

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1070
Judiciary I Committee Substitute Adopted 5/3/05

Short Title: Balance Fair Sentencing/Structured Sentencing.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO BALANCE FAIR SENTENCING AND STRUCTURED SENTENCING
AND TO KEEP INMATES WHO POSE GREAT RISKS TO SOCIETY IN THE
PRISONS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143B of the General Statutes is amended by adding a
new section to read:

"§ 143B-268. Recalculation of sentence for parole.

(a) Notwithstanding any other provision of law, any person in the custody of the
Department of Correction who was convicted for an offense that occurred prior to the
effective date of Article 81B of Chapter 15A of the General Statutes, shall be paroled by
the Commission if all of the following conditions are met:

(1) The Commission determines that the person has served more time in
custody than the person would have served if sentenced to the
maximum sentence under the provisions of Article 81B of Chapter
15A of the General Statutes. The "maximum sentence", for the
purposes of this section, shall be calculated as set forth in subsection
(b) of this section.

(2) The Commission determines that the person does not pose a
substantial risk of violence or recidivism.

(3) The Commission determines that the person's crime was not so
heinous that the Commission cannot in good conscience release the
person.

This section shall not apply to persons sentenced to life imprisonment for first degree
murder.

(b) For the purposes of this section, the following rules apply for the calculation
of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as
the same felony class as the offense would have been classified if

1 committed after the effective date of Article 81B of Chapter 15A of
2 the General Statutes.

3 (2) The minimum sentence shall be the maximum number of months in
4 the presumptive range of minimum durations in Prior Record Level VI
5 of G.S. 15A-1340.17(c) for the felony class determined under
6 subdivision (1) of this subsection. The maximum sentence shall be
7 calculated using G.S. 15A-1340.17(d), (e), or (e1).

8 (3) If a person is serving sentences for two or more offenses that are
9 concurrent in any respect, then the offense with the greater
10 classification shall be used to determine a single maximum sentence
11 for the concurrent offenses. The fact that the person has been
12 convicted of multiple offenses may be considered by the Commission
13 in making its determinations under subsection (a) of this section.

14 (c) The Commission's findings and determinations under this section are final
15 and are not reviewable by any court."

16 **SECTION 2.** The Commission shall give priority in its determinations under
17 subsection (a) of G.S. 143B-268 to those prisoners who have served the greatest amount
18 of time in excess of what each prisoner would have served if sentenced under the
19 provisions of Article 81B of Chapter 15A of the General Statutes, and who have not
20 previously been considered for parole. The Commission shall report the results of the
21 implementation of this act to the Joint Legislative Corrections, Crime Control, and
22 Juvenile Justice Committee on or before June 1, 2006.

23 **SECTION 3.** This act becomes effective December 1, 2005.