

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 969\*

Short Title: Enhance Prison Security. (Public)

Sponsors: Representatives Davis and Boles (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary I

May 21, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENHANCE PRISON SECURITY AND TO MODIFY THE ADMINISTRATIVE  
3 REMEDY PROCEDURE, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
4 OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 14-258.4(a) reads as rewritten:

7 "**§ 14-258.4. Malicious conduct by prisoner.**

8 (a) Any person in the custody of the Division of Adult Correction and Juvenile Justice of  
9 the Department of Public Safety, including the Juvenile Justice Section of the Division of Adult  
10 Correction and Juvenile Justice of the Department of Public Safety, any law enforcement officer,  
11 or any local confinement facility (as defined in G.S. 153A-217, or G.S. 153A-230.1), including  
12 persons pending trial, appellate review, or presentence diagnostic evaluation, who knowingly and  
13 willfully exposes genitalia, masturbates, or throws, emits, or causes to be used as a projectile,  
14 bodily fluids or excrement—fluids, excrement, or unknown substance at a person who is an  
15 employee of the State or a local government while the employee is in the performance of the  
16 employee's duties is guilty of a Class F felony. The provisions of this section apply to violations  
17 committed inside or outside of the prison, jail, detention center, or other confinement facility.  
18 Sentences imposed under this Article shall run consecutively to and shall commence at the  
19 expiration of any sentence being served by the person sentenced under this section."

20 **SECTION 2.** G.S. 148-118.2 reads as rewritten:

21 "**§ 148-118.2. Effect.**

22 (a) Upon approval of the Administrative Remedy Procedure by a federal court as  
23 authorized and required by 42 U.S.C. 1997(e)(a), and the implementation of the procedure, this  
24 procedure shall constitute the administrative remedies available to a prisoner for the purpose of  
25 preserving any cause of action under the purview of the Administrative Remedy Procedure,  
26 which a prisoner may claim to have against the State of North Carolina, the Division of Adult  
27 Correction and Juvenile Justice of the Department of Public Safety, or its employees.

28 (b) No State court shall entertain a prisoner's grievance or complaint which falls under  
29 the purview of the Administrative Remedy Procedure unless and until the prisoner shall have  
30 exhausted the remedies as provided in said procedure. If the prisoner has failed to pursue  
31 administrative remedies through this procedure, any petition or complaint ~~he~~ the prisoner files  
32 shall be stayed for 90 days to allow the prisoner to file a grievance and for completion of the  
33 procedure. If at the end of 90 days the prisoner has failed to timely file ~~his grievance,~~ a grievance,  
34 or if the prisoner's ability to file a grievance is time barred by the Administrative Remedy



1 Procedure, then the petition or complaint shall be dismissed. ~~Provided, however, that the court~~  
2 ~~can waive the exhaustion requirement if it finds such waiver to be in the interest of justice.~~

3 (c) A prisoner who alleges a claim for damages of less than five hundred dollars  
4 (\$500.00) shall follow the Administrative Remedy Procedure as the prisoner's sole remedy."

5 **SECTION 3.** G.S. 148-118.8(b) reads as rewritten:

6 "(b) The inmate grievance examiners shall investigate inmate grievances pursuant to the  
7 procedures established by the Administrative Remedy Procedure. Examiners shall attempt to  
8 resolve grievances through mediation with all parties. Otherwise, the inmate grievance examiners  
9 shall either (i) order such relief as is appropriate; or (ii) deny the grievance. The decision of the  
10 grievance examiner shall be binding, unless the Secretary of Public Safety or the Secretary of  
11 Public Safety's designee (i) finds that such relief is not appropriate, (ii) gives a written explanation  
12 for this finding, and (iii) makes an alternative order of relief or denies the grievance."

13 **SECTION 4.** Section 1 of this act becomes effective December 1, 2018, and applies  
14 to offenses committed on or after that date. Section 2 of this act becomes effective October 1,  
15 2018, and applies to grievances filed on or after that date. The remainder of this act is effective  
16 when it becomes law.