

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1242

Short Title: Youthful Offender/Sentence Review. (Public)

Sponsors: Representatives Mobley, Parmon, Womble (Primary Sponsors); Adams, K. Alexander, Cotham, Harrison, Holliman, Hughes, Jones, Lucas, Mackey, Wainwright, and Wray.

Referred to: Juvenile Justice, if favorable, Judiciary I.

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A POST-SENTENCING REVIEW FOR CERTAIN YOUTHFUL
3 OFFENDERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 15A of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 93.

8 "Post-Sentencing Review for Youthful Offenders.

9 **"§ 15A-1480. Post-sentencing review for youthful offender.**

10 (a) Definition. – For purposes of this section the term youthful offender means a person
11 who:

12 (1) Was convicted of a Class B1, B2, C, or D felony;

13 (2) Was 13, 14, or 15 years of age at the time the person committed the offense;

14 (3) Was tried as an adult; and

15 (4) Was sentenced to an active punishment that carries a minimum term of 84
16 months or more.

17 (b) Petition for Review; Resident Superior Court Judge Empowered to Act. – A
18 youthful offender who is incarcerated and who has served at least 84 months of an active
19 sentence imposed on the youthful offender for the conviction of a Class B1, B2, C, or D felony
20 may petition the resident superior court judge in the district where the youthful offender was
21 sentenced for a post-sentencing review. The purpose of the post-sentencing review is to
22 determine whether the offender's sentence should be reduced or suspended based on the
23 offender's conduct and record of rehabilitation in prison. The petition for the post-sentencing
24 review may be heard and determined by the resident superior court judge. The petition shall be
25 served on the district attorney of the district in where the youthful offender was sentenced in
26 the manner provided in G.S. 15A-951(b) and shall be filed in the manner provided in
27 G.S. 15A-951(c).

28 (c) Post-Sentencing Hearing and Review. – The superior court judge shall schedule a
29 hearing no later than 30 days from the date the petition is filed for the post-sentencing review.
30 At the hearing the judge shall consider all of the following factors:

31 (1) Whether the youthful offender has obtained a high school diploma.

32 (2) Whether the youthful offender has completed one or more substance abuse
33 programs.

34 (3) Whether the youthful offender has pursued other educational or work
35 opportunities within prison.



1 (4) Whether the youthful offender maintained good conduct within prison.

2 (5) Whether there are any recommendations from the victim against whom the
3 crime was committed or the victim's family regarding the suspension or
4 other modification of the youthful offender's sentence.

5 (d) Entry of judgment. – If the court determines that the youthful offender's sentence
6 should be reduced or suspended, then the court shall enter an order indicating the modification
7 of the sentence and the findings on which the court based its determination.

8 (e) Post-Release Supervision. – A youthful offender whose sentence is reduced or
9 suspended pursuant to this section shall be placed on post-release supervision as provided by
10 Article 84A of Chapter 15A of the General Statutes; however, notwithstanding
11 G.S. 15A-1368.2(a), the calculation to determine the appropriate release from prison for
12 post-release supervision shall be based on the date of release from prison as determined by the
13 court and entered into the judgment pursuant to subsection (d) of this section rather than the
14 youthful offender's maximum imposed prison term.

15 (f) Class A Felony Youthful Offender Ineligible for Review. – This section shall not
16 apply to any youthful offender convicted of a Class A felony."

17 **SECTION 2.** This act becomes effective October 1, 2009.