 1985, c. 589, s. 55.1; 1991, c. 405, s. 1; 1995, c. 94, s. 36; 1997-443, s. 11A.118(a); 2011-145, s. 19.1(h), (i); 2011-266, s. 1.17(b); 2012-83, s. 61; 2013-360, s. 12A.12; 2017-186, s. 2(iiiiii).)

#### **§ 148-19.1. Exemption from licensure and certificate of need.**

(a) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be exempt from licensure by the Department of Health and Human Services under Chapter 122C of the General Statutes. If an inpatient chemical dependency or substance abuse facility provides services both to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and to members of the general public, the portion of the facility that serves inmates shall be exempt from licensure.

(b) Any person who contracts to provide inpatient chemical dependency or substance abuse services to inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may construct and operate a new chemical dependency or substance abuse facility for that purpose without first obtaining a certificate of need from the Department of Health and Human Services pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition developed for that purpose without a certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the owner or operator first obtains a certificate of need. (2001-424, s. 25.19(a); 2011-145, s. 19.1(h); 2017-186, s. 2(jjjjjj).)

#### **§ 148-19.2. Mandatory HIV testing.**

Each person sentenced to imprisonment and committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be tested to determine whether the person is HIV positive.

Each inmate who has not previously tested positive for HIV shall also be tested:

- (1) Not less than once every four years from the date of that inmate's initial testing.
- (2) Prior to the inmate's release from the custody of the Division of Adult Correction and Juvenile Justice, except that testing is not mandatory prior to the release of an inmate who has been tested within one year of the inmate's release date.

In each case, the results of the test shall be reported to the inmate. If an inmate tests positive for HIV, that inmate shall be referred to public health officials for counseling. (2013-360, s. 16C.15(a); 2017-186, s. 2(kkkkkkk).)

**§ 148-20. Corporal punishment of prisoners prohibited.**

It is unlawful for the Secretary of Public Safety or any other person having the care, custody, or control of any prisoner in this State to make or enforce any rule or regulation providing for the whipping, flogging, or administration of any similar corporal punishment of any prisoner, or to give any specific order for or cause to be administered or personally to administer or inflict any such corporal punishment. (1917, c. 286, s. 7; C.S., s. 7728; 1925, c. 163; 1933, c. 172, s. 18; 1955, c. 238, s. 9; 1963, c. 1174, s. 1; 1967, c. 996, s. 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(i).)

**§ 148-21. Repealed by Session Laws 1963, c. 1174, s. 5.**

**§ 148-22. Treatment programs.**

(a) The general policies, rules and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide for humane treatment of prisoners and for programs to effect their correction and return to the community as promptly as practicable. Visits and correspondence between prisoners and approved friends shall be authorized under reasonable conditions, and family members shall be permitted and encouraged to maintain close contact with the prisoners unless such contacts prove to be hurtful. Casework, counseling, and psychotherapy services provided to prisoners may be extended to include members of the prisoner's family if practicable and necessary to achieve the purposes of such programs. Education, library, recreation, and vocational training programs shall be developed so as to coordinate with corresponding services and opportunities which will be available to the prisoner when he is released. Programs may be established for the treatment and training of mentally retarded prisoners and other special groups. These programs may be operated in segregated sections of facilities housing other prisoners or in separate facilities.

(b) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs designed to give persons committed to the Division opportunities for physical, mental and moral improvement. The Division may enter into agreements with other agencies of federal, State or local government and with private agencies to promote the most effective use of available resources.

Specifically the Secretary of Public Safety may enter into contracts or agreements with appropriate public or private agencies offering needed services including health, mental health, mental retardation, substance abuse, rehabilitative or training services for such inmates of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as the Secretary may deem eligible. These agencies shall be reimbursed from applicable appropriations to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for services rendered at a rate not to exceed that which such agencies normally receive for serving their regular clients.

The Secretary may contract for the housing of work-release inmates at county jails and local confinement facilities. Inmates may be placed in the care of such agencies but shall remain the responsibility of the Division and shall be subject to the complete supervision of the Division. The Division may reimburse such agencies for the support of such inmates at a rate not in excess of the

average daily cost of inmate care in the corrections unit to which the inmate would otherwise be assigned. (1917, c. 286, s. 15; C.S., s. 7732; 1925, c. 163; 1933, c. 172, s. 18; 1955, c. 238, s. 9; 1967, c. 996, s. 5; 1975, c. 679, ss. 1, 2; 1977, c. 297; 1983, c. 376; 1985, c. 589, s. 55; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(IIIIII).)

### **§ 148-22.1. Educational facilities and programs for selected inmates.**

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is authorized to take advantage of aid available from any source in establishing facilities and developing programs to provide inmates of the State prison system with such academic and vocational and technical education as seems most likely to facilitate the rehabilitation of these inmates and their return to free society with attitudes, knowledge, and skills that will improve their prospects of becoming law-abiding and self-supporting citizens. The State Department of Public Instruction is authorized to cooperate with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in planning academic and vocational and technical education of prison system inmates, but the State Department of Public Instruction is not authorized to expend any funds in this connection.

(b) In expending funds that may be made available for facilities and programs to provide inmates of the State prison system with academic and vocational and technical education, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall give priority to meeting the needs of inmates who are less than 21 years of age when received in the prison system with a sentence or sentences under which they will be held for not less than six months nor more than five years before becoming eligible to be considered for a parole or unconditional release. These inmates shall be given appropriate tests to determine their educational needs and aptitudes. When the necessary arrangements can be made, they shall receive such instruction as may be deemed practical and advisable for them.

(c) The Secretary of Public Safety, in consultation with the Office of Human Resources, shall set the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are Division of Prison employees and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subsection shall be construed to include "merit pay" under the term "salary supplement". (1959, c. 431; 1967, c. 996, s. 13; 1985, c. 226, s. 1; 1993, c. 180, s. 8; 2005-276, s. 29.19(c); 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2013-382, s. 9.1(c); 2017-186, s. 2(mmmmmmm).)

### **§ 148-22.2. Procedure when surgical operations on inmates are necessary.**

The medical staff of any penal institution of the State of North Carolina is hereby authorized to perform or cause to be performed by competent and skillful surgeons surgical operations upon any inmate when such operation is necessary for the improvement of the physical condition of the inmate. The decision to perform an operation shall be made by the chief medical officer of the institution, with the approval of the superintendent of the institution, and with the advice of the medical staff of the institution. No operation shall be performed without the consent of the inmate; or, if the inmate is a minor, without the consent of a responsible member of the inmate's family, a guardian, or one having legal custody of the minor; or, if the inmate be non compos mentis, then the consent of a responsible member of the inmate's family or of a guardian shall be obtained. Any

surgical operations on inmates of State penal institutions shall also be subject to the provisions of Article 1A of Chapter 90 of the General Statutes, G.S. 90-21.13, and G.S. 90-21.16.

If the operation on the inmate is determined by the chief medical officer to be an emergency situation in which immediate action is necessary to preserve the life or health of the inmate, and the inmate, if sui juris, is unconscious or otherwise incapacitated so as to be incapable of giving consent or in the case of a minor or inmate non compos mentis, the consent of a responsible member of the inmate's family, guardian, or one having legal custody of the inmate cannot be obtained within the time necessitated by the nature of the emergency situation, then the decision to proceed with the operation shall be made by the chief medical officer and the superintendent of the institution with the advice of the medical staff of the institution.

In all cases falling under this section, the chief medical officer of the institution and the medical staff of the institution shall keep a careful and complete record of the measures taken to obtain the permission for the operation and a complete medical record signed by the medical superintendent or director, the surgeon performing the operation and all surgical consultants of the operation performed. (1919, c. 281, ss. 1, 2; C.S., ss. 7221, 7222; 1947, c. 537, s. 24; 1951, c. 775; 1957, c. 1357, s. 1; 1981, c. 307, ss. 2, 3; 2003-13, s. 8; 2004-203, s. 53(a).)

#### **§ 148-23. Prison employees not to use intoxicants, narcotic drugs or profanity.**

No one addicted to the use of alcoholic beverages, or narcotic drugs, shall be employed as superintendent, warden, guard, or in any other position connected with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, where such position requires the incumbent to have any charge or direction of the prisoners; and anyone holding such position, or anyone who may be employed in any other capacity in the State prison system, who shall come under the influence of alcoholic beverages during hours of employment, or reports for duty under the effect of intoxicants, or narcotic drugs, or who shall become intoxicated, or uses narcotic drugs, under circumstances that bring discredit on the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be subject to immediate dismissal from employment by any of the institutions and shall not be eligible for reinstatement to such position or be employed in any other position in any of the institutions. Any superintendent, warden, correctional officer, supervisor, or other person holding any position in the Division of Adult Correction and Juvenile Justice of the Department of Public Safety who curses a prisoner under his charge shall be subject to immediate dismissal from employment and shall not be eligible for reinstatement. (1917, c. 286, s. 16; 1919, c. 80, s. 8; C.S., s. 7733; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1969, c. 382; 1981, c. 412, s. 4(4); c. 747, s. 66; 2011-145, s. 19.1(h); 2012-83, s. 61; 2016-77, s. 8(c); 2017-186, s. 2(nnnnnnn).)

#### **§ 148-23.1. Tobacco products prohibited on State correctional facilities premises.**

(a) The General Assembly finds that in order to protect the health, welfare, and comfort of inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and to reduce the costs of inmate health care, it is necessary to prohibit inmates from using tobacco products on the premises of State correctional facilities and to ensure that employees and visitors do not use tobacco products on the premises of those facilities.

(b) No person may use tobacco products on the premises of a State correctional facility, except for authorized religious purposes. Notwithstanding any other provision of law, inmates in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public

Safety and persons facilitating religious observances may use and possess tobacco products for religious purposes consistent with the policies of the Division.

(b1) Except as provided in subsection (b) of this section, no person may possess tobacco products on the premises of a State correctional facility. Notwithstanding the provisions of this subsection, an employee or visitor may possess tobacco products within the confines of a motor vehicle located in a designated parking area of a correctional facility's premises if the tobacco product remains in the vehicle and the vehicle is locked when the employee or visitor has exited the vehicle.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may adopt rules to implement the provisions of this section. Inmates in violation of this section are subject to disciplinary measures to be determined by the Division, including the potential loss of sentence credits earned prior to that violation. Employees in violation of this section are subject to disciplinary action by the Division. Visitors in violation of this section are subject to removal from the facility and loss of visitation privileges.

(d) As used in this section, the following terms mean:

- (1) State correctional facility. – All buildings and grounds of a State correctional institution operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.
- (2) Tobacco products. – Cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant that are prepared or used for smoking, chewing, dipping, or other personal use. The term includes vapor products.
- (3) Vapor products. – Nonlighted, noncombustible products that employ a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes electronic cigarettes, electronic cigars, electronic cigarillos, and electronic pipes. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act. (2005-372, s. 2; 2009-560, s. 1; 2011-145, s. 19.1(h); 2014-3, s. 15.2(a); 2017-186, s. 2(ooooooo).)

#### **§ 148-23.2. Mobile phones prohibited on State correctional facilities premises.**

Except as authorized by Division of Adult Correction and Juvenile Justice of the Department of Public Safety policy, no person shall possess a mobile telephone or other wireless communications device on the premises of a State correctional facility. Notwithstanding the provisions of this section, an employee or visitor may possess a mobile telephone or other wireless communications device within the confines of a motor vehicle located in a designated parking area of a correctional facility's premises if the mobile telephone or other wireless communications device remains in the vehicle and the vehicle is locked when the employee or visitor has exited the vehicle. (2009-560, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(ppppppp).)

#### **§ 148-24. Religious services.**

The general policies, rules and regulations of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall provide for religious services to be held in all units of the State prison system on Sunday and at such other times as may be deemed appropriate. Attendance of prisoners at religious services shall be voluntary. The Secretary of Public Safety shall if possible secure the visits of some minister at the prison hospitals to administer to the

spiritual wants of the sick. (1873-4, c. 158, s. 18; 1883, c. 349; Code, s. 3446; Rev., s. 5405; 1915, c. 125, ss. 1, 2; 1917, c. 286, s. 15; C.S., s. 7735; 1925, c. 163; c. 275, s. 6; 1933, c. 172, s. 18; 1955, c. 238, s. 9; 1967, c. 996, s. 6; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(qqqqqqq).)

### **§ 148-25. Secretary to investigate death of convicts.**

The Secretary of Public Safety, upon information of the death of a convict other than by natural causes, shall investigate the cause thereof and report the result of such investigation to the Governor, and for this purpose the Secretary may administer oaths and send for persons and papers. (1885, c. 379, s. 2; Rev., s. 5409; C.S., s. 7746; 1925, c. 163; 1933, c. 172, s. 18; 1955, c. 238, s. 9; 1967, c. 996, s. 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(i).)

## Article 3.

### Labor of Prisoners.

### **§ 148-26. State policy on employment of prisoners.**

(a) It is declared to be the public policy of the State of North Carolina that all able-bodied prison inmates shall be required to perform diligently all work assignments provided for them. The failure of any inmate to perform such a work assignment may result in disciplinary action. Work assignments and employment shall be for the public benefit to reduce the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release.

In exercising his power to enter into contracts to supply inmate labor as provided by this section, the Secretary of Public Safety shall not assign any inmate to work under any such contract who is eligible for work release as provided in this Article, study release as provided by G.S. 148-4(4), or who is eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, unless suitable work release employment or educational opportunity cannot be found for the inmate, and the inmate is not eligible for a program of vocational rehabilitation services through the State Vocational Rehabilitation Agency, and shall not agree to supply inmate labor for any project or service unless it meets all of the following criteria:

- (1) The project or service involves a type of work by which inmates can develop a skill to better equip themselves to return to society;
- (2) The project or service is of benefit to the citizens of North Carolina or units of State or local government thereof, regardless of whether the project or service is performed on public or private property;
- (3) Repealed by Session Laws 1977, c. 824, s. 2.
- (4) Wages shall be paid in an amount not exceeding one dollar (\$1.00) per day per inmate by the local or State contracting agency.

(b) As many minimum custody prisoners as are available and fit for road work, who cannot appropriately be placed on work release, study release, or other full-time programs, and as many medium custody prisoners as are available, fit for road work and can be adequately guarded during such work without reducing security levels at prison units, shall be employed in the maintenance and construction of public roads of the State. The number and location of prisoners to be kept available for work on the public roads shall be agreed upon by the governing authorities of the

Department of Transportation and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety far enough in advance of each budget to permit proper provisions to be made in the request for appropriations submitted by the Department of Transportation. Any dispute between the Departments will be resolved by the Governor. Prisoners so employed shall be compensated, at rates fixed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety's rules and regulations for work performed; provided, that no prisoner working on the public roads under the provisions of this section shall be paid more than one dollar (\$1.00) per day from funds provided by the Department of Transportation to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for this purpose. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Department of Transportation shall develop a program to be implemented no later than July 1, 1982, to the extent money is herein appropriated, which shall include:

(1) The use of portable toilets for inmate road crews.

(c) As many of the male prisoners available and fit for forestry work shall be employed in the development and improvement of state-owned forests as can be used for this purpose by the agencies controlling these forests.

(d) The remainder of the able-bodied inmates of the State prison system shall be employed so far as practicable in prison industries and agriculture, giving preference to the production of food supplies and other articles needed by state-supported institutions or activities.

(e) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may make such contracts with departments, institutions, agencies, and political subdivisions of the State for the hire of prisoners to perform other appropriate work as will help to make the prisons as nearly self-supporting as is consistent with the purposes of their creation. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may contract with any person or any group of persons for the hire of prisoners for forestry work, soil erosion control, water conservation, hurricane damage prevention, or any similar work certified by the Secretary of Environmental Quality as beneficial in the conservation of the natural resources of this State. All contracts for the employment of prisoners shall provide that they shall be fed, clothed, quartered, guarded, and otherwise cared for by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Such work may include but is not limited to work with State or local government agencies in cleaning, construction, landscaping and maintenance of roads, parks, nature trails, bikeways, cemeteries, landfills or other government-owned or operated facilities.

(e1) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may establish work assignments for inmates or allow inmates to volunteer in service projects that benefit units of State or local government or 501(c)(3) entities that serve the citizens of this State. The work assignments may include the use of inmate labor and the use of Division of Adult Correction and Juvenile Justice of the Department of Public Safety resources in the production of finished goods. Any products made pursuant to this section shall not be subject to the provisions of Article 3A of Chapter 143 of the General Statutes and may be donated to the government unit or 501(c)(3) organization at no cost.

(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the Youth Development Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety unless a complete sight and sound barrier is erected and maintained during the course of the labor performed by the adult inmates.



(g) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish rules, standards, and procedures for establishing inmate labor services contracts with any county or municipality expressing interest in contracting for inmate labor. (1933, c. 172, ss. 1, 14; 1957, c. 349, s. 5; 1967, c. 996, s. 13; 1971, c. 193; 1973, c. 1262, s. 86; 1975, c. 278; c. 506, ss. 1, 2; c. 682, s. 2; c. 716, s. 7; 1977, c. 771, s. 4; c. 802, s. 25.36; c. 824, ss. 1-3; 1981, c. 516; 1981 (Reg. Sess., 1982), c. 1400; 1989, c. 727, s. 218(156); 1997-443, s. 11A.123; 1999-237, s. 18.21; 2001-95, s. 8; 2007-398, s. 1; 2011-145, s. 19.1(h), (i), (l); 2012-83, ss. 59, 61; 2015-241, s. 14.30(v); 2017-186, s. 2(rrrrrr).)

### **§ 148-26.1. Definitions.**

The following definitions apply:

- (1) to (3) Repealed by Session Laws 1983, c. 709, s. 1, effective July 1, 1983.
- (4) to (7) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985.
- (8) "State public work project" or "State public work": A useful service other than the construction of buildings performed on any land, or any structure thereon, belonging to any principal department of State government as defined in subdivision (6) above, including, but not limited to, State parks, campuses, playgrounds, highways, roads, lakes, forests and waterways.
- (9) Repealed by Session Laws 1985, c. 226, s. 2, effective May 23, 1985. (1975, c. 682, s. 3; 1983, c. 709, s. 1; 1985, c. 226, s. 2.)

### **§§ 148-26.2 through 148-26.4. Repealed by Session Laws 1983, c. 709, s. 1, effective July 1, 1983.**

### **§ 148-26.5. Pay and time allowances for work.**

The provisions of G.S. 148-18 and 148-13 shall be applicable to inmate work on local or State public work projects contracted for by the Secretary of Public Safety as provided by G.S. 148-26 through 148-26.4. Travel, cost of inmate wages and custodial supervision expenses incurred by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and arising out of a local or State public work project shall be reimbursed on a cost basis to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by the local or State contracting agency. (1975, c. 682, s. 3; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(ssssss).)

**§ 148-27:** Repealed by Session Laws 2007-398, s. 3, effective August 21, 2007.

### **§ 148-28. Sentencing prisoners to Central Prison; youthful offenders.**

When a sentenced offender is to be taken to the Central Prison at Raleigh, a sheriff or other appropriate officer of the county shall cause such prisoner to be delivered with the proper commitment papers to the warden of the Central Prison. A person under 16 years of age convicted of a felony shall not be imprisoned in the Central Prison at Raleigh unless:

- (1) The person was convicted of a capital felony; or
- (2) He has previously been imprisoned in a county jail or under the authority of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety upon conviction of a felony.

This provision shall not limit the authority of the Secretary of Public Safety from transferring a person under 16 years of age to Central Prison when in the Secretary's determination this person

would not benefit from confinement in separate facilities for youthful offenders or when it has been determined that his presence would be detrimental to the implementation of programs designed for the benefit of other youthful offenders. Nor shall this provision limit the authority of the judges of the superior courts of this State or the Secretary of Public Safety from committing or transferring a person under 16 years of age to Central Prison for medical or psychiatric treatment. (1933, c. 172, s. 7; 1971, c. 691; 1973, c. 1262, s. 10; 1977, c. 711, s. 27; 1977, 2nd Sess., c. 1147, s. 32; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(tttttt).)

**§ 148-29. Transportation of convicts to prison; reimbursement to counties; sheriff's expense affidavit.**

(a) The sheriff having in charge any prisoner to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after sentencing and the disposal of all pending charges against the prisoner, if no appeal has been taken. Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the prisoner awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by prisoners awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(b) The sheriff having in charge any parolee or post-release supervisee to be taken to the State prison system shall send the prisoner to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after preliminary hearing held under G.S. 15A-1368.6(b) or G.S. 15A-1376(b). Beginning on the day after the Section of Prisons of the Division of Adult Correction and Juvenile Justice has been notified by the sheriff that a prisoner is ready for transfer and the Division has informed the sheriff that bedspace is not available for that prisoner, and continuing through the day the prisoner is received by the Section of Prisons of the Division of Adult Correction and Juvenile Justice, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall pay the county:

- (1) A standard sum set by the General Assembly in its appropriations acts for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical services to the parolee or post-release supervisee awaiting transfer to the State prison system; and
- (2) Extraordinary medical costs, as defined in G.S. 148-32.1(a), incurred by parolees or post-release supervisees awaiting transfer to the State prison system.

If the Section of Prisons of the Division of Adult Correction and Juvenile Justice determines that bedspace is not available for a prisoner after the sheriff has notified the Division that the prisoner

is ready for transfer, reimbursement under this subsection shall be made beginning on the day after the sheriff gave the notification.

(c) The sheriff shall file with the board of commissioners of his county a copy of his affidavit as to necessary guard, together with a copy of his itemized account of expenses, both certified to by him as true copies of those on file in his office. (1869-70, c. 180, s. 3; 1870-1, c. 124, s. 3; 1874-5, c. 107, s. 3; Code, ss. 3432, 3437, 3438; Rev., ss. 5398, 5399, 5400; C. S., ss. 7718, 7719, 7720; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1977, c. 711, s. 28; 1977, 2nd Sess., c. 1147, s. 32; 1993, c. 257, s. 18; 1996, 2nd Ex. Sess., c. 18, s. 20.2(a); 1997-443, s. 19(a); 1999-237, s. 18.10(b); 2011-145, s. 19.1(h), (j); 2017-186, s. 2(uuuuuuu).)

**§ 148-30. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-31. Maintenance of Central Prison; warden; powers and duties.**

The Central Prison shall be maintained in such a manner as to conform to all the requirements of Article XI of the State Constitution, relating to a State's prison. A suitable person shall be appointed warden of the Central Prison, and he shall succeed to and be vested with all the rights, duties, and powers heretofore vested by law in the superintendent of the State's prison or the warden thereof with respect to capital punishment, or any matter of discipline of the inmates of the prison not otherwise provided for in this Article. (1933, c. 172, s. 14.)

**§ 148-32. Repealed by Session Laws 1977, c. 450, s. 2.**

**§ 148-32.1. Local confinement, costs, alternate facilities, parole, work release.**

(a) Repealed by Session Laws 2009-451, s. 19.22A, effective July 1, 2009.

(b) In the event that the custodian of the local confinement facility certifies in writing to the clerk of the superior court in the county in which the local confinement facility is located that the local confinement facility is filled to capacity, or that the facility cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or that the custodian anticipates, in light of local experiences, an influx of temporary prisoners at that time, or if the local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221, any judge of the district court in the district court district as defined in G.S. 7A-133 where the facility is located, or any superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in a district or set of districts as defined in G.S. 7A-41.1 where the facility is located may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to any other qualified local confinement facility within that district or within another such district where space is available, including a satellite jail unit operated pursuant to G.S. 153A-230.3 if the prisoner is a non-violent misdemeanant, which local facility shall accept the transferred prisoner.

If no other local confinement facility is available and the reason for the requested transfer is that the local confinement facility that would be required to house the prisoner cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, then the judge may order that a prisoner not housed pursuant to the Statewide Misdemeanant Confinement Program established in subsection (b2) of this section be transferred to a facility operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as designated

by the Division of Adult Correction and Juvenile Justice. In no event, however, shall a prisoner whose term of imprisonment is less than 30 days be assigned or ordered transferred to a facility operated by the Division of Adult Correction and Juvenile Justice.

(b1) It is the intent of the General Assembly to authorize the Division of Adult Correction and Juvenile Justice to enter into voluntary agreements with counties to provide housing for misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is further the intent of the General Assembly that the Division of Adult Correction and Juvenile Justice, in conjunction with the North Carolina Sheriffs' Association, Inc., establish a program for housing misdemeanants serving periods of confinement of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. It is also the intent of the General Assembly that the Division of Adult Correction and Juvenile Justice contract with the North Carolina Sheriffs' Association, Inc., to provide a service that identifies space in local confinement facilities that is available for housing these misdemeanants.

The General Assembly intends that the cost of housing and caring for these misdemeanants, including, but not limited to, care, supervision, transportation, medical, and any other related costs, be covered by State funds and not be imposed as a local cost. Therefore, the General Assembly intends that the funds appropriated for the Statewide Misdemeanant Confinement Program be used to provide funding to cover the costs of managing a system for providing that housing of misdemeanants in local confinement facilities as well as reimbursing the counties for housing and related expenses for those misdemeanants.

(b2) The Statewide Misdemeanant Confinement Program is established. The Program shall provide for the housing of misdemeanants from all counties serving sentences imposed for a period of more than 90 days and for all sentences imposed for impaired driving under G.S. 20-138.1, regardless of length. Those misdemeanants shall be confined in local confinement facilities except as provided in subsections (b3) and (b4) of this section. The Program shall address methods for the placement and transportation of inmates and reimbursement to counties for the housing of those inmates. Any county that voluntarily agrees to house misdemeanants from that county or from other counties pursuant to the Program may enter into a written agreement with the Division of Adult Correction and Juvenile Justice to do so.

(b3) The custodian of a local confinement facility may request a judicial order to transfer a misdemeanant housed pursuant to the Statewide Misdemeanant Confinement Program to a facility operated by the Division of Adult Correction and Juvenile Justice by certifying in writing to the clerk of the superior court in the county in which the local confinement facility is located that:

- (1) The misdemeanant poses a security risk because the misdemeanant:
  - a. Poses a serious escape risk;
  - b. Exhibits violently aggressive behavior that cannot be contained and warrants a higher level of supervision;
  - c. Needs to be protected from other inmates, and the county jail facility cannot provide such protection;
  - d. Is a female or a person 18 years of age or younger, and the county jail facility does not have adequate housing for such prisoners;
  - e. Is in custody at a time when a fire or other catastrophic event has caused the county jail facility to cease or curtail operations; or
  - f. Otherwise poses an imminent danger to the staff of the county jail facility or to other prisoners in the facility.

- (2) The misdemeanor requires medical or mental health treatment that the county decides can best be provided by the Division of Adult Correction and Juvenile Justice.
- (3) The local confinement facility that would be required to house the prisoner (i) cannot reasonably accommodate any more prisoners due to segregation requirements for particular prisoners, or the local facility does not meet the minimum standards published pursuant to G.S. 153A-221, and (ii) no other local confinement facility is available.

Upon receiving such request and certification in writing, any superior or district court judge for the district in which the local confinement facility is located may, after ascertaining that the request meets the criteria set forth in subdivision (1), (2), or (3) of this subsection, order the misdemeanor transferred to a unit of the State prison system designated by the Secretary of Public Safety or the Secretary's authorized representative. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(b4) A misdemeanor housed under the Statewide Misdemeanant Confinement Program established pursuant to subsection (b2) of this section may be transferred to a facility operated by the Division of Adult Correction and Juvenile Justice if the North Carolina Sheriffs' Association, Inc., determines that the local confinement facilities available for housing misdemeanants under the Program are filled to capacity. The Division of Adult Correction and Juvenile Justice shall be reimbursed from the Statewide Misdemeanant Confinement Fund for the costs of housing the misdemeanor, including the care, supervision, and transportation of the misdemeanor.

(c) Repealed by Session Laws 2015-40, s. 6.

(d) When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to a recommendation of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the Division of Adult Correction and Juvenile Justice, which shall disburse the earnings as determined under G.S. 148-33.1(f). When a prisoner serving a sentence of 30 days or more in a local confinement facility is placed on work release pursuant to an order of the sentencing court, the custodian of the facility shall forward the prisoner's work-release earnings to the clerk of the court that sentenced the prisoner or to the Division of Adult Correction and Juvenile Justice, as provided in the prisoner's commitment order. The clerk or the Division, as appropriate, shall disburse the earnings as provided in the prisoner's commitment order. Upon agreement between the Division of Adult Correction and Juvenile Justice and the custodian of the local confinement facility, however, the clerk may disburse to the local confinement facility the amount of the earnings to be paid for the cost of the prisoner's keep, and that amount shall be set off against the reimbursement to be paid by the Department to the local confinement facility pursuant to G.S. 148-32.1(a).

(e) Upon entry of a prisoner serving a sentence of imprisonment for impaired driving under G.S. 20-138.1 into a local confinement facility pursuant to this section, the custodian of the local confinement facility shall forward to the Post-Release Supervision and Parole Commission information pertaining to the prisoner so as to make him eligible for parole consideration pursuant to G.S. 15A-1371. Such information shall include date of incarceration, jail credit, and such other information as may be required by the Post-Release Supervision and Parole Commission. The Post-Release Supervision and Parole Commission shall approve a form upon which the custodian shall furnish this information, which form will be provided to the custodian by the Division of

Adult Correction and Juvenile Justice. (1977, c. 450, s. 3; c. 925, s. 2; 1981, c. 859, s. 25; 1985, c. 226, s. 3(1), (2); 1985 (Reg. Sess., 1986), c. 1014, ss. 199, 201(e); 1987, c. 7, ss. 2, 6; 1987 (Reg. Sess., 1988), c. 1037, s. 120; c. 1100, s. 17.4(a); 1989, c. 1, s. 2; c. 761, s. 3; 1991, c. 217, s. 6; 1993, c. 538, s. 33; 1994, Ex. Sess., c. 14, s. 65; c. 24, s. 14(b); 1995, c. 324, s. 19.9(f); 1997-456, s. 23; 2004-199, s. 48; 2004-203, s. 54; 2009-451, s. 19.22A; 2011-145, s. 19.1(h), (i); 2011-192, s. 7(a), (d), (e), (g); 2014-100, s. 16C.1(f); 2015-40, s. 6; 2016-94, s. 17C.1(d); 2017-186, s. 2(vvvvvvvv).)

### **§ 148-32.2. Community work crew fee.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may charge a fee to any unit of local government to which it provides, upon request, a community work crew. The amount of the fee shall be no more than the cost to the Division to provide the crew to the unit of local government. (2009-451, s. 19.24; 2011-145, s. 19.1(h); 2014-100, s. 16C.2; 2017-186, s. 2(wwwwwww).)

### **§ 148-33. Prison labor furnished other State agencies.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety may furnish to any of the other State departments, State institutions, or agencies, upon such conditions as may be agreed upon from time to time between the Division and the governing authorities of such Department, institution or agency, prison labor for carrying on any work where it is practical and desirable to use prison labor in the furtherance of the purposes of any State department, institution or agency, and such other employment as is now provided by law for inmates of the State's prison under the provisions of G.S. 148-6: Provided that such prisoners shall at all times be under the custody of and controlled by the duly authorized agent of such Division. Provided, further, that notwithstanding any provisions of law contained in this Article or in this Chapter, no prisoner or group of prisoners may be assigned to work in any building utilized by any State department, agency, or institution unless a duly designated custodial agent of the Secretary of Public Safety is assigned to the building to maintain supervision and control of the prisoner or prisoners working there. (1933, c. 172, s. 30; 1957, c. 349, s. 10; 1961, c. 966; 1967, c. 996, ss. 13, 15; 1973, c. 1262, s. 10; 2007-398, s. 4; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(xxxxxxx).)

### **§ 148-33.1. Sentencing, quartering, and control of prisoners with work-release privileges.**

(a) Whenever a person is sentenced to imprisonment for a term to be served in the State prison system or a local confinement facility, the Secretary of Public Safety may authorize the Director of Prisons or the custodian of the local confinement facility to grant work-release privileges to any inmate who is eligible for work release and who has not been granted work-release privileges by order of the sentencing court. The Secretary of Public Safety shall authorize immediate work-release privileges for any person serving a sentence not exceeding five years in the State prison system and for whom the presiding judge shall have recommended work-release privileges when (i) it is verified that appropriate employment for the person is available in an area where, in the judgment of the Secretary, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety has facilities to which the person may suitably be assigned, and (ii) custodial and correctional considerations would not be adverse to releasing the person without supervision into the free community.

(b) Repealed by Session Laws 1981, c. 541, s. 2.

(c) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall from time to time, as the need becomes evident, designate and adapt facilities in the State prison system for quartering prisoners with work-release privileges. No State or county prisoner shall be granted work-release privileges by the Director of Prisons or the custodian of a local confinement facility until suitable facilities for quartering him have been provided in the area where the prisoner has employment or the offer of employment.

(d) The Secretary of Public Safety is authorized and directed to establish a work-release plan under which an eligible prisoner may be released from actual custody during the time necessary to proceed to the place of his employment, perform his work, and return to quarters designated by the prison authorities. If the prisoner shall violate any of the conditions prescribed by prison rules and regulations for the administration of the work-release plan, then such prisoner may be withdrawn from work-release privileges, and the prisoner may be transferred to the general prison population to serve out the remainder of his sentence. Rules and regulations for the administration of the work-release plan shall be established in the same manner as other rules and regulations for the government of the State prison system.

(e) The State Department of Labor shall exercise the same supervision over conditions of employment for persons working in the free community while serving sentences imposed under this section as the Department does over conditions of employment for free persons.

(f) A prisoner who is convicted of a felony and who is granted work-release privileges shall give his work-release earnings, less standard payroll deductions required by law, to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. A prisoner who is convicted of a misdemeanor, is committed to a local confinement facility, and is granted work-release privileges by order of the sentencing court shall give his work-release earnings, less standard payroll deductions required by law, to the custodian of the local confinement facility. Other misdemeanants granted work-release privileges shall give their work-release earnings, less standard payroll deductions required by law, to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety or the sentencing court, as appropriate, shall determine the amount to be deducted from a prisoner's work-release earnings to pay for the cost of the prisoner's keep and to accumulate a reasonable sum to be paid the prisoner when he is paroled or discharged from prison. The Division or sentencing court shall also determine the amount to be disbursed by the Division or clerk of court, as appropriate, for each of the following:

- (1) To pay travel and other expenses of the prisoner made necessary by his employment;
- (2) To provide a reasonable allowance to the prisoner for his incidental personal expenses;
- (3) To make payments for the support of the prisoner's dependents in accordance with an order of a court of competent jurisdiction, or in the absence of a court order, in accordance with a determination of dependency status and need made by the local department of social services in the county of North Carolina in which such dependents reside;
- (3a) To make restitution or reparation as provided in G.S. 148-33.2.
- (4) To comply with an order from any court of competent jurisdiction regarding the payment of an obligation of the prisoner in connection with any judgment rendered by the court.

- (5) To comply with a written request by the prisoner to withhold an amount, when the request has been granted by the Division or the sentencing court, as appropriate.

Any balance of his earnings remaining at the time the prisoner is released from prison shall be paid to him. The Social Services Commission is authorized to promulgate uniform rules and regulations governing the duties of county social services departments under this section.

(g) No prisoner employed in the free community under the provisions of this section shall be deemed to be an agent, employee, or involuntary servant of the State prison system while working in the free community or going to or from such employment.

(h) Any prisoner employed under the provisions of this section shall not be entitled to any benefits under Chapter 96 of the General Statutes entitled "Employment Security" during the term of the sentence.

(i) No recommendation for work release shall be made at the time of sentencing in any case in which the presiding judge shall suspend the imposition of sentence and place a convicted person on probation; however, if probation be subsequently revoked and the active sentence of imprisonment executed, the court may at that time recommend work release. Neither a recommendation for work release by the court or the decision of the Secretary of Public Safety to place a person on work release shall give rise to any vested statutory right to an individual to be placed on or continued on work release.

(j) The provisions of subsections (f), (g), and (h) of this section shall also apply to prisoners employed in private prison enterprises conducted pursuant to G.S. 148-70. (1957, c. 540; 1959, c. 126; 1961, c. 420; 1963, c. 469, ss. 1, 2; 1967, c. 684; c. 996, s. 13; 1969, c. 982; 1973, c. 476, s. 138; c. 1262, s. 10; 1975, c. 22, ss. 1-3; c. 679, s. 3; 1977, c. 450, ss. 4, 5; c. 614, s. 6; c. 623, ss. 1, 2; c. 711, s. 29; 1977, 2nd Sess., c. 1147, s. 32; 1981, c. 541, ss. 1-3; 1985, c. 474, s. 3; 1985 (Reg. Sess., 1986), c. 1014, s. 201(f)-(i); 1991 (Reg. Sess., 1992), c. 902, s. 6; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, ss. 2(yyyyyyy), 3(a).)

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

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

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

(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Secretary of Public Safety that restitution or reparation be made by the defendant out of any earnings gained by the defendant if he is granted work-release privileges and out of other resources of the defendant, including all real and personal property owned by the defendant, and income derived from such property. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The



recommendation shall be in accordance with the applicable provisions of G.S. 15A-1343(d) and Article 81C of Chapter 15A of the General Statutes. If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order the defendant to pay from work release earnings the cost of rehabilitative treatment for the minor. The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation.

(d) The Secretary of Public Safety shall establish rules and regulations to implement this section, which shall include adequate notice to the prisoner that the payment of restitution or reparation from any earnings gained by the prisoner while on work release is being considered as a condition of any work-release privileges granted the prisoner, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may be obtained to supplement the recommendation of the sentencing court. (1977, c. 614, s. 7; 1977, 2nd Sess., c. 1147, s. 33; 1981, c. 541, ss. 4-9; 1985, c. 474, s. 4; 1987, c. 397, ss. 2, 3; c. 598, s. 5; 1998-212, s. 19.4(g); 2011-145, s. 19.1(i).)

**§§ 148-34 through 148-35. Repealed by Session Laws 1957, c. 349, s. 11.**

**§ 148-36. Secretary of Public Safety to control classification and operation of prison facilities.**

All facilities established or acquired by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall be under the administrative control and direction of the Secretary of Public Safety, and operated under rules and regulations proposed by the Secretary and adopted by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as provided in G.S. 148-11. Subject to such rules and regulations, the Secretary shall classify the facilities of the State prison system and develop a variety of programs so as to permit proper segregation and treatment of prisoners according to the nature of the offenses committed, the character and mental condition of the prisoners, and such other factors as should be considered in providing an individualized system of discipline, care, and correctional treatment of persons committed to the Division. The Secretary of Public Safety, or his authorized representative, shall designate the places of confinement where sentences to imprisonment in the State's prison system shall be served. The Secretary or his representative may designate any available facility appropriate for the individual in view of custodial and correctional considerations. (1931, c. 145, s. 28; c. 277, s. 8; 1933, c. 46, ss. 3, 4; c. 172, ss. 4, 17; 1943, c. 409; 1955, c. 238, s. 7; 1957, c. 349, s. 10; 1967, c. 996, s. 7; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(zzzzzzz).)

**§ 148-37. Additional facilities authorized; contractual arrangements.**

(a) Subject to the provisions of G.S. 143-341, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may establish additional facilities for use by the Division, such facilities to be either of a permanent type of construction or of a temporary or movable type as the Division may find most advantageous to the particular needs, to the end that the prisoners under its supervision may be so distributed throughout the State as to facilitate individualization of treatment designed to prepare them for lawful living in the community where they are most likely to reside after their release from prison. For this purpose, the Division may purchase or lease sites and suitable lands adjacent thereto and erect necessary buildings thereon,

or purchase or lease existing facilities, all within the limits of allotments as approved by the Department of Administration.

(b) The Secretary of Public Safety may contract with the proper official of the United States or of any county or city of this State for the confinement of federal prisoners after they have been sentenced, county, or city prisoners in facilities of the State prison system or for the confinement of State prisoners in any county or any city facility located in North Carolina, or any facility of the United States Bureau of Prisons, when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Except as otherwise provided, any contract made under the authority of this subsection shall be for a period of not more than two years, and shall be renewable from time to time for a period not to exceed two years. Contracts made under the authority of this subsection for the confinement of State prisoners in local or district confinement facilities may be for a period of not more than 10 years and renewable from time to time for a period not to exceed 10 years, and shall be subject to the approval of the Council of State and the Department of Administration after consultation with the Joint Legislative Commission on Governmental Operations. Contracts for receiving federal, county and city prisoners shall provide for reimbursing the State in full for all costs involved. The financial provisions shall have the approval of the Department of Administration before the contract is executed. Payments received under such contracts shall be deposited in the State treasury for the use of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Such payments are hereby appropriated to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as a supplementary fund to compensate for the additional care and maintenance of such prisoners as are received under such contracts.

(b1) Recodified as G.S. 148-37.2 by Session Laws 2001-84, s. 1, effective May 17, 2001.

(c) In addition to the authority contained in subsections (a) and (b) of this section, and in addition to the contracts ratified by subsection (f) of this section, the Secretary of Public Safety may enter into contracts with any public entity or any private nonprofit or for-profit firms for the confinement and care of State prisoners in any out-of-state correctional facility when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Contracts entered into under the authority of this subsection shall be for a period not to exceed two years and shall be renewable from time to time for a period not to exceed two years. Prisoners may be sent to out-of-state correctional facilities only when there are no available facilities in this State within the State prison system to appropriately house those prisoners. Any contract made under the authority of this subsection shall be approved by the Department of Administration before the contract is executed. Before expending more than the amount specifically appropriated by the General Assembly for the out-of-state housing of inmates, the Division shall obtain the approval of the Joint Legislative Commission on Governmental Operations and shall report such expenditures to the Chairs of the Senate and House Appropriations Committees, the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, and the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety.

(d) Prisoners confined in out-of-state correctional facilities pursuant to subsection (c) of this section shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The rules regarding good time and gain time, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in those out-of-state correctional facilities. The operators of those

out-of-state correctional facilities may promulgate any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Public Safety. Custodial officials employed by an out-of-state correctional facility are agents of the Secretary of Public Safety and may use those procedures for use of force authorized by the Secretary of Public Safety not inconsistent with the laws of the State of situs of the facility to defend themselves, to enforce the observance of discipline in compliance with correctional facility rules, to secure the person of a prisoner, and to prevent escape. Prisoners confined to out-of-state correctional facilities may be required to perform reasonable work assignments within those facilities. Private firms under subsection (c) of this section shall employ inmate disciplinary and grievance policies of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(e) Repealed by Session Laws 1995, c. 324, s. 19.10.

(f) Any contracts entered into by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety with public contractors prior to March 25, 1994, for the out-of-state housing of inmates are ratified.

(g) The Secretary of Public Safety may contract with private for-profit or nonprofit firms for the provision and operation of four or more confinement facilities totaling up to 2,000 beds in the State to house State prisoners when to do so would most economically and effectively promote the purposes served by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. This 2,000-bed limitation shall not apply to the 500 beds in private substance abuse treatment centers authorized by the General Assembly prior to July 1, 1995. Whenever the Division of Adult Correction and Juvenile Justice of the Department of Public Safety determines that new prison facilities are required in addition to existing and planned facilities, the Division may contract for any remaining beds authorized by this section before constructing State-operated facilities.

Contracts entered under the authority of this subsection shall be for a period not to exceed 10 years, shall be renewable from time to time for a period not to exceed 10 years. The Secretary of Public Safety shall enter contracts under this subsection only if funds are appropriated for this purpose by the General Assembly. Contracts entered under the authority of this subsection may be subject to any requirements for the location of the confinement facilities set forth by the General Assembly in appropriating those funds.

Once the Division has made a determination to contract for additional private prison beds, it shall issue a request for proposals within 30 days of the decision. The request for proposals shall require bids to be submitted within two months, and the Division shall award contracts at the earliest practicable date after the submission of bids. The Secretary of Public Safety, in consultation with the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, shall make recommendations to the State Purchasing Officer on the final award decision. The State Purchasing Officer shall make the final award decision, and the contract shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.

Contracts made under the authority of this subsection may provide the State with an option to purchase the confinement facility or may provide for the purchase of the confinement facility by the State. Contracts made under the authority of this subsection shall state that plans and specifications for private confinement facilities shall be furnished to and reviewed by the Office of State Construction. The Office of State Construction shall inspect and review each project during construction to ensure that the project is suitable for habitation and to determine whether

the project would be suitable for future acquisition by the State. All contracts for the housing of State prisoners in private confinement facilities shall require a minimum of ten million dollars (\$10,000,000) of occurrence-based liability insurance and shall hold the State harmless and provide reimbursement for all liability arising out of actions caused by operations and employees of the private confinement facility.

Prisoners housed in private confinement facilities pursuant to this subsection shall remain subject to the rules adopted for the conduct of persons committed to the State prison system. The Secretary of Public Safety may review and approve the design and construction of private confinement facilities before housing State prisoners in these facilities. The rules regarding good time, gain time, and earned credits, discipline, classification, extension of the limits of confinement, transfers, housing arrangements, and eligibility for parole shall apply to inmates housed in private confinement facilities pursuant to this subsection. The operators of private confinement facilities may adopt any other rules as may be necessary for the operation of those facilities with the written approval of the Secretary of Public Safety. Custodial officials employed by a private confinement facility are agents of the Secretary of Public Safety and may use those procedures for use of force authorized by the Secretary of Public Safety to defend themselves, to enforce the observance of discipline in compliance with confinement facility rules, to secure the person of a prisoner, and to prevent escape. Private firms under this subsection shall employ inmate disciplinary and grievance policies of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(h) Private confinement facilities under this section shall be designed, built, and operated in accordance with applicable State laws, court orders, fire safety codes, and local regulations.

(i) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall make a written report no later than March 1 of every year, beginning in 1997, on the substance of all outstanding contracts for the housing of State prisoners entered into under the authority of this section. The report shall be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety. (1933, c. 172, s. 19; 1957, c. 349, s. 10; 1967, c. 996, s. 8; 1973, c. 1262, s. 10; 1975, c. 879, s. 46; 1977, 2nd Sess., c. 1147, s. 34; 1994, Ex. Sess., c. 24, s. 16(a), (b); 1995, c. 324, s. 19.10(a), (b); c. 507, s. 19; 1996, 2nd Ex. Sess., c. 18, s. 20.18; 1997-443, ss. 21.4(c)-(e); 1999-237, s. 18.20(a); 2001-84, s. 1; 2001-138, s. 2; 2011-145, s. 19.1(h), (i); 2011-291, ss. 2.56-2.58; 2012-83, s. 61; 2015-241, s. 16C.10(a); 2017-186, s. 2(aaaaaaa).)

#### **§ 148-37.1. Prohibition on private prisons housing out-of-state inmates.**

(a) Except as otherwise provided in this section or authorized by North Carolina law, no municipality, county, or private entity may authorize, construct, own, or operate any type of correctional facility for the confinement of inmates serving sentences for violation of the laws of a jurisdiction other than North Carolina.

(b) The provisions of this section shall not apply to facilities owned or operated by the federal government and used exclusively for the confinement of inmates serving sentences for violation of federal law, but only to the extent that such facilities are not subject to restriction by the states under the provisions of the United States Constitution. (2000-67, s. 16.3(a).)

**§ 148-37.2:** Repealed by Session Laws 2015-241, s. 16C.10(b), effective July 1, 2015.

**§ 148-37.3. Authority of private correctional officers employed pursuant to a contract with the Federal Bureau of Prisons.**

(a) Correctional officers and security supervisors employed at private correctional facilities pursuant to a contract between their employer and the Federal Bureau of Prisons may, in the course of their employment as correctional officers or security supervisors, use necessary force and make arrests consistent with the laws applicable to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, which force shall not exceed that authorized to Division of Adult Correction and Juvenile Justice of the Department of Public Safety officers, provided that the employment policies of such private corporations meet the same minimum standards and practices followed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in employing its correctional personnel, and if:

- (1) Those correctional officers and security supervisors have been certified as correctional officers as provided under Article 1 of Chapter 17C of the General Statutes; or
- (2) Those correctional officers and security supervisors employed by the private corporation at the facility have completed a training curriculum that meets or exceeds the standards required by the North Carolina Criminal Justice Education and Training Standards Commission for correctional personnel.

(b) Any private corporation described in subsection (a) of this section shall without limit defend, indemnify, and hold harmless the State, its officers, employees, and agents from any claims arising out of the operation of the private correctional facility, or the granting of the powers authorized under this section, including any attorneys' fees or other legal costs incurred by the State, its officers, employees, or agents as a result of such claims.

(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility.

(d) Any private corporation described in subsection (a) of this section must maintain in force liability insurance to satisfy any final judgment rendered against the private corporation or the State, its officers, employees, and agents that arises out of the operation of the correctional facility or the indemnification requirements in subsection (b) of this section. The minimum amount of liability insurance that will be required under this section is ten million dollars (\$10,000,000) per occurrence, and twenty-five million dollars (\$25,000,000) aggregate per occurrence.

(e) Repealed by Session Laws 2007-162, s. 1, effective July 1, 2007.

(f) The authority set forth in this section to use necessary force and make arrests shall be in addition to any existing authority set forth in the statutory or common law of the State, but shall not exceed the authority to use necessary force and make arrests set out in subsection (a) of this section.

(g) A private corporation described in subsection (a) of this section shall bear the reasonable costs of services provided by the State, its officers, employees, and agents for the

corporation. The amount of the costs shall be determined by the member of the Council of State or Cabinet member of the agency or department that provided the services.

(h) This section is effective August 18, 2001 and applies to private correctional facilities and the employees of those correctional facilities constructed and contracted to be operated by August 18, 2001. (2001-378, ss. 1-7; 2003-351, s. 1; 2007-162, s. 1; 2011-145, s. 19.1(h); 2012-83, s. 61; 2014-100, s. 17.1(III) ); 2017-186, s. 2(bbbbbbbb); 2018-5, s. 17.1(a).)

**§§ 148-38 through 148-39. Repealed by Session Laws 1957, c. 349, s. 11.**

**§ 148-40. Recapture of escaped prisoners.**

The rules and regulations for the government of the State prison system may provide for the recapture of convicts that may escape, or any convicts that may have escaped from the State's prison or prison camps, or county road camps of this State, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may pay to any person recapturing an escaped convict such reward or expense of recapture as the regulations may provide. Any citizen of North Carolina shall have authority to apprehend any convict who may escape before the expiration of his term of imprisonment whether he be guilty of a felony or misdemeanor, and retain him in custody and deliver him to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1933, c. 172, s. 21; 1955, c. 238, s. 8; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(ccccccc).)

**§ 148-41. Recapture of escaping prisoners; reward.**

The Secretary of Public Safety shall use every means possible to recapture, regardless of expense, any prisoners escaping from or leaving without permission any of the State prisons, camps, or farms. When any person who has been confined or placed to work escapes from the State prison system, the Secretary shall immediately notify the Governor, and accompany the notice with a full description of the escaped prisoner, together with such information as will aid in the recapture. The Governor may offer such rewards as he may deem desirable and necessary for the recapture and return to the State prison system of any person who may escape or who heretofore has escaped therefrom. Such reward earned shall be paid by warrant of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and accounted for as a part of the expense of maintaining the State's prisons. (1873-4, c. 158, s. 13; Code, s. 3442; Rev., s. 5407; 1917, c. 236; c. 286, s. 13; C. S., ss. 7742, 7743; 1925, c. 163; 1933, c. 172, s. 18; 1935, c. 414, s. 16; 1943, c. 409; 1955, c. 238, s. 9; c. 279, s. 3; 1957, c. 349, s. 10; 1967, c. 996, ss. 13, 15; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(dddddddd).)

**§ 148-42. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-43. Repealed by Session Laws 1963, c. 1174, s. 5.**

**§ 148-44. Separation as to sex.**

The Department shall provide quarters for female prisoners separate from those for male prisoners. (1933, c. 172, s. 25; 1947, c. 262, s. 2; 1957, c. 349, s. 10; 1963, c. 1174, s. 2; 1985, c. 226, s. 3(3).)

**§ 148-45. Escaping or attempting escape from State prison system; failure of conditionally and temporarily released prisoners and certain youthful offenders to return to custody of Division of Adult Correction and Juvenile Justice of the Department of Public Safety.**

(a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety in any of the classifications hereinafter set forth who shall escape from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a Class 1 misdemeanor:

- (1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;
- (2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 4.
- (4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c).

(b) Any person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, in any of the classifications hereinafter set forth, who shall escape from the State prison system, shall, except as provided in subsection (g) of this section, be punished as a Class H felon:

- (1) A prisoner serving a sentence imposed upon conviction of a felony;
- (2) A person who has been charged with a felony and who has been committed to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 5.
- (4) A person who shall have been convicted of a felony and who shall have been committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or
- (5) Any person previously convicted of escaping or attempting to escape from the State prison system.

(c) Repealed by Session Laws 1979, c. 760, s. 5.

(d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a Class 1 misdemeanor.

(e) Repealed by Session Laws 1983, c. 465, s. 5.

(f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.

- (g) (1) Any person convicted and in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and temporarily allowed to leave a place of confinement by the Secretary of Public Safety or his designee

or other authority of law, who shall fail to return to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.

- (2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety; said escapee shall not be allowed to be placed on work release for a four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section. (1933, c. 172, s. 26; 1955, c. 279, s. 2; 1963, c. 681; 1965, c. 283; 1967, c. 996, s. 13; 1973, c. 1120; c. 1262, s. 10; 1975, cc. 170, 241, 705; c. 770, ss. 1, 2; 1977, c. 732, ss. 3, 4; c. 745; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 465, ss. 1-5; 1985, c. 226, ss. 3(4)-6; 1993, c. 539, ss. 1058, 1321, 1322; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(t); 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(eeeeeeee).)

#### **§ 148-46. Degree of protection against violence allowed.**

(a) When any prisoner, or several combined shall offer violence to any officer, overseer, or correctional officer, or to any fellow prisoner, or attempt to do any injury to the prison building, or to any workshop, or other equipment, or shall attempt to escape, or shall resist, or disobey any lawful command, the officer, overseer, or correctional officer shall use any means necessary to defend himself, or to enforce the observance of discipline, or to secure the person of the offender, and to prevent an escape.

(b) A misdemeanor prisoner classified and treated as a convicted felon as the result of a consecutive felony sentence or sentences, or a convicted felon placed in the custody of the Secretary of Public Safety pending the outcome of an appeal, or a defendant charged with a felony or felonies and placed in the custody of the Secretary of Public Safety pending trial, shall be considered as a convicted felon in the custody of the Secretary of Public Safety against whom any means reasonably necessary, including deadly force, may be used to prevent an escape. (1933, c. 172, s. 27; 1975, c. 230; 2011-145, s. 19.1(i); 2016-77, s. 8(d).)

#### **§ 148-46.1. Inflicting or assisting in infliction of self injury to prisoner resulting in incapacity to perform assigned duties.**

Any person serving a sentence or sentences within the State prison system who, during the term of such imprisonment, willfully and intentionally inflicts upon himself any injury resulting in a permanent or temporary incapacity to perform work or duties assigned to him by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any prisoner who aids or abets any other prisoner in the commission of such offense, shall be punished as a Class H



felon. (1959, c. 1197; 1967, c. 996, s. 13; 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. 1323; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(v); 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(ffffffff).)

**§ 148-46.2. Procedure when consent is refused by prisoner.**

When the Secretary of Public Safety finds as a fact that the injury to any prisoner was willfully and intentionally self-inflicted and that an operation or treatment is necessary for the preservation or restoration of the health of the prisoner and that the prisoner is competent to act for himself or herself; and that attempts have been made to obtain consent for the proposed operation or treatment but such consent was refused, and the findings have been reduced to writing and entered into the prisoner's records as a permanent part thereof, then the chief medical officer of the prison hospital or prison institution shall be authorized to give or withhold, on behalf of the prisoner, consent to the operation or treatment.

In all cases coming under the provisions of this section, the medical staff of the hospital or institution shall keep a careful and complete medical record of the treatment and surgical procedures undertaken. The record shall be signed by the chief medical officer of the hospital or institution and the surgeon performing any surgery. Any treatment of self-inflicted injuries shall also be subject to the provisions of G.S. 90-21.13 and G.S. 90-21.16. (1959, c. 1196; 1967, c. 996, s. 15; 1969, c. 982; 1973, c. 1262, s. 10; 1981, c. 307, ss. 4-7, 9; 2004-203, s. 53(b); 2011-145, s. 19.1(i).)

**§ 148-47. Disposition of child born of female prisoner.**

Any child born of a female prisoner while she is in custody shall as soon as practicable be surrendered to the director of social services of the county wherein the child was born upon a proper order of the domestic relations court or juvenile court of said county affecting the custody of said child. When it appears to be for the best interest of the child, the court may place custody beyond the geographical bounds of Wake County: Provided, however, that all subsequent proceedings and orders affecting custody of said child shall be within the jurisdiction of the proper court of the county where the infant is residing at the time such proceeding is commenced or such order is sought: Provided, further, that nothing in this section shall affect the right of the mother to consent to the adoption of her child nor shall the right of the mother to place her child with the legal father or other suitable relative be affected by the provisions of this section. (1933, c. 172, s. 28; 1955, c. 1027; 1961, c. 186; 1969, c. 982.)

**§ 148-48. Parole powers of Parole Commission unaffected.**

Nothing in this Chapter shall be construed to limit or restrict the power of the Parole Commission to parole prisoners under such conditions as it may impose or prevent the reimprisonment of such prisoners upon violation of the conditions of such parole, as now provided by law. (1933, c. 172, s. 29; 1955, c. 867, s. 8; 1973, c. 1262, s. 10.)

**§ 148-49. Prison indebtedness not assumed by Board of Transportation.**

The Board of Transportation shall not assume or pay off any part of the deficit of the State prison existing on March 22, 1933. (1933, c. 172, s. 33; 1973, c. 507, s. 5.)

Article 3A.

Facilities and Programs for Youthful Offenders.

**§§ 148-49.1 through 148-49.9: Repealed by Session Laws 1977, c. 732, s. 1.**

Article 3B.

Facilities and Programs for Youthful Offenders.

**§§ 148-49.10 through 148-49.16: Repealed by Session Laws 1993, c. 538, s. 34.**

Article 4.

Paroles.

**§§ 148-50 through 148-51: Repealed by Session Laws 1955, c. 867, s. 13.**

**§ 148-51.1. Repealed by Session Laws 1985, c. 226, s. 9, effective May 23, 1985.**

**§ 148-52. Repealed by Session Laws 1973, c. 1262, s. 10.**

**§ 148-52.1. Prohibited political activities of member of Post-Release Supervision and Parole Commission.**

No member of the Post-Release Supervision and Parole Commission shall be permitted to use his position to influence elections or the political action of any person, serve as a member of the campaign committee of any political party, interfere with or participate in the preparation for any election or the conduct thereof at the polling place, or be in any manner concerned in the demanding, soliciting or receiving of any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party. Any Post-Release Supervision and Parole Commission member who shall violate any of the provisions of this section shall be subject to dismissal from office. (1953, c. 17, s. 4; 1973, c. 1262, s. 10; 1981, c. 260; 1993, c. 538, s. 44; 1994, Ex. Sess., c. 24, s. 14(b).)

**§ 148-53. Investigators and investigations of cases of prisoners.**

For the purpose of investigating the cases of prisoners, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is hereby authorized and empowered to appoint an adequate staff of competent investigators, particularly qualified for such work, with such reasonable clerical assistance as may be required, who shall, under the rules and regulations duly adopted by the Post-Release Supervision and Parole Commission, investigate all cases designated by it, investigate cases of prisoners eligible for post-release supervision, and otherwise aid the Commission in passing upon the question of the parole and post-release supervision of prisoners, to the end that every prisoner in the custodial care of the State may receive full, fair, and just consideration. (1935, c. 414, s. 3; 1955, c. 867, s. 2; 1973, c. 1262, s. 10; 1977, c. 704, s. 3; c. 711, s. 30; 1977, 2nd Sess., c. 1147, s. 32; 1993, c. 538, s. 45; 1994, Ex. Sess., c. 24, s. 14(b); 2011-145, s. 19.1(h); 2017-186, s. 2(gggggggg).)

**§ 148-54. Parole and post-release supervision supervisors provided for; duties.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety is hereby authorized to appoint a sufficient number of competent parole and post-release supervision supervisors, who shall be particularly qualified for and adapted for the work required of them, and who shall under the direction of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and under regulations prescribed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety after consultation with the Commission, exercise supervision and authority over paroled prisoners and persons on post-release supervision, assist paroled prisoners and persons on post-release supervision, and those who are to be paroled or released for post-release supervision in finding and retaining self-supporting employment, and to promote rehabilitation work with paroled and post-release supervised prisoners, to the end that they may become law-abiding citizens. The supervisors shall also, under the direction of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, maintain frequent contact with paroled and post-release supervised prisoners and find out whether or not they are observing the conditions of their paroles or post-release supervision, and assist them in every possible way toward compliance with the conditions, and they shall perform such other duties in connection with paroled prisoners as the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require. The number of supervisors may be increased by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as and when the number of paroled and post-release supervised prisoners to be supervised requires or justifies such increase. (1935, c. 414, s. 4; 1955, c. 867, s. 11; 1973, c. 1262, s. 10; 1977, c. 704, s. 4; 1993, c. 538, s. 46; 1994, Ex. Sess., c. 24, s. 14(b); 2011-145, s. 19.1(h); 2017-186, s. 2(hhhhhhhh).)

**§ 148-54.1. Repealed by Session Laws 1955, c. 867, s. 13.**

**§ 148-55. Repealed by Session Laws 1973, c. 1262, s. 10.**

**§ 148-56. Assistance in supervision of parolees or post-release supervisees and preparation of case histories.**

Upon request by the Post-Release Supervision and Parole Commission, the county directors of social services shall assist in the supervision of parolees and shall prepare and submit to the Post-Release Supervision and Parole Commission case histories or other information in connection with any case under consideration for parole or some form of executive clemency. (1935, c. 414, s. 6; 1955, c. 867, s. 9; 1961, c. 186; 1969, c. 982; 1973, c. 1262, s. 10; 1993, c. 538, s. 47; 1994, Ex. Sess., c. 24, s. 14(b).)

**§ 148-57. Rules and regulations for parole consideration.**

The Post-Release Supervision and Parole Commission is hereby authorized and empowered to set up and establish rules and regulations in accordance with which prisoners eligible for parole consideration may have their cases reviewed and by which such proceedings may be initiated and considered. That the rules and regulations shall include but not be limited to, a plan whereby the Post-Release Supervision and Parole Commission may determine parole eligibility, and, when eligibility is so approved, provide for parole of a prisoner to a plan approved by the Secretary of Public Safety. (1935, c. 414, s. 7; 1955, c. 867, s. 4; 1973, c. 1262, s. 10; 1977, c. 704, s. 2; 1993, c. 538, s. 48; 1994, Ex. Sess., c. 24, s. 14(b); 2011-145, s. 19.1(i).)

**§ 148-57.1. Restitution as a condition of parole or post-release supervision.**

(a) Repealed by Session Laws 1985, c. 474, s. 5.

(b) As a rehabilitative measure, the Post-Release Supervision and Parole Commission is authorized to require a prisoner to whom parole or post-release supervision is granted to make restitution or reparation to an aggrieved party as a condition of parole or post-release supervision when the sentencing court recommends that restitution or reparation to an aggrieved party be made a condition of any parole or post-release supervision granted the defendant. When imposing restitution as a condition and setting up a payment schedule for the restitution, the Post-Release Supervision and Parole Commission shall take into consideration the resources of the defendant, including all real and personal property owned by the defendant and the income derived from such property, his ability to earn, and his obligation to support dependents. The Post-Release Supervision and Parole Commission shall not be bound by such recommendation, but if it elects not to implement the recommendation, it shall state in writing the reasons therefor, and shall forward the same to the sentencing court.

(c) When an active sentence is imposed, the court shall consider whether, as a rehabilitative measure, it should recommend to the Post-Release Supervision and Parole Commission that restitution or reparation by the defendant be made a condition of any parole or post-release supervision granted the defendant. If the court determines that restitution or reparation should not be recommended, it shall so indicate on the commitment. If, however, the court determines that restitution or reparation should be recommended, the court shall make its recommendation a part of the order committing the defendant to custody. The recommendation shall be in accordance with the applicable provisions of Article 81C of Chapter 15A of the General Statutes. The Administrative Office of the Courts shall prepare and distribute forms which provide ample space to make restitution or reparation recommendations incident to commitments, which forms shall be conveniently structured to enable the sentencing court to make its recommendation.

If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court may order, as a condition of parole or post-release supervision, that the defendant pay the cost of any rehabilitative treatment for the minor.

(d) The Post-Release Supervision and Parole Commission shall establish rules and regulations to implement this section, which shall include adequate notice to the prisoner that the payment of restitution or reparation by the prisoner is being considered as a condition of any parole or post-release supervision granted the prisoner, and opportunity for the prisoner to be heard. Such rules and regulations shall also provide additional methods whereby facts may be obtained to supplement the recommendation of the sentencing court. (1977, c. 614, s. 8; 1977, 2nd Sess., c. 1147, s. 36; 1985, c. 474, s. 5; 1987, c. 397, s. 4; c. 598, s. 4; 1993, c. 538, s. 49; 1994, Ex. Sess., c. 24, s. 14(b); 1998-212, s. 19.4(h).)

**§§ 148-58 through 148-58.1. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-59. Duties of clerks of superior courts as to commitments; statements filed with Division of Adult Correction and Juvenile Justice of the Department of Public Safety.**

The several clerks of the superior courts shall attach to the commitment of each prisoner sentenced in such courts a statement furnishing such information as the Post-Release Supervision and Parole Commission shall by regulations prescribe, which information shall contain, among other things, the following:

- (1) The court in which the prisoner was tried;
- (2) The name of the prisoner and of all codefendants;
- (3) The date or session when the prisoner was tried;
- (4) The offense with which the prisoner was charged and the offense for which convicted;
- (5) The judgment of the court and the date of the beginning of the sentence;
- (6) The name and address of the presiding judge;
- (7) The name and address of the prosecuting solicitor;
- (8) The name and address of private prosecuting attorney, if any;
- (9) The name and address of the arresting officer;
- (10) All available information of the previous criminal record of the prisoner; and
- (11) For all Class G or more serious felonies, the names and addresses of the following persons, where the presiding judge makes a finding of such facts:
  - a. Any victims of the offense for which the prisoner was convicted;
  - b. The parent or legal guardian of any minor victims of the offense for which the prisoner was convicted; and
  - c. The next of kin of any homicide victims of the offense for which the prisoner was convicted.

The prison authorities receiving the prisoner for the beginning of the service of sentence shall detach from the commitment the statement furnishing such information and forward it to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, together with any additional information in the possession of such prison authorities relating to the previous criminal record of such prisoner, and the information thus furnished shall constitute the foundation and file of the prisoner's case. Forms for furnishing the information required by this section shall, upon request, be furnished to the said clerks by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety without charge. (1935, c. 414, s. 9; 1953, c. 17, s. 2; 1955, c. 867, s. 12; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1973, c. 108, s. 90; c. 1262, s. 10; 1993, c. 538, s. 50; 1994, Ex. Sess., c. 12, s. 2; c. 24, s. 14(b); 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(iiiiii).)

**§ 148-60. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-60.1. Allowances for paroled prisoner and prisoner on post-release supervision.**

Upon the release of any prisoner upon parole or post-release supervision, the superintendent or warden of the institution shall provide the prisoner with suitable clothing and, if needed, an amount of money sufficient to purchase transportation to the place within the State where the prisoner is to reside. The Post-Release Supervision and Parole Commission may, in its discretion, provide that the prisoner shall upon his release on parole or post-release supervision receive a sum of money of at least forty-five dollars (\$45.00). (1953, c. 17, s. 8; 1973, c. 1262, s. 10; 1987 (Reg. Sess., 1988), c. 1086, s. 120(b); 1993, c. 538, s. 51; 1994, Ex. Sess., c. 24, s. 14(b).)

**§§ 148-60.2 through 148-62. Repealed by Session Laws 1977, c. 711, s. 33.**

**§ 148-62.1. Entitlement of indigent parolee and post-release supervisee to counsel, in discretion of Post-Release Supervision and Parole Commission.**

Any parolee or post-release supervisee who is an indigent under the terms of G.S. 7A-450(a) may be determined entitled, in the discretion of the Post-Release Supervision and Parole Commission, to the services of counsel at State expense at a parole revocation hearing at which either:

- (1) The parolee or post-release supervisee claims not to have committed the alleged violation of the parole or post-release supervision conditions; or
- (2) The parolee or post-release supervisee claims there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, even if the violation is a matter of public record or is uncontested, and that the reasons are complex or otherwise difficult to develop or present; or
- (3) The parolee or post-release supervisee is incapable of speaking effectively for himself;

and where the Commission feels, on a case by case basis, that such appointment in accordance with either (1), (2) or (3) above is necessary for fundamental fairness.

If the parolee or post-release supervisee is determined to be indigent and entitled to services of counsel, counsel shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services. (1973, c. 1116, s. 2; 1993, c. 538, s. 52; 1994, Ex. Sess., c. 24, s. 14(b); 2000-144, s. 45.)

#### **§ 148-63. Arrest powers of police officers.**

Any officer who is authorized to make arrests of fugitives from justice shall have full authority and power to arrest any parolee whose parole has been revoked or any post-release supervisee who has been revoked. (1935, c. 414, s. 13; 1993, c. 538, s. 53; 1994, Ex. Sess., c. 24, s. 14(b).)

#### **§ 148-64. Cooperation of prison and parole officials and employees.**

The officials and employees of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Post-Release Supervision and Parole Commission shall at all times cooperate with and furnish each other such information and assistance as will promote the purposes of this Chapter and the purposes for which these agencies were established. The Commission shall have free access to all prisoners. (1935, c. 414, s. 14; 1955, c. 867, s. 7; 1967, c. 996, ss. 11, 15; 1973, c. 1262, s. 10; 1993, c. 538, s. 54; 1994, Ex. Sess., c. 24, s. 14(b); 2011-145, s. 19.1(h); 2017-186, s. 2(jjjjjjj).)

#### **§ 148-64.1. Early conditional release of inmates subject to a removal order; revocation of release.**

(a) Eligibility for Early Release. – Notwithstanding any other provision of law, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody and control of United States Immigration and Customs Enforcement if all of the following requirements are satisfied:

- (1) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety has received a final order of removal for the inmate from United States Immigration and Customs Enforcement.
- (2) The inmate was convicted of a nonviolent criminal offense and is incarcerated for that offense. If the inmate was convicted of and is incarcerated for more than one offense, then all of the offenses of which the inmate was convicted and is incarcerated must be nonviolent criminal offenses. As used in this subdivision,

the term "nonviolent criminal offense" means a conviction for an impaired driving offense or a felony violation of any of the following:

- a. G.S. 14-54.
  - b. G.S. 14-56.
  - c. G.S. 14-71.1.
  - d. G.S. 14-100, where the thing of value is less than one hundred thousand dollars (\$100,000).
  - e. G.S. 90-95(d)(4).
- (3) The inmate has served at least half of the minimum sentence imposed by the court or, in the case of an inmate convicted of an impaired driving offense under G.S. 20-138.1, the inmate has met all of the parole eligibility requirements under G.S. 15A-1371, notwithstanding G.S. 20-179(p)(3).
  - (4) The inmate was not convicted of an impaired driving offense resulting in death or serious bodily injury, as that term is defined in G.S. 14-32.4.
  - (5) The inmate agrees not to reenter the United States unlawfully.

(b) Release Is Discretionary. – The decision to release an inmate once the requirements of subsection (a) of this section are satisfied is in the sole, unappealable discretion of the Post-Release Supervision and Parole Commission.

(c) Return of Inmates. – In the event that the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the remainder of the original sentence.

(d) Unlawful Reentry Constitutes Violation. – An inmate released pursuant to this section who returns unlawfully and willfully to the United States violates the conditions of the inmate's early release.

(e) Arrest Authority. – An inmate who violates the conditions of the inmate's early release is subject to arrest by a law enforcement officer.

(f) Effect of Violation. – Upon notification from any federal or state law enforcement agency that the inmate is in custody, and after notice and opportunity to be heard, the Post-Release Supervision and Parole Commission shall revoke the inmate's release and reimprison the inmate for a period equal to the inmate's maximum sentence minus time already served by the inmate upon a finding that an inmate has violated the conditions of the inmate's early release.

(g) Violators Ineligible for Future Release. – Upon revocation of release under this subsection, the inmate shall not be eligible for any future release under this section or for any other release from confinement, other than post-release supervision, until the remainder of the sentence of imprisonment is served. (2008-199, s. 3; 2011-145, s. 19.1(h); 2017-186, s. 2(kkkkkkkk).)

**§ 148-65. Repealed by Session Laws 1955, c. 867, s. 13.**

#### Article 4A.

#### Out-of-State Parolee Supervision.

**§ 148-65.1: Repealed by Session Laws 2002-166, s. 2, effective October 23, 2003.**

**§ 148-65.1A: Repealed by Session Laws 2002-166, s. 2, effective October 23, 2003.**

**§ 148-65.2: Repealed by Session Laws 2002-166, s. 2, effective October 23, 2003.**

**§ 148-65.3: Repealed by Session Laws 2002-166, s. 2, effective October 23, 2003.**

Article 4B.

Interstate Compact for Adult Offender Supervision.

**§ 148-65.4. Short title.**

This Article may be cited as "The Interstate Compact for Adult Offender Supervision." (2002-166, s. 1; 2008-189, s. 1.)

**§ 148-65.5. Governor to execute compact; form of compact.**

The Governor of North Carolina is authorized and directed to execute a compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

Preamble.

Whereas: The Interstate Compact for the Supervision of Parolees and Probationers was established in 1937, it is the earliest corrections "compact" established among the states, and has not been amended since its adoption over 62 years ago;

Whereas: This compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders;

Whereas: The complexities of the compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements, and sex offender registration;

Whereas: After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability;

Whereas: The General Assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. The Governor is hereby authorized and directed to enter into a compact on behalf of the State of North Carolina with any state of the United States and other territorial possessions of the United States legally joining therein in the form substantially as follows;

Whereas: Upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the General Assembly to repeal the previous Interstate Compact for the Supervision of Parolees and Probationers one year after the effective date of this compact.

Article I.

Purpose.

- (a) The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient



manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

- (b) It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states:
  - (1) To provide the framework for the promotion of public safety and to protect the rights of victims through the control and regulation of the interstate movement of offenders in the community;
  - (2) To provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and
  - (3) To equitably distribute the costs, benefits, and obligations of the compact among the compacting states.
- (c) In addition, this compact will:
  - (1) Create an Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies, which will promulgate rules to achieve the purpose of this compact;
  - (2) Ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;
  - (3) Establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators;
  - (4) Monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and
  - (5) Coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.
- (d) The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provision of this compact and bylaws and rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of the public policies and are therefore public business.

## Article II.

### Definitions.

- (a) As used in this compact, unless the context clearly requires a different construction:

- (1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.
- (2) "Bylaws" means those bylaws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.
- (3) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the state council under this compact.
- (4) "Compacting state" means any state that has enacted the enabling legislation for this compact.
- (5) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.
- (6) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact.
- (7) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.
- (8) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.
- (9) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.
- (10) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.
- (11) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.
- (12) "State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.
- (13) "State council" means the resident member of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

### Article III.

#### The Compact Commission.

- (a) The compacting states hereby create the "Interstate Commission for Adult Offender Supervision". The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

- (b) The Interstate Commission shall consist of commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the Interstate Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional, ex officio, nonvoting members as it deems necessary.
- (c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
- (d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.
- (e) The Interstate Commission shall establish an executive committee that shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee oversees the day-to-day activities managed by the executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the Interstate Commission; and performs other duties as directed by the commission or set forth in the bylaws.

#### Article IV.

##### The State Council.

- (a) Each member state shall create a State Council for Interstate Adult Offender Supervision that shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.
- (b) Each compacting state retains the right to determine the qualifications of the Compact Administrator, who shall be appointed by the state council or by the Governor in consultation with the legislature and the judiciary. In addition to appointment of its own commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including, but not limited to, development of policy operations and procedures of the compact within that state.

## Article V.

### Powers and Duties of the Interstate Commission.

The Interstate Commission shall have the following powers:

- (1) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.
- (2) To promulgate rules that shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
- (3) To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the compact commission.
- (4) To enforce compliance with compact provisions, Interstate Commission rules, and bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.
- (5) To establish and maintain offices.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.
- (8) To establish and appoint committees and hire staff when it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- (9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.
- (11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
- (13) To establish a budget and make expenditures and levy dues as provided in Article X of this compact.
- (14) To sue or be sued.
- (15) To provide for dispute resolution among compacting states.
- (16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- (17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (18) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

- (19) To establish uniform standards for the reporting, collecting, and exchanging of data.

#### Article VI.

##### Organization and Operation of the Interstate Commission.

- (a) Bylaws. – The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
- (1) Establishing the fiscal year of the Interstate Commission;
  - (2) Establishing an executive committee and such other committees as may be necessary and providing reasonable standards and procedures:
    - a. For the establishment of committees, and
    - b. Governing any general or specific delegation of any authority or function of the Interstate Commission;
  - (3) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
  - (4) Establishing the titles and responsibilities of the officers of the Interstate Commission;
  - (5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission;
  - (6) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations;
  - (7) Providing transition rules for "start- up" administration of the compact; and
  - (8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.
- (b) Officers and Staff. – The Interstate Commission shall, by a majority of the members, elect from among its members a chair and a vice-chair, each of whom shall have such authorities and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate.

The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

- (c) Corporate Records of the Interstate Commission. – The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.
- (d) Qualified Immunity, Defense, and Indemnification. – The members, officers, executive director, and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

#### Article VII.

##### Activities of the Interstate Commission.

- (a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.
- (b) Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.
- (c) Each member of the Interstate Commission shall have the right and power to cast a vote to which the compacting state is entitled and to participate in the

business and affairs of the Interstate Commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

- (d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.
- (e) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.
- (f) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the "Government in Sunshine Act", U.S.C. § 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:
  - (1) Relate solely to the Interstate Commission's internal personnel practices and procedures;
  - (2) Disclose matters specifically exempted from disclosure by statute;
  - (3) Disclose trade secrets or commercial or financial information which is privileged or confidential;
  - (4) Involve accusing any person of a crime or formally censuring any person;
  - (5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
  - (6) Disclose investigatory records compiled for law enforcement purposes;
  - (7) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

- (8) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; and
  - (9) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.
- (g) For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any recall vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.
- (h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

#### Article VIII.

##### Rule-making Functions of the Interstate Commission.

- (a) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.
- (b) Rule making shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rule making shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. section 551, et seq., and the Federal Advisory Committee Act, 5 U.S.C. § 1, et seq., as may be amended (hereinafter "APA"). All rules and amendments shall become binding as of the date specified in each rule or amendment.
- (c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.
- (d) When promulgating a rule, the Interstate Commission shall:
  - (1) Publish the proposed rule stating with particularity the text of the rule that is proposed and the reason for the proposed rule;
  - (2) Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;
  - (3) Provide an opportunity for an informal hearing; and
  - (4) Promulgate a final rule and its effective date, if appropriate, based on the rule-making record. Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United



States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principle office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rule-making record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within 12 months after the first meeting must, at a minimum, include:

- a. Notice to victims and opportunity to be heard;
  - b. Offender registration and compliance;
  - c. Violations/returns;
  - d. Transfer procedures and forms;
  - e. Eligibility for transfer;
  - f. Collection of restitution and fees from offenders;
  - g. Data collection and reporting;
  - h. The level of supervision to be provided by the receiving state;
  - i. Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and
  - j. Mediation, arbitration, and dispute resolution.
- (e) The existing rules governing the operation of the previous compact superceded by this Act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.
- (f) Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rule-making procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

#### Article IX.

##### Oversight, Enforcement, and Dispute Resolution by the Interstate Commission.

- (a) Oversight. – The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.
- The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.
- (b) Dispute Resolution. – The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and

support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.

The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

- (c) Enforcement. – The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any and all means set forth in Article XII, subsection (b) of this compact.

#### Article X.

##### Finance.

- (a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (b) The Interstate Commission shall levy on and collect an annual assessment for each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff that must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.
- (c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
- (d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### Article XI.

##### Compacting State, Effective Date, and Amendment.

- (a) Any state, as defined in article ii of this compact, is eligible to become a compacting state.
- (b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2002, or upon enactment into law by the 35th jurisdiction. Therefore, it shall become effective and binding as to any other compacting state, upon enactment of the compact into law by that state. The

governors of nonmember states or their designees will be invited to participate in Interstate Commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

- (c) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

#### Article XII.

##### Withdrawal, Default, Termination, and Judicial Enforcement.

- (a) **Withdrawal.** – Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.

The effective date of withdrawal is the effective date of the repeal.

The withdrawing state shall immediately notify the Chair of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state's reenacting the compact or upon such later date as determined by the Interstate Commission.

- (b) **Default.** – If the Interstate Commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or any duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

- (1) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
- (2) Remedial training and technical assistance as directed by the Interstate Commission;
- (3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor; the Chief Justice or Chief Judicial Officer of the state; the Majority and Minority Leaders of the defaulting state's legislature; and the state council.

The grounds of default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission bylaws, or duly promulgated rules.

The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the Governor; the Chief Justice or Chief Judicial Officer of the state; the Majority and Minority Leaders of the defaulting state's legislature; and the state council of such termination.

The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

- (c) **Judicial Enforcement.** – The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.
- (d) **Dissolution of Compact.** – The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up, and any surplus funds shall be distributed in accordance with the bylaws.

### Article XIII.

#### Severability and Construction.

- (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provision of the compact shall be enforceable.
- (b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

#### Article XIV.

##### Binding Effect of Compact and Other Laws.

- (a) Other Laws. – Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

- (b) Binding Effect of the Compact. – All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the compacting states.

All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective, and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective. (2002-166, s. 1; 2008-189, s. 1.)

#### **§ 148-65.6. Implementation of the compact.**

(a) The North Carolina State Council for Interstate Adult Offender Supervision shall be established, consisting of 14 members. North Carolina's Commissioner to the Interstate Compact Commission is a member of the State Council and serves as chair of the State Council. The remaining members of the State Council shall consist of the following:

- (1) One member representing the executive branch, to be appointed by the Governor;
- (2) One member from a victim's assistance group, to be appointed by the Governor;
- (3) One at-large member, to be appointed by the Governor;
- (4) One member of the Senate, to be appointed by the President Pro Tempore of the Senate;
- (5) One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives;
- (6) A superior court judge, to be appointed by the Chief Justice of the Supreme Court;
- (6a) A district court judge, to be appointed by the Chief Justice of the Supreme Court;
- (7) Four members representing the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice, to be appointed by the Director of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice;

- (8) A district attorney, to be appointed by the Governor; and
- (9) A sheriff, to be appointed by the Governor.

(a) The Governor, in consultation with the legislature and judiciary, shall appoint the Compact Administrator. The Compact Administrator shall be appointed by the State Council as North Carolina's Commissioner to the Interstate Compact Commission.

(b) The State Council shall meet at least twice a year and may also hold special meetings at the call of the chairperson. All terms are for three years.

(c) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(d) The members of the State Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses in accordance with the policies of the Office of State Budget and Management.

(e) The State Council shall act in an advisory capacity to the Secretary of Public Safety concerning this State's participation in Interstate Commission activities and other duties as may be determined by each member state, including recommendations for policy concerning the operations and procedures of the compact within this State.

(f) The Governor shall by executive order provide for any other matters necessary for implementation of the compact at the time that it becomes effective, and, except as otherwise provided for in this section, the State Council may promulgate rules or regulations necessary to implement and administer the compact. (2002-166, s. 1; 2008-189, s. 1; 2011-145, s. 19.1(i), (k); 2017-186, s. 2(IIIIII).)

#### **§ 148-65.7. Fees.**

(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of two hundred fifty dollars (\$250.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either the Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pursuant to this subsection shall be remitted to the State Treasurer to be deposited and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the administration of the Interstate Compact.

(b) Persons supervised in this State pursuant to this compact shall pay the supervision fee specified in G.S. 15A-1374(c). The fee shall be paid to the clerk of court in the county in which the person initially receives supervision services in this State. The Commissioner or the Commissioner's designee may waive the fee if either the Commissioner or the Commissioner's

designee finds that payment of the fee will constitute an undue economic burden on the offender. (2002-166, s. 1; 2008-189, s. 1; 2011-145, ss. 19.1(h), 31.25; 2017-186, s. 2(mmmmmmmmm).)

**§ 148-65.8. Interstate parole and probation hearing procedures.**

(a) Where supervision of an offender is being administered pursuant to the Interstate Compact for Adult Offender Supervision, the appropriate judicial or administrative authorities in this State shall notify the Compact Administrator of the sending state whenever, in their view, consideration should be given to retaking or reincarceration for a parole, probation, or post-release supervision violation. Prior to the giving of any such notification, a hearing shall be held in accordance with this section within a reasonable time, unless such hearing is waived by the offender. Pending any proceeding pursuant to this section, the appropriate officers of this State may take custody of and detain the offender involved for a period not to exceed 15 days prior to the hearing. The offender shall not be entitled to bail pending the hearing.

(b) Any hearing pursuant to this section may be before the Administrator of the Interstate Compact for Adult Offender Supervision, a deputy of the Administrator, any other person appointed by the Administrator, or any person authorized pursuant to the laws of this State to hear cases of alleged parole, probation, or post-release supervision violation, except that no hearing officer shall be the person making the allegation of violation.

(c) With respect to any hearing pursuant to this section, the offender:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that the offender has committed a violation that may lead to a revocation of parole, probation, or post-release supervision.
- (2) Shall be permitted to advise with any persons whose assistance the offender reasonably desires, prior to the hearing.
- (3) Shall have the right to confront and examine any persons who have made allegations against the offender, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the offender's contentions.

(c1) A record of the hearing shall be made and preserved. As soon as practicable following termination of any hearing conducted pursuant to this section or the waiver of such hearing, the appropriate officer or officers of this State shall report to the sending state, furnish a copy of the hearing record, and make recommendations regarding the disposition to be made of the offender by the sending state. If the hearing recommendation is to retake or reincarcerate the offender, the hearing officer or officers may detain the offender until notice is received from the sending state. If the sending state provides notice that it intends to retake or reincarcerate the offender, the offender shall remain in custody for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.

(d) In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for Adult Offender Supervision, any appropriate judicial or administrative officer or agency in another state may hold a hearing on the alleged violation. Upon receipt of the record of a parole, probation, or post-release supervision violation hearing held in another state pursuant to a statute substantially similar to this section, that record shall have the same standing and effect as though the proceeding of which it is a record was had

before the appropriate officer or officers in this State, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this State in making disposition of the matter. (2002-166, s. 1; 2008-189, s. 1.)

**§ 148-65.9. North Carolina sentence to be served in another jurisdiction.**

The Post-Release Supervision and Parole Commission, with the concurrence of the Secretary of Public Safety, may direct that the balance of any sentence imposed by the courts of this State shall be served concurrently with a sentence or sentences in another state or federal institution and may effect a transfer of custody of such individual to the other jurisdiction for such purpose. In the event the individual's sentence liability in the other jurisdiction terminates prior to the expiration of the individual's North Carolina sentence, the individual shall be either paroled (if eligible) or returned to the prison department of this State, in the discretion of the Post-Release Supervision and Parole Commission. (2002-166, s. 1; 2011-145, s. 19.1(i).)

**§ 148-66. Cities and towns and Department of Agriculture and Consumer Services may contract for prison labor.**

The corporate authorities of any city or town may contract in writing with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the employment of convicts upon the highways or streets of such city or town, and such contracts when so exercised shall be valid and enforceable against such city or town, and the Attorney General may prosecute an action in the Superior Court of Wake County in the name of the State for their enforcement.

The Department of Agriculture and Consumer Services is hereby authorized and empowered to contract, in writing, with the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the employment and use of convicts under its supervision to be worked on the State test farms and/or State experimental stations. (1881, c. 127, s. 1; Code, s. 3449; Rev., s. 5410; C.S., s. 7758; 1925, c. 163; 1931, c. 145, s. 35; 1933, c. 172, s. 18; 1943, c. 605, s. 1; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1985, c. 226, s. 10(1); 1997-261, s. 106; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(nnnnnnnn).)

**§ 148-67. Hiring to cities and towns and State Department of Agriculture and Consumer Services.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall in their discretion, upon application to them, hire to the corporate authorities of any city or town for the purposes specified in G.S. 148-66, such convicts as are mentally and physically capable of performing the work or labor contemplated and are not at the time of such application hired or otherwise engaged in labor under the direction of the Division; but the convicts so hired for services shall be fed, clothed and quartered while so employed by the Division.

Upon application to it, it shall be the duty of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, in its discretion, to hire to the Department of Agriculture and Consumer Services for the purposes of working on the State test farms and/or State experimental stations, such convicts as may be mentally and physically capable of performing the work or labor contemplated; but the convicts so hired for services under this paragraph shall be fed, clothed and quartered while so employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1881, c. 127, s. 2; Code, s. 3450; Rev., s. 5411; C.S., s. 7759; 1925, c. 163; 1931, c. 145, s. 35; 1933, c. 172, s. 18; 1943, c.



605, s. 2; 1957, c. 349, s. 10; 1967, c. 996, s. 13; 1985, c. 226, s. 10(2); 1997-261, s. 107; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(ooooooooo).)

**§ 148-68. Payment of contract price; interest; enforcement of contracts.**

The corporate authorities of any city or town so hiring convicts shall pay into the treasury of the State for the labor of any convict so hired such sum or sums of money at such time or times as may be agreed upon in the contract of hire; and if any such city or town fails to pay the State money due for such hiring, the same shall bear interest from the time it is due until paid at the rate of six percent (6%) per annum; and an action to recover the same may be instituted by the Attorney General in the name of the State in the courts of Wake County. (1881, c. 127, s. 3; Code, s. 3451; Rev., s. 5412; C.S., s. 7760; 1925, c. 163; 1931, c. 145, s. 35.)

**§ 148-69. Agents; levy of taxes; payment of costs and expenses.**

The corporate authorities of any city or town so hiring convicts may appoint and remove at will all such necessary agents to superintend the construction or improvement of such highways and streets as they may deem proper, or to pay the costs and expenses incident to such hiring may levy taxes and raise money as in other respects. (1881, c. 127, s. 4; Code, s. 3452; Rev., s. 5413; C. S., s. 7761; 1925, c. 163; 1931, c. 145, s. 35.)

**§ 148-70. Management and care of inmates.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety in all contracts for labor shall provide for feeding and clothing the inmates and shall maintain, control and guard the quarters in which the inmates live during the time of the contracts; and the Division shall provide for the guarding and working of such inmates under its sole supervision and control. The Division may make such contracts for the hire of the inmates confined in the State prison as may in its discretion be proper. (1917, c. 286, s. 2; 1919, c. 80, s. 1; C.S., s. 7762; 1925, c. 163; 1931, c. 145, s. 35; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1959, c. 170, s. 2; 1967, c. 996, s. 13; 1975, c. 730, s. 1; 1983, c. 717, s. 14; 1985, c. 118; c. 226, s. 11; 1991 (Reg. Sess., 1992), c. 902, s. 2; 2007-280, s. 4; 2011-145, s. 19.1(h); 2012-83, s. 61; 2017-186, s. 2(pppppppp).)

Article 5A.

Prison Labor for Farm Work.

**§§ 148-70.1 through 148-70.7. Repealed by Session Laws 1957, c. 349, s. 11.**

Article 6.

Reformatory.

**§§ 148-71 through 148-73. Repealed by Session Laws 1947, c. 262, s. 3.**

Article 7.

Records, Statistics, Research and Planning.

**§ 148-74. Records Section.**

Case records and related materials compiled for the use of the Secretary of Public Safety and the Parole Commission shall be maintained in a single central file system designed to minimize duplication and maximize effective use of such records and materials. When an individual is committed to the State prison system after a period on probation, the probation files on that individual shall be made a part of the combined files used by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Parole Commission. The administration of the Records Section shall be under the control and direction of the Secretary of Public Safety. (1925, c. 228, s. 1; 1953, c. 55, ss. 2, 4; 1967, c. 996, s. 12; 1973, c. 1262, s. 10; 1985, c. 226, s. 12; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(qqqqqqqq).)

**§ 148-75. Repealed by Session Laws 1963, c. 1174, s. 5.**

**§ 148-76. Duties of Records Section.**

The Records Section shall maintain the combined case records and receive and collect fingerprints, photographs, and other information to assist in locating, identifying, and keeping records of criminals. The information collected shall be classified, compared, and made available to law-enforcement agencies, courts, correctional agencies, or other officials requiring criminal identification, crime statistics, and other information respecting crimes and criminals. (1925, c. 228, s. 3; 1953, c. 55, s. 4; 1967, c. 996, s. 12.)

**§ 148-77:** Repealed by Session Laws 2012-168, s. 5(a), effective July 12, 2012.

**§ 148-78. Reports.**

The Secretary of Public Safety may prepare and release reports on the work of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, including statistics and other data, accounts of research, and recommendations for legislation. (1925, c. 228, s. 5; 1953, c. 55, s. 4; 1967, c. 996, s. 12; 1973, c. 1262, s. 10; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(rrrrrrr).)

**§ 148-79. Repealed by Session Laws 1965, c. 1049, s. 2.**

**§ 148-80. Seal of Records Section; certification of records.**

A seal shall be provided to be affixed to any paper, record, copy or form or true copy of any of the same in the files or records of the Records Section, and when so certified under seal by the duly appointed custodian, such record or copy shall be admitted as evidence in any court of the State. (1925, c. 228, s. 7; 1953, c. 55, s. 4; 1967, c. 996, s. 12.)

**§ 148-81: Repealed by Session Laws 1965, c. 1049, s. 2.**

Article 8.

Compensation to Persons Erroneously Convicted of Felonies.

**§ 148-82. Provision for compensation.**

(a) Any person who, having been convicted of a felony and having been imprisoned therefor in a State prison of this State, and who was thereafter or who shall hereafter be granted a pardon of innocence by the Governor upon the grounds that the crime with which the person was charged either was not committed at all or was not committed by that person, may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the granting of the pardon.

(b) Any person who, having been convicted of a felony after pleading not guilty or nolo contendere and having been imprisoned therefor in a State prison of this State, and who is determined to be innocent of all charges and against whom the charges are dismissed pursuant to G.S. 15A-1469 may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the date that the dismissal of the charges is entered by the three-judge panel under G.S. 15A-1469. (1947, c. 465, s. 1; 1997-388, s. 1; 2010-171, s. 3; 2012-7, s. 11.)

**§ 148-83. Form, requisites and contents of petition; nature of hearing.**

Such petition shall be addressed to the Industrial Commission, and must include a full statement of the facts upon which the claim is based, verified in the manner provided for verifying complaints in civil actions, and it may be supported by affidavits substantiating such claim. Upon its presentation the Industrial Commission shall fix a time and a place for a hearing, and shall mail notice to the claimant, and shall notify the Attorney General, at least 15 days before the time fixed therefor. (1947, c. 465, s. 2; 1963, c. 1174, s. 4; 1973, c. 1262, s. 10; 1997-388, s. 2.)

**§ 148-84. Evidence; action by Industrial Commission; payment and amount of compensation.**

(a) At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, received a pardon of innocence for the reason that the crime was not committed by the claimant, or that the claimant was determined to be innocent of all charges by a three-judge panel under G.S. 15A-1469 and also finds that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall award to the claimant an amount equal to fifty thousand dollars (\$50,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial. However, (i) in no event shall the compensation, including the compensation provided in subsection (c) of this section, exceed a total amount of seven hundred fifty thousand dollars (\$750,000), and (ii) a claimant is not entitled to compensation for any portion of a prison sentence during which the claimant was also serving a concurrent sentence for conviction of a crime other than the one for which the pardon of innocence was granted.

The Director of the Budget shall pay the amount of the award to the claimant out of the Contingency and Emergency Fund, or out of any other available State funds. The Industrial Commission shall give written notice of its decision to all parties concerned. The determination of the Industrial Commission shall be subject to judicial review upon appeal of the claimant or the

State according to the provisions and procedures set forth in Article 31 of Chapter 143 of the General Statutes.

(b) Reserved.

(c) In addition to the compensation provided under subsection (a) of this section, the Industrial Commission shall determine the extent to which incarceration has deprived a claimant of educational or training opportunities and, based upon those findings, may award the following compensation for loss of life opportunities:

- (1) Job skills training for at least one year through an appropriate State program; and
- (2) Expenses for tuition and fees at any public North Carolina community college or constituent institution of The University of North Carolina for any degree or program of the claimant's choice that is available from one or more of the applicable institutions. Claimants are also entitled to assistance in meeting any admission standards or criteria required at any of those institutions, including assistance in satisfying requirements for a certificate of equivalency of completion of secondary education. A claimant may apply for aid under this subdivision within 10 years of the claimant's release from incarceration, and aid shall continue for up to a total of five years when initiated within the 10-year period, provided the claimant makes satisfactory progress in the courses or degree program in which the claimant is enrolled. (1947, c. 465, s. 3; 1963, c. 1174, s. 4; 1973, c. 1262, s. 10; 1997-388, s. 3; 2001-424, s. 25.12(a); 2008-173, ss. 1, 2; 2009-570, s. 24; 2010-171, s. 4.)

#### Article 9.

##### Prison Advisory Council.

**§§ 148-85 through 148-88. Repealed by Session Laws 1957, c. 349, s. 11.**

#### Article 10.

##### Interstate Agreement on Detainers.

**§§ 148-89 through 148-95. Transferred to §§ 15A-761 to 15A-767 by Session Laws 1973, c. 1286, s. 22, as amended by Session Laws 1975, c. 573.**

**§§ 148-96 through 148-100. Reserved for future codification purposes.**

#### Article 11.

##### Inmate Grievance Commission.

**§§ 148-101 through 148-118: Repealed by Session Laws 1987, c. 746, s. 1.**

#### Article 11A.

## Corrections Administrative Remedy Procedure.

### **§ 148-118.1. Authority.**

The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall adopt an Administrative Remedy Procedure in compliance with 42 U.S.C. 1997, the "Civil Rights of Institutionalized Persons Act". The Administrative Remedy Procedure and any amendments or changes thereto shall be adopted only after prior consultation with the Grievance Resolution Board. (1987, c. 746, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(sssssss).)

### **§ 148-118.2. Effect.**

(a) Upon approval of the Administrative Remedy Procedure by a federal court as authorized and required by 42 U.S.C. 1997(e)(a), and the implementation of the procedure, this procedure shall constitute the administrative remedies available to a prisoner for the purpose of preserving any cause of action under the purview of the Administrative Remedy Procedure, which a prisoner may claim to have against the State of North Carolina, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or its employees.

(b) No State court shall entertain a prisoner's grievance or complaint which falls under the purview of the Administrative Remedy Procedure unless and until the prisoner shall have exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue administrative remedies through this procedure, any petition or complaint he files shall be stayed for 90 days to allow the prisoner to file a grievance and for completion of the procedure. If at the end of 90 days the prisoner has failed to timely file his grievance, then the petition or complaint shall be dismissed. Provided, however, that the court can waive the exhaustion requirement if it finds such waiver to be in the interest of justice. (1987, c. 746, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(ttttttt).)

### **§ 148-118.3. Publication of procedure.**

The Administrative Remedy Procedure shall be published in the North Carolina Register. (1987, c. 746, s. 2.)

### **§ 148-118.4. Definitions.**

For purposes of this Article, "prisoner" shall refer to all prisoners in the physical custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1987, c. 746, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(uuuuuuu).)

### **§ 148-118.5. Records confidentiality.**

All reports, investigations, and like supporting documents prepared by the Division for purposes of responding to the prisoner's request for an administrative remedy shall be deemed to be confidential. All formal written responses to the prisoner's request shall be furnished to the prisoner as a matter of course as required by the procedure. The Grievance Resolution Board shall have access to all relevant records developed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (1987, c. 746, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(vvvvvvvv).)

### **§ 148-118.6. Grievance Resolution Board.**

The Grievance Resolution Board is established as a separate agency within the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. It shall consist of five members appointed by the Governor to serve four-year terms. Of the members so appointed, three shall be attorneys selected from a list of 10 persons recommended by the Council of the North Carolina State Bar. The remaining two members shall be persons of knowledge and experience in one or more fields under the jurisdiction of the Secretary of Public Safety. In the event a vacancy occurs on the Board prior to the expiration of a member's term, the Governor shall appoint a new Board member to serve the unexpired term. If the vacancy occurs in one of the positions designated for an attorney, the Governor shall select another attorney from a list of five persons recommended by the Council of the North Carolina State Bar. The Board shall perform those functions assigned to it by the Governor and shall review the grievance procedure. The Grievance Resolution Board shall meet not less than quarterly to review summaries of grievances. All members of the Inmate Grievance Commission, appointed by the Governor pursuant to G.S. 148-101, may complete their terms as members of the Board. Each member of the Board shall receive per diem and travel expenses as authorized for members of State commissions and boards under G.S. 138-5. (1987, c. 746, s. 2; 2011-145, s. 19.1(h), (i); 2017-186, s. 2(wwwwwww).)

#### **§ 148-118.7. Removal of members.**

The Governor may remove any member of the Grievance Resolution Board for one or more of the following reasons:

- (1) Conviction of a crime involving moral turpitude or of any criminal offense the effect of which is to prevent or interfere with the performance of Board duties.
- (2) Failure to regularly attend meetings of the Board.
- (3) Failure to carry out duties assigned by the Board or its chairman.
- (4) Acceptance of another office or the conduct of other business conflicting with or tending to conflict with the performance of Board duties.
- (5) Any other ground that, under law, necessitates or justifies the removal of a State employee. (1987, c. 746, s. 2.)

#### **§ 148-118.8. Appointment, salary, and authority of Executive Director and inmate grievance examiners.**

(a) The Grievance Resolution Board, in consultation with the Secretary of Public Safety, shall provide the Governor with at least three nominees, and the Governor shall appoint an Executive Director from those nominees. The Grievance Resolution Board shall appoint grievance examiners. The Executive Director shall manage the staff and perform such other functions as are assigned to the Director by the Grievance Resolution Board. The Executive Director shall serve at the pleasure of the Governor. The grievance examiners shall serve at the pleasure of the Grievance Resolution Board. The grievance examiners shall be subject to Article 2 of Chapter 126 of the North Carolina General Statutes for purposes of salary and leave. Support staff, equipment, and facilities for the Board shall be provided by the Division of Adult Correction of the Department of Public Safety.

(b) The inmate grievance examiners shall investigate inmate grievances pursuant to the procedures established by the Administrative Remedy Procedure. Examiners shall attempt to resolve grievances through mediation with all parties. Otherwise, the inmate grievance examiners shall either (i) order such relief as is appropriate; or (ii) deny the grievance. The decision of the grievance examiner shall be binding, unless the Secretary of Public Safety (i) finds that such relief

is not appropriate, (ii) gives a written explanation for this finding, and (iii) makes an alternative order of relief or denies the grievance. (1987, c. 746, s. 2; 2011-145, s. 19.1(h), (i); 2013-382, s. 9.1(c); 2015-241, s. 16C.13B(a); 2017-186, s. 2(xxxxxxxx).)

**§ 148-118.9. Investigatory power of the Grievance Resolution Board.**

The Secretary of Public Safety may request that the Grievance Resolution Board investigate matters involving broad policy concerns. The Grievance Resolution Board may convene a fact-finding hearing to consider the issues presented for investigation. A record of testimony presented at such hearing shall be maintained by the Board. The Board shall report the findings of its investigation to the Secretary within a reasonable time. In no event shall such a request on the part of the Secretary result in a delay of the resolution of an inmate's grievance beyond the 90 day period. (1987, c. 746, s. 2; 2011-145, s. 19.1(i).)

Article 12.

Interstate Corrections Compact.

**§ 148-119. Short title.**

This Article shall be known and may be cited as the Interstate Corrections Compact. (1979, c. 623.)

**§ 148-120. Governor to execute; form of compact.**

The Governor of North Carolina is hereby authorized and requested to execute, on behalf of the State of North Carolina, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

- (1) The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the federal government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.
- (2) As used in this compact, unless the context clearly requires otherwise:
  - a. "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.
  - b. "Sending state" means a state party to this compact in which conviction or court commitment was had.
  - c. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.
  - d. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

- e. "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in (2)d. above may lawfully be confined.
- (3)
- a. Each party state may make one or more contracts with any one or more of the other party states, or with the federal government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:
    1. Its duration;
    2. Payments to be made to the receiving state or to the federal government, by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;
    3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;
    4. Delivery and retaking of inmates;
    5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.
  - b. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.
- (4)
- a. Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, Subsection (1) [paragraph a. of subdivision (3)] shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.
  - b. The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.
  - c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state, provided that



- the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III, Subsection (1) [paragraph a. of subdivision (3)].
- d. Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.
  - e. All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.
  - f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.
  - g. Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.
  - h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.
  - i. The parents, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with

respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

- (5)
  - a. Any decision of the sending state in respect to any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.
  - b. An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.
- (6) Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto; and any inmate in a receiving state pursuant to this compact may participate in any such federally-aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.
- (7) This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.
- (8) This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

- (9) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.
- (10) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (1979, c. 623.)

**§ 148-121. Proceedings to be open; all documents public records; exception.**

(a) Except as provided in subsection (c) of this section, at least 30 days before a transfer of a North Carolina inmate to another state system pursuant to this Article is approved, the Secretary of Public Safety shall give notice that the transfer is being considered. The Secretary shall give notice of the proposed transfer by:

- (1) Notifying the district attorney of the district where the prisoner was convicted, the judge who presided at the prisoner's trial, the law-enforcement agency that arrested the prisoner, and the victim of the prisoner's crime;
- (2) Posting notice at the courthouse in the county in which the prisoner was convicted; and
- (3) Notifying any other person who has made a written request to receive notice of a transfer of the prisoner.

(b) Except as provided in subsection (c) of this section, all written comments regarding a transfer are public records under General Statutes Chapter 132.

(c) If, in the discretion of the Secretary, such notice or disclosure requirements provided for in this section would jeopardize the safety of persons or property, the provisions of this section do not apply. (1983, c. 874, s. 1; 2011-145, s. 19.1(i).)

Article 13.

Transfer of Convicted Foreign Citizens Under Federal Treaty.

**§ 148-122. Transfer of convicted foreign citizens under treaty; consent by Governor.**

If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which the offenders are citizens or nationals, the Governor may, on behalf of the State and subject to the terms of the treaty, authorize the Secretary of Public Safety to consent to the transfer or exchange of offenders and take any other action necessary to initiate the participation of the State in the treaty. (2002-166, s. 4; 2011-145, s. 19.1(i).)

§ 148-123: Reserved for future codification purposes.

§ 148-124: Reserved for future codification purposes.

§ 148-125: Reserved for future codification purposes.

§ 148-126: Reserved for future codification purposes.

§ 148-127: Reserved for future codification purposes.

## Article 14.

### Correction Enterprises.

#### § 148-128. Authorization for Correction Enterprises.

The Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice is established as a division of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. The Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice may develop and operate industrial, agricultural, and service enterprises that employ incarcerated offenders in an effort to provide them with meaningful work experiences and rehabilitative opportunities that will increase their employability upon release from prison. Enterprises operated under this Article shall be known as "Correction Enterprises." (2007-280, s. 1; 2011-145, s. 19.1(h), (j); 2017-186, ss. 2(yyyyyyyy), 3(a).)

#### § 148-129. Purposes of Correction Enterprises.

Correction Enterprises shall serve all of the following purposes to:

- (1) Provide incarcerated offenders a work and training environment that emulates private industry.
- (2) Provide incarcerated offenders with training opportunities that allow them to increase work skills and employability upon release from prison.
- (3) Provide quality goods and services.
- (4) Aid victims by contributing a portion of its proceeds to the Crime Victims Compensation Fund.
- (5) Generate sufficient funds from the sale of goods and services to be a self-supporting operation. (2007-280, s. 1.)

#### § 148-130. Correction Enterprises Fund.

(a) All revenues from the sale of articles and commodities manufactured or produced by Correction Enterprises shall be deposited with the State Treasurer to be kept and maintained as a special revolving working-capital fund designated "Correction Enterprises Fund.

(b) Revenue in the Correction Enterprises Fund shall be applied first to capital and operating expenditures, including salaries and wages of personnel necessary to develop and operate Correction Enterprises and incentive wages for inmates employed by Correction Enterprises or participating in work assignments established by the Section of Prisons of the Division of Adult Correction and Juvenile Justice. Of the remaining revenue in the Fund, five percent (5%) of the net proceeds, before expansion costs, shall be credited to the Crime Victims

Compensation Fund established in G.S. 15B-23 as soon as practicable after net proceeds have been determined for the previous year. At the direction of the Governor, the remainder shall be used for other purposes within the State prison system or shall be transferred to the General Fund.

(c) The Correction Enterprises Fund shall be the source of all incentive wages and allowances paid to inmates employed by Correction Enterprises and inmates participating in work assignments established by the Section of Prisons of the Division of Adult Correction and Juvenile Justice. (2007-280, s. 1; 2011-145, s. 19.1(j); 2017-186, s. 2(zzzzzzzz).)

### **§ 148-131. Powers and responsibilities.**

In order to fulfill the purposes set forth in G.S. 148-129, the Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice is authorized and empowered to take all actions necessary in the operation of its enterprises, including any of the following actions to:

- (1) Develop and operate industrial, agricultural, and service enterprises either within prison facilities or outside the prison facilities.
- (2) Plan and establish new industrial, agricultural, and service enterprises so long as any new enterprise is specifically approved by the Governor as required by G.S. 66-58(f).
- (3) Employ inmates and any other personnel that may be necessary in the operation of Correction Enterprises.
- (4) Expand, diminish, or discontinue any enterprise operating under its authority.
- (5) Purchase any machinery, equipment, materials, and supplies required in the operation of its enterprises.
- (6) Market and sell the goods and services produced by Correction Enterprises.
- (7) Determine the prices at which products and services produced by inmate labor shall be sold.
- (8) Execute and enter into contracts.
- (9) Establish and operate an enterprise that complies with all applicable federal laws and guidelines required by the federal Prison Industry Enhancement Certification Program (Justice Assistance Act of 1984: Public Law 98-473, Section 819).
- (10) Establish policies and procedures regarding the operation of Correction Enterprises.
- (11) Take any action necessary and appropriate for the effective operation of its enterprises, so long as that action complies with applicable State and federal laws. (2007-280, s. 1; 2011-145, s. 19.1(j); 2017-186, s. 2(aaaaaaaaa).)

### **§ 148-132. Distribution of products and services.**

The Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice is empowered and authorized to market and sell products and services produced by Correction Enterprises to any of the following entities:

- (1) Any public agency or institution owned, managed, or controlled by the State.
- (2) Any county, city, or town in this State.
- (3) Any federal, state, or local public agency or institution in any other state of the union.

- (4) An entity or organization that has tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code. Products purchased by an entity pursuant to this subdivision may not be resold.
- (5) Any current employee or retiree of the State of North Carolina, member, employee, or retiree of the North Carolina National Guard, or of a unit of local government of this State, verified through federal or State-issued identification, or through proof of retirement status, but purchases by a State employee or retiree, National Guard member, employee, or retiree, or local governmental employee or retiree may not exceed two thousand five hundred dollars (\$2,500) during any calendar year. Products purchased by State employees or retirees, National Guard members, employees or retirees, and local governmental employees and retirees under this section may not be resold.
- (6) Private contractors when the goods purchased will be used to perform work under a contract with a public agency. (2007-280, s. 1; 2009-451, s. 19.16; 2011-145, ss. 18.14, 19.1(j); 2013-289, s. 6; 2017-154, s. 1; 2017-186, s. 2(bbbbbbbb).)

**§ 148-133. Inmate wages and conditions of employment.**

(a) The Secretary shall adopt rules for the administration and management of personnel policies for inmates who work for Correction Enterprises, including wages, working hours, training requirements, and conditions of employment. The Secretary shall adopt rules to ensure that inmates participating in the Prison Industry Enhancement Certification Program comply with all applicable federal rules and regulations.

(b) No inmate working for Correction Enterprises shall be paid more than three dollars (\$3.00) per day unless applicable State or federal laws require a higher salary. Inmates who are employed as part of the Prison Industry Enhancement Certification Program shall be paid in accordance with applicable federal rules and regulations. (2007-280, s. 1.)

**§ 148-134. Preference for Division of Adult Correction and Juvenile Justice of the Department of Public Safety products.**

All departments, institutions, and agencies of this State that are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles, products, and commodities that these departments, institutions, and agencies require and that are manufactured or produced within the State prison system and offered for sale to them by Correction Enterprises. No article or commodity available from Correction Enterprises shall be purchased by any State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials, and equipment required by the State government or any of its departments, institutions, or agencies under competitive bidding shall not apply to articles or commodities available from Correction Enterprises. The Section of Correction Enterprises of the Division of Adult Correction and Juvenile Justice shall be required to keep the price of such articles or commodities substantially in accord with that paid by

governmental agencies for similar articles and commodities of equivalent quality. (2007-280, s. 1; 2011-145, s. 19.1(h), (j); 2017-186, s. 2(cccccccc).)