

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 676**

Short Title: Victims' Rights Provisions.

(Public)

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Sponsors: Representatives Eddins; Harrington and Morris.

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Referred to: Judiciary I.

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March 19, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO IMPROVE THE RIGHTS OF VICTIMS OF CRIME IN NORTH  
3 CAROLINA BY DISALLOWING WORK RELEASE FOR PERSONS  
4 CONVICTED OF MURDER OR MANSLAUGHTER, REQUIRING  
5 RESTITUTION FOR PRISONERS WITH WORK-RELEASE PRIVILEGES,  
6 SCREENING DEATH ROW VISITATION, LIMITING CONTACT WITH  
7 VICTIMS, REQUIRING THAT VIOLENT INMATES BE HOUSED AT  
8 REASONABLE DISTANCES FROM THEIR VICTIMS, IMPROVING  
9 NOTIFICATION TO VICTIMS ABOUT ESCAPES, AND REQUIRING  
10 CERTAIN PUBLIC INFORMATION ABOUT DEATH ROW INMATES TO  
11 INCLUDE THE NAMES OF THE VICTIMS AND INFORMATION ABOUT THE  
12 CRIMES COMMITTED AGAINST THEM.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 15A-1351(f) reads as rewritten:

15 "(f) Work Release. – When sentencing a person convicted of a ~~felony~~, felony other  
16 than murder or manslaughter, the sentencing court may recommend that the sentenced  
17 offender be granted work release as authorized in G.S. 148-33.1. When sentencing a  
18 person convicted of a misdemeanor, the sentencing court may recommend or, with the  
19 consent of the person sentenced, order that the sentenced offender be granted work  
20 release as authorized in G.S. 148-33.1."

21 **SECTION 2.** G.S. 148-33.1(a) reads as rewritten:

22 "(a) Whenever a person convicted of an offense other than murder or  
23 manslaughter is sentenced to imprisonment for a term to be served in the State prison  
24 system or a local confinement facility, the Secretary of the Department of Correction  
25 may authorize the Director of Prisons or the custodian of the local confinement facility  
26 to grant work-release privileges to any inmate who is eligible for work release and who  
27 has not been granted work-release privileges by order of the sentencing court. The  
28 Secretary of Correction shall authorize immediate work-release privileges for any

1 person serving a sentence not exceeding five years in the State prison system and for  
2 whom the presiding judge shall have recommended work-release privileges when (i) it  
3 is verified that appropriate employment for the person is available in an area where, in  
4 the judgment of the Secretary, the Department of Correction has facilities to which the  
5 person may suitably be assigned, and (ii) custodial and correctional considerations  
6 would not be adverse to releasing the person without supervision into the free  
7 community."

8 **SECTION 3.** G.S. 148-33.2 reads as rewritten:

9 "**§ 148-33.2. Restitution by prisoners with work-release privileges.**

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

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

21 (c) When an active sentence is imposed, unless the court finds that it would not  
22 be in the interest of justice to do so, the court shall ~~consider whether, as a rehabilitative~~  
23 ~~measure, it should recommend to the Secretary of Correction~~ order that restitution or  
24 reparation be made by the defendant out of any earnings gained by the defendant if he is  
25 granted work-release privileges and out of other resources of the defendant, including  
26 all real and personal property owned by the defendant, and income derived from such  
27 property. ~~If the court determines that restitution or reparation should not be~~  
28 ~~recommended, it shall so indicate on the commitment. If, however, the court determines~~  
29 ~~that restitution or reparation should be recommended, the~~ The court shall make its  
30 ~~recommendation~~ order a part of the order committing the defendant to custody. The  
31 ~~recommendation~~ order shall be in accordance with the applicable provisions of G.S.  
32 15A-1343(d) and Article 81C of Chapter 15A of the General Statutes. If the offense is  
33 one in which there is evidence of physical, mental or sexual abuse of a minor, the court  
34 ~~may~~ shall order the defendant to pay from work release earnings the cost of  
35 rehabilitative treatment for the minor. The Administrative Office of the Courts shall  
36 prepare and distribute forms ~~which~~ that provide ample space to make restitution or  
37 reparation ~~recommendations~~ orders incident to ~~commitments, which forms shall be~~  
38 ~~conveniently structured to enable the sentencing court to make its~~  
39 ~~recommendation~~ commitments.

40 (d) The Secretary of the Department of Correction shall establish rules and  
41 regulations to implement this section, which shall include adequate notice to the  
42 prisoner that the payment of restitution or reparation from any earnings gained by the  
43 prisoner while on work release is ~~being considered~~ required as a condition of any  
44 work-release privileges granted the prisoner, and opportunity for the prisoner to be

1 heard. Such rules and regulations shall also provide additional methods whereby facts  
2 may be obtained to supplement the ~~recommendation~~order of the sentencing court."

3 **SECTION 4.** G.S. 148-10.2 reads as rewritten:

4 "**§ 148-10.2. Policy: Death row visitation; certain inmates not to contact family**  
5 **members of victims.**

6 (a) Death row inmates are entitled to receive visits from family members, clergy,  
7 and attorneys representing them. The Department of Correction shall develop a  
8 screening process for all other persons requesting to visit death row inmates to ensure  
9 that each person has either a personal or professional relationship with the inmate. It  
10 shall be the policy of the Department of Correction to disallow visits to death row  
11 inmates by persons seeking to use those inmates to further a social or political agenda or  
12 to otherwise engage in any activity that risks further traumatizing the families of the  
13 inmate's victims.

14 (b) It shall be the policy of the Department of Correction to prohibit ~~death~~  
15 ~~row~~inmates convicted of the offenses listed in G.S. 15A-830(7) from contacting the  
16 surviving victims or family members of the victims without the written consent of the  
17 victims or family members being contacted. For purposes of this section, the term  
18 "contact" includes arranging for a third party to forward communications from the  
19 inmate to the surviving victim or family members of the victim."

20 **SECTION 5.** Article 1 of Chapter 148 of the General Statutes is amended by  
21 adding a new section to read:

22 "**§ 148-5.1. Housing inmates at reasonable distance from victims.**

23 In determining where to assign inmates within the State prison system, the Secretary  
24 of Correction shall ensure that all inmates convicted of the offenses listed in G.S. 15A-  
25 830(7) are not housed in facilities located within a 100-mile radius of the victim or the  
26 victim's immediate family."

27 **SECTION 6.** G.S. 15A-836(a) reads as rewritten:

28 "(a) When a form is included with the final judgment and commitment pursuant to  
29 G.S. 15A-832(g), or when the victim has otherwise filed a written request for  
30 notification with the custodial agency, the custodial agency shall notify the victim of:

- 31 (1) The projected date by which the defendant can be released from  
32 custody. The calculation of the release date shall be as exact as  
33 possible, including earned time and disciplinary credits if the sentence  
34 of imprisonment exceeds 90 days.
- 35 (2) An inmate's assignment to a minimum custody unit and the address of  
36 the unit. This notification shall include notice that the inmate's  
37 minimum custody status may lead to the inmate's participation in one  
38 or more community-based programs such as work release or  
39 supervised leaves in the community.
- 40 (3) The victim's right to submit any concerns to the agency with custody  
41 and the procedure for submitting such concerns.
- 42 (4) The defendant's escape from custody, within ~~72-hours.~~ hours, except  
43 that if a victim has notified the agency that the defendant has issued a

- 1                   specific threat against the victim, the agency shall notify the victim as  
2                   soon as possible and within 24 hours at the latest.  
3           (5)   The defendant's capture, within 72 hours.  
4           (6)   The date the defendant is scheduled to be released from the facility.  
5                   Whenever practical, notice shall be given 60 days before release. In no  
6                   event shall notice be given less than seven days before release.  
7           (7)   The defendant's death."

8           **SECTION 7.** Article 1 of Chapter 148 of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 148-10.3. Electronic listings of death row inmates.**

11           Except as otherwise provided in this section, if the Department of Correction  
12 publishes an electronic listing of information on death row inmates, that list shall  
13 include the names of the victim or victims of each inmate, a description of the nature of  
14 the murder or murders committed by each inmate, and the status of the inmate's appeal.  
15 However, the Department shall not include information in such a listing if a surviving  
16 victim or the family of a victim requests that the information not be included."

17           **SECTION 8.** Sections 1, 2, and 3 of this act become effective December 1,  
18 2001, and apply to persons sentenced on or after that date. Section 5 is effective when it  
19 becomes law and applies to housing decisions made by the Department of Correction on  
20 or after that date. The remainder of this act is effective when it becomes law.