

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH10234-LL-47 (2/24)

Short Title: Require Restitution With Work Release. (Public)

Sponsors: Representatives Eddins and Holliman (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE RESTITUTION FOR INMATES WITH WORK-RELEASE PRIVILEGES AND TO PROVIDE THAT AT LEAST TWENTY PERCENT OF AN INMATE'S WORK-RELEASE EARNINGS SHALL BE USED TO FULFILL THE INMATE'S RESTITUTION OBLIGATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-33.2 reads as rewritten:

"§ 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(a) Repealed by Session Laws 1985, c. 474, s. 4.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 the Department of Correction is ~~authorized to~~ shall 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~~ orders 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. If the court has ordered a defendant to make restitution or reparation if granted work-release privileges, then at least twenty percent (20%) of the prisoner's work-release earnings shall be used to fulfill that obligation. If restitution to a particular victim or victims was not ordered by the court, or if court-ordered restitution to a particular victim or victims has been satisfied, then the twenty percent (20%) required by this section shall be paid into the Crime Victims Compensation Fund established pursuant to G.S. 15B-23.~~

(c) When an active sentence is imposed, unless the court finds that it would not be in the interest of justice to do so, the court shall ~~consider whether, as a rehabilitative~~

1 ~~measure, it should recommend to the Secretary of Correction~~ order that restitution or
2 reparation be made by the defendant out of any earnings gained by the defendant if he is
3 granted work-release privileges and out of other resources of the defendant, including
4 all real and personal property owned by the defendant, and income derived from such
5 property. ~~If the court determines that restitution or reparation should not be~~
6 ~~recommended, it shall so indicate on the commitment. If, however, the court determines~~
7 ~~that restitution or reparation should be recommended, the~~ The court shall make its
8 ~~recommendation~~ order a part of the order committing the defendant to custody. The
9 ~~recommendation~~ order shall be in accordance with the applicable provisions of G.S.
10 15A-1343(d) and Article 81C of Chapter 15A of the General Statutes. If the offense is
11 one in which there is evidence of physical, mental or sexual abuse of a minor, the court
12 ~~may~~ shall order the defendant to pay from work release earnings the cost of
13 rehabilitative treatment for the minor. The Administrative Office of the Courts shall
14 prepare and distribute forms ~~which~~ that provide ample space to make restitution or
15 reparation ~~recommendations~~ orders incident to ~~commitments, which forms shall be~~
16 ~~conveniently structured to enable the sentencing court to make its~~
17 ~~recommendation-commitments.~~

18 (d) The Secretary of the Department of Correction shall establish rules and
19 regulations to implement this section, which shall include adequate notice to the
20 prisoner that the payment of restitution or reparation from any earnings gained by the
21 prisoner while on work release is ~~being considered~~ required as a condition of any
22 work-release privileges granted the prisoner, and opportunity for the prisoner to be
23 heard. Such rules and regulations shall also provide additional methods whereby facts
24 may be obtained to supplement the ~~recommendation~~ order of the sentencing court."

25 **SECTION 2.** This act becomes effective December 1, 2003, and applies to
26 persons sentenced on or after that date.