

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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1

HOUSE BILL 196

Short Title: Post-Release Supervision/F and G Felons.

(Public)

Sponsors: Representative Bowie.

Referred to: Judiciary II.

February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE NORTH
2 CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION TO ADD
3 POST-RELEASE SUPERVISION FOR CLASS F AND CLASS G FELONS AND
4 TO MAKE OTHER SUBSTANTIVE CHANGES AFFECTING POST-RELEASE
5 SUPERVISION.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 15A-1368(a)(5) reads as rewritten:

9 "(5) Maximum imposed term. – The maximum term of imprisonment
10 imposed on an individual prisoner by a court judgment, as described in
11 G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison
12 terms, the maximum imposed term, for purposes of this Article, is the
13 sum of all maximum terms imposed in the court judgment, less nine
14 months for each of the second and subsequent sentences imposed for
15 Class ~~B~~B1 through Class ~~E~~G felonies."

16 Section 2. G.S. 15A-1340.17(d) reads as rewritten:

17 "(d) Maximum Sentences Specified for Class ~~F~~H through Class I Felonies. –
18 Unless provided otherwise in a statute establishing a punishment for a specific crime, for
19 each minimum term of imprisonment in the chart in subsection (c) of this section,
20 expressed in months, the corresponding maximum term of imprisonment, also expressed

1 in months, is as specified in the table below for Class ~~F-H~~ through Class I felonies. The
 2 first figure in each cell in the table is the minimum term and the second is the maximum
 3 term.

4	3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
5	11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
6	19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
7	27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
8	35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
9	43-52	44-53	45-54	46-56	47-57	48-58	49-59 ".	

10 Section 3. G.S. 15A-1340.17(e) reads as rewritten:

11 "(e) Maximum Sentences Specified for Class B1 through Class ~~E-G~~ Felonies for
 12 Minimum Terms up to 339 Months. – Unless provided otherwise in a statute establishing
 13 a punishment for a specific crime, for each minimum term of imprisonment in the chart in
 14 subsection (c) of this section, expressed in months, the corresponding maximum term of
 15 imprisonment, also expressed in months, is as specified in the table below for Class B1
 16 through Class ~~E-G~~ felonies. The first figure in each cell of the table is the minimum term
 17 and the second is the maximum term.

18								
19	<u>8-19</u>	<u>9-20</u>	<u>10-21</u>	<u>11-23</u>	<u>12-24</u>	<u>13-25</u>	<u>14-26</u>	
20	15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
21	23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
22	31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
23	39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
24	47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
25	55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
26	63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
27	71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
28	79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
29	87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
30	95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
31	103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
32	111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
33	119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
34	127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
35	135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
36	143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
37	151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
38	159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
39	167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
40	175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
41	183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
42	191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
43	199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257

1	207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
2	215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
3	223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
4	231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
5	239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
6	247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
7	255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
8	263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
9	271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
10	279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
11	287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
12	295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
13	303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
14	311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
15	319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
16	327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
17	335-411	336-413	337-414	338-415	339-416".			

18 Section 4. G.S. 15A-1354(b) reads as rewritten:

19 "(b) Effect of Consecutive Terms. – In determining the effect of consecutive
20 sentences imposed under authority of this Article and the manner in which they will be
21 served, the Department of Correction must treat the defendant as though he has been
22 committed for a single term with the following incidents:

23 (1) The maximum prison sentence consists of the total of the maximum
24 terms of the consecutive sentences, less nine months for each of the
25 second and subsequent sentences imposed for Class ~~B~~B1 through Class
26 ~~E~~E-G felonies; and

27 (2) The minimum term consists of the total of the minimum terms of the
28 consecutive sentences."

29 Section 5. G.S. 15A-1368.1 reads as rewritten:

30 **"§ 15A-1368.1. Applicability of Article 84A.**

31 This Article applies to all felons in Class B1 through Class ~~E~~E-G sentenced to an active
32 punishment under Article 81B of this Chapter, but does not apply to felons in Class B1
33 sentenced to life imprisonment without parole. Prisoners subject to Articles 85 and 85A
34 of this Chapter are excluded from this Article's coverage."

35 Section 6. G.S. 15A-1368.2 reads as rewritten:

36 **"§ 15A-1368.2. Post-release supervision eligibility and procedure.**

37 (a) A prisoner to whom this Article applies shall be released from prison for post-
38 release supervision on the date equivalent to his maximum imposed prison term less nine
39 months, less any earned time awarded by the Department of Correction or the custodian
40 of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been
41 awarded any earned time, the prisoner shall be released for post-release supervision on
42 the date equivalent to his maximum prison term less nine months.

43 (b) A prisoner shall not refuse post-release supervision.

1 (c) A supervisee's period of post-release supervision shall be for a period of nine
2 months, unless the offense is an offense for which registration is required pursuant to
3 Article 27A of Chapter 14 of the General Statutes. For offenses subject to the registration
4 requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-
5 release supervision is five years. The conditions of post-release supervision are as
6 authorized in G.S. 15A-1368.5.

7 ~~(d) A supervisee's period of post-release supervision may be reduced while the~~
8 ~~supervisee is under supervision by earned time awarded by the Department of Correction,~~
9 ~~pursuant to rules adopted in accordance with law. A supervisee is eligible to receive~~
10 ~~earned time credit toward the period of supervision for compliance with reintegrative~~
11 ~~conditions described in G.S. 15A-1368.5.~~

12 (e) The Commission shall choose the level of supervision for supervisees. It may
13 place a supervisee on any available level of supervision, including electronic monitoring,
14 intensive supervision, or regular supervision.

15 (e1) Delegation to Adult Probation and Parole. The Commission may delegate to
16 the Division of Adult Probation and Parole the authority to require a supervisee on post-
17 release supervision to:

18 (1) Submit to electronic monitoring;

19 (2) Submit to substance abuse monitoring or treatment; or

20 (3) Participate in an educational or vocational skills development program.

21 The Division may exercise any authority delegated to it pursuant to this subsection only if
22 it first determines that the supervisee has failed to comply with one or more of the
23 conditions of post-release supervision imposed by the Commission. If the Division
24 imposes any of the above conditions, then it may subsequently modify the condition to
25 make it less restrictive or it may eliminate the condition.

26 If the Division exercises authority delegated to it pursuant to this subsection, the
27 offender may file a motion with the Commission to review the action taken by the
28 Division. The offender shall be given notice of the right to seek the review.

29 (f) When a supervisee completes the period of post-release supervision, the
30 sentence or sentences from which the supervisee was placed on post-release supervision
31 are terminated."

32 Section 7. G.S. 15A-1368.4(a) reads as rewritten:

33 "(a) In General. – Conditions of post-release supervision may be reintegrative in
34 nature or designed to control the supervisee's behavior and to enforce compliance with
35 law or judicial order. A supervisee may have his supervision period revoked for any
36 violation of a controlling condition or for repeated violation of a reintegrative condition.
37 ~~Compliance with reintegrative conditions may entitle a supervisee to earned time credits as~~
38 ~~described in G.S. 15A-1368.2(d)."~~

39 Section 8. G.S. 15A-1368.3 reads as rewritten:

40 "**§ 15A-1368.3. Incidents of post-release supervision.**

41 (a) Conditionality. – Post-release supervision is conditional and subject to
42 revocation.

1 (b) Modification. – The Commission may for good cause shown modify the
2 conditions of post-release supervision at any time before the termination of the
3 supervision period.

4 (c) Effect of Violation. – If the supervisee violates a condition, described in G.S.
5 15A-1368.4, at any time before the termination of the supervision period, the
6 Commission may continue the supervisee on the existing supervision, with or without
7 modifying the conditions, or if continuation or modification is not appropriate, may
8 revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the
9 supervisee for a term consistent with the following requirements:

10 (1) The supervisee will be returned to prison ~~up to~~ for the time remaining on
11 his maximum imposed term. In calculating the time remaining, earned
12 time that is awarded at the time the supervisee is released on post-
13 release supervision cannot be rescinded.

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

17 (3) Pursuant to Article 19A of Chapter 15, the Department of Correction
18 shall award a prisoner credit against any term of reimprisonment for all
19 time spent in custody as a result of revocation proceedings under G.S.
20 15A-1368.6.

21 (4) The prisoner is eligible to receive earned time credit at the rate of up to
22 four days per month of incarceration against the maximum prison term
23 as provided in G.S. 15A-1340.13(d) for time served in prison after the
24 revocation.

25 (d) No Re-Release After Revocation of Post-Release Supervision. – A prisoner
26 who has been reimprisoned prior to completing a post-release supervision period may not
27 again be released on post-release supervision by the Commission ~~subject to the provisions~~
28 ~~which govern initial release.~~ during the period of imprisonment for the offense for which
29 the prisoner was placed on post-release supervision.

30 (e) Timing of Revocation. – The Commission may revoke post-release supervision
31 for violation of a condition during the period of supervision. The Commission may also
32 revoke post-release supervision following a period of supervision if:

33 (1) Before the expiration of the period of post-release supervision, the
34 Commission has recorded its intent to conduct a revocation hearing; and

35 (2) The Commission finds that every reasonable effort has been made to
36 notify the supervisee and conduct the hearing earlier. Prima facie
37 evidence of reasonable effort to notify is the issuance of a temporary or
38 conditional revocation order, as provided in G.S. 15A-1376, that goes
39 unserved."

40 Section 9. This act becomes effective December 1, 1997, and applies to
41 offenses committed on or after that date.