

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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Short Title: Criminal Technical Corrections.

(Public)

Sponsors:

Referred to:

June 1, 1994

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND TO MAKE CLARIFYING AND CONFORMING CHANGES TO VARIOUS CRIMINAL STATUTES, TO REPEAL VARIOUS CRIMINAL LAWS THAT ARE OBSOLETE OR REDUNDANT, AND TO EXTEND THE SUNSET FOR THE METHOD OF SELECTING MEMBERS OF THE NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION APPOINTED BY THE NORTH CAROLINA SHERIFFS' ASSOCIATION.

The General Assembly of North Carolina enacts:

PART 1. EARNED TIME FOR MISDEMEANOR OFFENDERS

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

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

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

1 **"§ 162-60. Reduction in sentence allowed for work.**

2 ~~In addition to any earned time credit a prisoner may be awarded under G.S. 15A-1340.20, a~~  
3 A prisoner who has faithfully performed the duties assigned to him pursuant to G.S.  
4 162-58 is entitled to a reduction in his sentence of four days for each 30 days of work  
5 performed. The person having custody of the prisoner, as defined in G.S. 162-59, shall  
6 be the sole judge as to whether the prisoner has faithfully performed his duties. A  
7 prisoner who escapes or attempts to escape while performing work pursuant to G.S.  
8 162-58 shall forfeit any reduction in sentence that he would have been entitled to under  
9 this section."

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

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

14 (1) The county shall make every effort to ensure that at least eighty  
15 percent (80%) of the unit occupants shall be employed and on work  
16 release, and that the remainder shall earn their keep by working at the  
17 unit on maintenance and other jobs related to the upkeep and operation  
18 of the unit or by assignment to community service work, and that alcohol and drug rehabilitation be available through community  
19 resources.  
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21 (2) The county shall require the occupants to give their earnings, less  
22 standard payroll deductions required by law and premiums for group  
23 health insurance coverage, to the Sheriff. The county may charge a  
24 per day charge from those occupants who are employed or otherwise  
25 able to pay from other resources available to the occupants. The per  
26 day charge shall be calculated based on the following formula: The  
27 charge shall be either the amount that the Department of Correction  
28 deducts from a prisoner's work-release earnings to pay for the cost of  
29 the prisoner's keep or fifty percent (50%) of the occupant's net weekly  
30 income, whichever is greater, but in no event may the per day charge  
31 exceed an amount that is twice the amount that the Department of  
32 Correction pays each local confinement facility for the cost of  
33 providing food, clothing, personal items, supervision, and necessary  
34 ordinary medical expenses. The per day charge may be adjusted on an  
35 individual basis where restitution and/or child support has been  
36 ordered, or where the occupant's salary or resources are insufficient to  
37 pay the charge.

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

- 1 (3) Any and all proceeds from daily fees shall belong to the county's  
 2 General Fund to aid in offsetting the operation and maintenance of the  
 3 satellite unit.
- 4 (4) The unit shall be operated on a full-time basis, i.e., seven days/nights a  
 5 week, but weekend leave may be granted by the Sheriff. In granting  
 6 weekend leave, the Sheriff shall follow the policies and procedures of  
 7 the Department of Correction for granting weekend leave for Level 3  
 8 minimum custody inmates.
- 9 (5) ~~Good time and gain~~ Earned time shall be applied to these county  
 10 prisoners in the same manner as prescribed in G.S. ~~15A-1340.7~~ 15A-  
 11 1340.20 and G.S. 148-13 for State prisoners.
- 12 (6) The Sheriff shall maintain complete and accurate records on each  
 13 inmate. These records shall contain the same information as required  
 14 for State prisoners that are housed in county local confinement  
 15 facilities."

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

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

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

25 "(c) Effect of Violation. – If the supervisee violates a condition, described in G.S.  
 26 15A-1368.4, at any time before the termination of the supervision period, the  
 27 Commission may continue the supervisee on the existing supervision, with or without  
 28 modifying the conditions, or if continuation or modification is not appropriate, may  
 29 revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the  
 30 supervisee for a term consistent with the following requirements:

- 31 (1) The supervisee will be returned to prison up to the time remaining on  
 32 his maximum imposed term.
- 33 (2) The supervisee shall not receive any credit for days on post-release  
 34 supervision against the maximum term of imprisonment imposed by  
 35 the court under G.S. 15A-1340.13.
- 36 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction  
 37 shall award a prisoner credit against any term of reimprisonment for all  
 38 time spent in custody as a result of revocation proceedings under G.S.  
 39 15A-1368.6.
- 40 (4) The prisoner is eligible to receive earned time credit against the  
 41 maximum prison term as provided in G.S. ~~15A-1340(d)~~ 15A-  
 42 1340.13(d) for time served in prison after the revocation."  
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44 PART 2. LENGTHS OF PROBATION PERIODS

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

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

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

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

"(a) The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Department of Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in the custody of either the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed six months or one fourth the maximum sentence of imprisonment imposed for the offense, whichever is less, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of

1 confinement imposed as an incident of special probation, but not including an activated  
2 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.  
3 In imposing a sentence of special probation, the judge may credit any time spent  
4 committed or confined, as a result of the charge, to either the suspended sentence or to  
5 the imprisonment required for special probation. The original period of probation,  
6 including the period of imprisonment required for special probation, shall be as  
7 specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except  
8 as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special  
9 probation as otherwise provided for probationary sentences."

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

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

- 15 (1) For misdemeanants sentenced to community punishment, not less than  
16 six nor more than 18 months;
- 17 (2) For misdemeanants sentenced to intermediate punishment, not less  
18 than 12 nor more than 24 months;
- 19 (3) For felons sentenced to community punishment, not less than 12 nor  
20 more than 30 months; and
- 21 (4) For felons sentenced to intermediate punishment, not less than 18 nor  
22 more than 36 months.

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

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

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32 PART 3. EXTEND LENGTH OF CONFINEMENT ON SPECIAL PROBATION FOR  
33 SENTENCES TO IMPACT

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

36 "(e) Special Probation in Response to Violation. – When a defendant has violated  
37 a condition of probation, the court may modify his probation to place him on special  
38 probation as provided in this subsection. In placing him on special probation, the court  
39 may continue or modify the conditions of his probation and in addition require that he  
40 submit to a period or periods of imprisonment, either continuous or noncontinuous, at  
41 whatever time or intervals within the period of probation the court determines. In  
42 addition to any other conditions of probation which the court may impose, the court  
43 shall impose, when imposing a period or periods of imprisonment as a condition of  
44 special probation, the condition that the defendant obey the Rules and Regulations of

1 the Department of Correction governing conduct of inmates, and this condition shall  
2 apply to the defendant whether or not the court imposes it as a part of the written order.  
3 If imprisonment is for continuous periods, the confinement may be in either the custody  
4 of the Department of Correction or a local confinement facility. Noncontinuous periods  
5 of imprisonment under special probation may only be served in a designated local  
6 confinement or treatment facility. Except for probationary sentences for impaired  
7 driving under G.S. ~~20-138.1~~, 20-138.1 and probationary sentences which include a  
8 period of imprisonment in the Intensive Motivational Program of Alternative  
9 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
10 periods of confinement imposed as an incident of special probation, but not including an  
11 activated suspended sentence, may not exceed six months or one fourth the maximum  
12 sentence of imprisonment imposed for the offense, whichever is less. For probationary  
13 sentences for impaired driving under G.S. 20-138.1, the total of all periods of  
14 confinement imposed as an incident of special probation, but not including an activated  
15 suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law.  
16 For probationary sentences which include a period of imprisonment in the Intensive  
17 Motivational Program of Alternative Correctional Treatment (IMPACT) under G.S.  
18 15A-1343(b1)(2a), the total of all periods of confinement imposed as an incident of  
19 special probation, but not including an activated suspended sentence, shall not exceed  
20 six months or one-half the maximum term of the suspended sentence of imprisonment,  
21 whichever is less. No confinement other than an activated suspended sentence may be  
22 required beyond the period of probation or beyond two years of the time the special  
23 probation is imposed, whichever comes first."

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

26 "(a) The judge may sentence to special probation a defendant convicted of a  
27 criminal offense other than impaired driving under G.S. 20-138.1, if based on the  
28 defendant's prior record or conviction level as found pursuant to Article 81B of this  
29 Chapter, an intermediate punishment is authorized for the class of offense of which the  
30 defendant has been convicted. A defendant convicted of impaired driving under G.S.  
31 20-138.1 may also be sentenced to special probation. Under a sentence of special  
32 probation, the court may suspend the term of imprisonment and place the defendant on  
33 probation as provided in Article 82, Probation, and in addition require that the defendant  
34 submit to a period or periods of imprisonment in the custody of the Department of  
35 Correction or a designated local confinement or treatment facility at whatever time or  
36 intervals within the period of probation, consecutive or nonconsecutive, the court  
37 determines. In addition to any other conditions of probation which the court may  
38 impose, the court shall impose, when imposing a period or periods of imprisonment as a  
39 condition of special probation, the condition that the defendant obey the Rules and  
40 Regulations of the Department of Correction governing conduct of inmates, and this  
41 condition shall apply to the defendant whether or not the court imposes it as a part of the  
42 written order. If imprisonment is for continuous periods, the confinement may be in the  
43 custody of either the Department of Correction or a local confinement facility.  
44 Noncontinuous periods of imprisonment under special probation may only be served in

1 a designated local confinement or treatment facility. Except for probationary sentences  
2 of impaired driving under G.S. ~~20-138.1~~, 20-138.1 and probationary sentences which  
3 include a period of imprisonment in the Intensive Motivational Program of Alternative  
4 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
5 periods of confinement imposed as an incident of special probation, but not including an  
6 activated suspended sentence, may not exceed six months or one fourth the maximum  
7 sentence of imprisonment imposed for the offense, whichever is less, and no  
8 confinement other than an activated suspended sentence may be required beyond two  
9 years of conviction. For probationary sentences for impaired driving under G.S. 20-  
10 138.1, the total of all periods of confinement imposed as an incident of special  
11 probation, but not including an activated suspended sentence, shall not exceed one-  
12 fourth the maximum penalty allowed by law. For probationary sentences which include  
13 a period of imprisonment in the Intensive Motivational Program of Alternative  
14 Correctional Treatment (IMPACT) under G.S. 15A-1343(b1)(2a), the total of all  
15 periods of confinement imposed as an incident of special probation, but not including an  
16 activated suspended sentence, shall not exceed six months or one-half of the maximum  
17 term of the suspended sentence, whichever is less. In imposing a sentence of special  
18 probation, the judge may credit any time spent committed or confined, as a result of the  
19 charge, to either the suspended sentence or to the imprisonment required for special  
20 probation. The original period of probation, including the period of imprisonment  
21 required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not  
22 exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court  
23 may revoke, modify, or terminate special probation as otherwise provided for  
24 probationary sentences."  
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#### 26 PART 4. COUNTING MULTIPLE PRIOR CONVICTIONS

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

29 "(d) Multiple Prior Convictions Obtained in One Court Week. – For purposes of  
30 determining the prior record level, if an offender is convicted of more than one offense  
31 in a single superior court during one calendar week, only the conviction for the offense  
32 with the highest point total is used. If an offender is convicted of more than one offense  
33 in a single session of district court, only one of the convictions is used."  
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#### 35 PART 5. CLASSIFYING PRIOR MISDEMEANOR CONVICTIONS FROM OTHER 36 JURISDICTIONS

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

39 "(e) Classification of Prior Convictions From Other Jurisdictions. – Except as  
40 otherwise provided in this subsection, a conviction occurring in a jurisdiction other than  
41 North Carolina is classified as a Class I felony if the jurisdiction in which the offense  
42 occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if  
43 the jurisdiction in which the offense occurred classifies the offense as a misdemeanor.  
44 If the offender proves by the preponderance of the evidence that an offense classified as

1 a felony in the other jurisdiction is substantially similar to an offense that is a  
2 misdemeanor in North Carolina, the conviction is treated as ~~a that class of misdemeanor~~  
3 for assigning prior record level points. If the State proves by the preponderance of the  
4 evidence that an offense classified as either a misdemeanor or a felony in the other  
5 jurisdiction is substantially similar to an offense in North Carolina that is classified  
6 higher than a Class I felony, as a Class I felony or higher, the conviction is treated as ~~the~~  
7 higher that class of felony for assigning prior record level points. If the State proves by  
8 the preponderance of the evidence that an offense classified as a misdemeanor in the  
9 other jurisdiction is substantially similar to an offense classified as a Class 1  
10 misdemeanor in North Carolina, the conviction is treated as a Class 1 misdemeanor for  
11 assigning prior record level points."

## 13 PART 6. CONTINUANCE OF SENTENCING HEARING

15 Sec. 13. G.S. 15A-1340.14(f) reads as rewritten:

16 "(f) Proof of Prior Convictions. – A prior conviction shall be proved by any of the  
17 following methods:

- 18 (1) Stipulation of the parties.
- 19 (2) An original or copy of the court record of the prior conviction.
- 20 (3) A copy of records maintained by the Division of Criminal Information,  
21 the Division of Motor Vehicles, or of the Administrative Office of the  
22 Courts.
- 23 (4) Any other method found by the court to be reliable.

24 The State bears the burden of proving, by a preponderance of the evidence, that a  
25 prior conviction exists and that the offender before the court is the same person as the  
26 offender named in the prior conviction. The original or a copy of the court records or a  
27 copy of the records maintained by the Division of Criminal Information, the Division of  
28 Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as  
29 that by which the offender is charged, is **prima facie** evidence that the offender named  
30 is the same person as the offender before the court, and that the facts set out in the  
31 record are true. For purposes of this subsection, 'a copy' includes a paper writing  
32 containing a reproduction of a record maintained electronically on a computer or other  
33 data processing equipment, and a document produced by a facsimile machine. The  
34 prosecutor shall make all feasible efforts to obtain and present to the court the offender's  
35 full record. Evidence presented by either party at trial may be utilized to prove prior  
36 convictions. Suppression of prior convictions is pursuant to G.S. 15A-980. If a motion  
37 is made pursuant to that section during the sentencing stage of the criminal action, ~~either~~  
38 ~~the State or the offender is entitled to~~ the court may grant a continuance of the sentencing  
39 hearing. If asked by the defendant in compliance with G.S. 15A-903, the prosecutor  
40 shall furnish the defendant's prior criminal record to the defendant within a reasonable  
41 time sufficient to allow the defendant to determine if the record available to the  
42 prosecutor is accurate."

43 Sec. 13.1. G.S. 15A-1340.21(c) reads as rewritten:



1       "(c) Proof of Prior Convictions. – A prior conviction shall be proved by any of the  
2 following methods:

- 3           (1) Stipulation of the parties.
- 4           (2) An original or copy of the court record of the prior conviction.
- 5           (3) A copy of records maintained by the Division of Criminal Information,  
6 the Division of Motor Vehicles, or of the Administrative Office of the  
7 Courts.
- 8           (4) Any other method found by the court to be reliable.

9       The State bears the burden of proving, by a preponderance of the evidence, that a  
10 prior conviction exists and that the offender before the court is the same person as the  
11 offender named in the prior conviction. The original or a copy of the court records or a  
12 copy of the records maintained by the Division of Criminal Information, the Division of  
13 Motor Vehicles, or of the Administrative Office of the Courts, bearing the same name as  
14 that by which the offender is charged, is **prima facie** evidence that the offender named  
15 is the same person as the offender before the court, and that the facts set out in the  
16 record are true. For purposes of this subsection, 'copy' includes a paper writing  
17 containing a reproduction of a record maintained electronically on a computer or other  
18 data processing equipment, and a document produced by a facsimile machine. Evidence  
19 presented by either party at trial may be utilized to prove prior convictions. Suppression  
20 of prior convictions is pursuant to G.S. 15A-980. If a motion is made pursuant to that  
21 section during the sentencing stage of the criminal action, ~~either the State or the offender is~~  
22 ~~entitled to the court may grant~~ a continuance of the sentencing hearing."  
23

## 24 PART 7. REVISE COMMUNITY PENALTIES ELIGIBILITY CRITERIA

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

### 27 "§ 7A-771. Definitions.

28       As used in this Article:

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

1                    misdemeanors or felonies who are eligible to receive an intermediate  
2                    punishment based on their class of offense and prior record level and  
3                    who are facing an imminent and substantial threat of imprisonment."

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

5                    **"§ 7A-773. Responsibilities of a community penalties program.**

6                    A community penalties program shall be responsible for:

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

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16                    PART 8. REVISE HABITUAL FELON LAW

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

19                    **"§ 14-7.6. Sentencing of habitual felons.**

20                    When an habitual felon as defined in this Article commits any felony under the laws  
21                    of the State of North Carolina, the felon must, upon conviction or plea of guilty under  
22                    indictment as provided in this Article (~~except where the death penalty or a sentence of life~~  
23                    ~~imprisonment is imposed~~) the felon has been sentenced as a Class A, B1, or B2 felon be  
24                    sentenced as a Class C felon. In determining the prior record level, convictions used to  
25                    establish a person's status as an habitual felon shall not be used. Sentences imposed  
26                    under this Article shall run consecutively with and shall commence at the expiration of  
27                    any sentence being served by the person sentenced under this section."  
28

29                    PART 9. PUNISH FAILURE TO COMPLY WITH CONTROL CONDITIONS BY  
30                    PERSONS WITH COMMUNICABLE DISEASES

31  
32                    Sec. 17. G.S. 15A-1340.10 reads as rewritten:

33                    **"§ 15A-1340.10. Applicability of structured sentencing.**

34                    This Article applies to criminal offenses in North Carolina, other than impaired  
35                    driving under G.S. 20-138.1 and failure to comply with control measures under G.S.  
36                    130A-25, that occur on or after October 1, 1994. This Article does not apply to violent  
37                    habitual felons sentenced under Article 2B of Chapter 14 of the General Statutes."  
38

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

40                    **"§ 130A-25. Misdemeanor.**

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

43                    (b)    A person convicted under this section ~~for failure to obtain the treatment required~~  
44                    ~~by Part 3 or Part 5 of Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S.~~  
45                    130A-145 shall not be sentenced under Article 81B of Chapter 15A of the General

1 Statutes but shall instead be sentenced to a term of imprisonment of no more than two  
2 years and shall serve any prison sentence in McCain Hospital, Division of Prisons,  
3 Department of Correction, McCain, North Carolina; the North Carolina Correctional  
4 Center for Women, Division of Prisons, Department of Correction, Raleigh, North  
5 Carolina; or any other confinement facility designated for this purpose by the Secretary  
6 of Correction after consultation with the State Health Director. The Secretary of  
7 Correction shall consult with the State Health Director concerning the medical  
8 management of these persons.

9 (c) Notwithstanding G.S. 148-4.1, G.S. 148-13, or any other contrary provision  
10 of law, a person imprisoned ~~for failure to obtain the treatment required by Part 3 or Part 5 of~~  
11 ~~Article 6 of this Chapter, or for violation of G.S. 130A-144(f) or G.S. 130A-145 shall not~~  
12 be released prior to the completion of the person's term of imprisonment unless and  
13 until a determination has been made by the District Court that release of the person  
14 would not create a danger to the public health. This determination shall be made only  
15 after the medical consultant of the confinement facility and the State Health Director, in  
16 consultation with the local health director of the person's county of residence, have  
17 made recommendations to the Court."  
18

#### 19 PART 10. CLASSIFY CERTAIN OFFENSES

20

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

#### 22 "§ 7A-456. False statements; penalty.

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

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

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

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

#### 31 "§ 14-253. Failure of certain railroad officers to account with successors.

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

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

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

- 1 (1) Obtaining health care services;
- 2 (2) Lawfully aiding another to obtain health care services; or
- 3 (3) Providing health care services."
- 4 Sec. 22. G.S. 54C-64 reads as rewritten:

5 **"§ 54C-64. Prohibited practices.**

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

- 9 (1) Defamation: Making, publishing, disseminating, or circulating,  
10 directly or indirectly, or aiding, abetting, or encouraging the making,  
11 publishing, disseminating, or circulating of any oral, written, or printed  
12 statement that is false regarding the financial condition of any savings  
13 bank.
- 14 (2) False information and advertising: Making, publishing, disseminating,  
15 circulating, or otherwise placing before the public in any publication,  
16 media, notice, pamphlet, letter, poster, or any other way, an  
17 advertisement, announcement, or statement containing any assertion,  
18 representation, or statement with respect to the savings bank business  
19 or with respect to any person in the conduct of the savings bank  
20 business that is untrue, deceptive, or misleading.
- 21 (3) Misleading advertising: Use of a name or designation by a savings  
22 bank in advertisements, announcements, or statements concerning the  
23 savings bank that does not include the words 'savings bank' and the  
24 designation 'SSB' in type that is equally prominent with the other terms  
25 in the name or designation of the savings bank."

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

27 **"§ 58-2-180. Punishment for making false statement.**

28 If any person in any financial or other statement required by this Chapter willfully  
29 misstates information, that person making oath to or subscribing the statement is guilty  
30 of ~~perjury under G.S. 14-209; a Class I felony;~~ and the entity on whose behalf the person  
31 made the oath or subscribed the statement is subject to a fine imposed by the court of  
32 not less than two thousand dollars (\$2,000) nor more than ten thousand dollars  
33 (\$10,000)."

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

35 **"§ 58-8-1. Mutual insurance companies organized; requisites for doing business.**

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

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

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

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

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

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

15       "(b) Violation of any regulation of the Commission commanding or prohibiting an  
16 act shall be a misdemeanor punishable by a fine not to exceed two hundred dollars  
17 ~~(\$200.00) or imprisonment for not more than 30 days. Class 3 misdemeanor."~~

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

19       "(b) Any person who willfully violates any other provision of this Article shall be  
20 guilty of a misdemeanor and shall be fined not less than five hundred dollars ~~(\$500.00),~~  
21 ~~or shall be imprisoned for not less than 30 days nor more than two years, or both. Class~~  
22 1 misdemeanor. Each such violation shall constitute a separate offense and may be  
23 prosecuted individually."  
24

## 25 PART 11. REPEAL CERTAIN OFFENSES

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

- 27       (1) G.S. 14-20. Killing adversary in duel; aiders and abettors declared
- 28           accessories.
- 29       (2) G.S. 14-43. Abduction of married women.
- 30

31           Sec. 30. The following statutes which contain misdemeanor offenses are  
32 repealed:

- 33       (1) G.S. 14-116. Fraudulent entry of horses at fairs.
- 34       (2) G.S. 14-133. Erecting artificial islands and lumps in public waters.
- 35       (3) G.S. 14-140. Certain fires to be guarded by watchman.
- 36       (4) G.S. 14-170. "Rental battery" defined; identification of rental storage  
37           batteries.
- 38       (5) G.S. 14-171. Defacing word "rental" prohibited.
- 39       (6) G.S. 14-172. Sale, etc., of rental battery prohibited.
- 40       (7) G.S. 14-173. Repairing another's rental battery prohibited.
- 41       (8) G.S. 14-174. Time limit on possession of rental battery without  
42           written consent.
- 43       (9) G.S. 14-175. Violation made misdemeanor.

- 1 (10) G.S. 14-176. Rebuilding storage batteries out of old parts and sale of,  
2 regulated.  
3 (11) G.S. 14-195. Using profane or indecent language on passenger trains.  
4 (12) G.S. 14-222. Refusal of witness to appear or to testify in  
5 investigations of lynchings.  
6 (13) G.S. 14-310. Dance marathons and walkathons prohibited.  
7 (14) G.S. 14-311. Penalty for violation.  
8 (15) G.S. 14-312. Each day made separate offense.  
9 (16) G.S. 14-356. Conspiring to blacklist employees.  
10 (17) G.S. 14-389. Sale of Jamaica ginger.  
11 (18) G.S. 14-396. Dogs on "Capitol Square" worrying squirrels.  
12 (19) G.S. 14-397. Use of name of denominational college in connection  
13 with dance hall.

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

15 **"§ 14-32.1. Assaults on handicapped persons; punishments.**

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

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

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

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

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

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

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

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

36 (f) Any person who commits a simple assault or battery upon a handicapped  
37 person is guilty of a Class 1 misdemeanor."  
38

39 PART 12. SENTENCING FOR HABITUAL IMPAIRED DRIVING  
40

41 Sec. 32. G.S. 20-138.5(b), as amended by Section 32 of Chapter 14 of the  
42 Session Laws of the 1994 Extra Session, reads as rewritten:

1       "(b) A person convicted of violating this section shall be punished as a Class ~~F~~G  
2 felon. Sentences imposed under this subsection shall run consecutively with and shall  
3 commence at the expiration of any sentence being served."  
4

5 PART 13. N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS  
6 COMMISSION

7  
8           Sec. 33. Section 3 of Chapter 1005 of the 1991 Session Laws reads as  
9 rewritten:

10       "Sec. 3. This act is effective upon ratification and expires September 1, ~~1994~~.1995."  
11

12 PART 14. EFFECTIVE DATE

13  
14           Sec. 34. Sections 13 and 33 of this act are effective upon ratification. The  
15 remaining sections of this act become effective October 1, 1994. Prosecution for, or  
16 sentences based on, offenses occurring before the effective date of this act are not  
17 abated or affected by the repeal or amendment in this act of any statute, and the statutes  
18 that would be applicable to those prosecutions or sentences but for the provisions of this  
19 act remain applicable to those prosecutions or sentences.