



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 492: Modify Provisions Affecting Adult Correction.

2023-2024 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 26, 2023
Introduced by:	Sens. Britt, Daniel	Prepared by:	Robert Ryan
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: Senate Bill 492 makes various changes to the General Statutes related to the Department of Adult Correction (DAC), as recommended by DAC.

As introduced, this bill was identical to H575, as introduced by Reps. Carson Smith, Davis, Greene, Miller, which is currently in House Judiciary 2.

CURRENT LAW AND BILL ANALYSIS:

Section 1 would modify G.S. 15A-1343(b) to eliminate the requirement that only breath, urine, or blood tests may be used to test for the presence of alcohol or drugs in a person on probation. The statute would be updated so that other types of drug or alcohol screening tests could be used. This section becomes effective August 1, 2023.

Section 2 would modify certain statutes to include firearm ammunition on the list of prohibited items for people on probation, post-release supervision, or parole to possess.

Section 3 would modify G.S. 15A-1343.2 to allow for a court to delegate authority to a probation officer monitoring an offender who was placed on supervised probation for a conditional discharge or a deferred prosecution. This section would also modify G.S. 20-179 to allow for the delegation of authority to a probation officer to monitor an offender who was placed on supervised probation after a conviction for an impaired driving offense. This section becomes effective October 1, 2023.

Section 4 would modify G.S. 15A-1352 to allow DAC to transfer an offender from a state prison to a local confinement facility five days earlier than required when the offender is required to also serve part of a sentence in the local confinement facility at the conclusion of the state sentence.

Sections 5(a) and 5(b) would enact a new G.S. 148-18.2 that would limit the total value of personal property possessed by an inmate to \$250. Loss, destruction, or damage to inmate property due to negligent handling by the correctional facility or its staff members would result in either reimbursement of the value of the property, or if the administrative remedies procedure recommends it, replacement of the item. Reimbursement is limited to a maximum of \$250. Section 5(b) would amend Article 31 of Chapter 143, Tort Claims against State Departments and Agencies, to provide that all loss, destruction, or damage of inmate property is to be addressed through the provisions of G.S. 148-18.2 and is not subject to recourse under the tort claims provisions.

Sections 5(c) and 5(d) would clarify that no court, including the Industrial Commission, or administrative body may hear a prisoner's grievance or complaint that falls under the Administrative Remedy Procedure until the prisoner has exhausted all of those remedies and removes language that currently allows a court to waive this requirement in the interest of justice.

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 492

Page 2

Section 5(e) would prohibit the Industrial Commission from taxing costs against the prevailing party in a tort claim against a State department or agency. This section would also prohibit an inmate from being granted indigent status for a tort claim if the inmate has three or more previous claims that were dismissed because they were frivolous, malicious, not within the statute of limitations, exceeded the exclusive jurisdiction of the Industrial Commission, or failed to state a claim upon which relief may be granted.

Section 5(f) would authorize departments, institutions, and agencies of the State to settle claims under \$25,000.

Section 5(g) would provide that limitations on the use of the public duty doctrine do not apply where the claimant is an inmate in the custody of DAC, except where the injury arises from gross negligence.

Section 5(h) would limit the liability of DAC for acts or omissions of its employees tasked with the supervision, protection, control, confinement, or custody of inmates unless the acts or omissions amount to gross negligence.

Section 6 would allow DAC to sell products made by Correction Enterprises to any individual currently incarcerated within a DAC facility.

Section 7 would allow the General Fund current operations appropriations credit balance remaining at the end of each fiscal year that is a result of a savings due to an energy conservation measure to be carried forward to the next fiscal year. These saved funds may be used for one-time capital improvements and operating expenditures.

Section 8 would provide that net proceeds derived from the sale or lease of property owned by DAC, or used by DAC, shall be deposited in a fund to be used by DAC for capital improvements.

Section 9 would modify G.S. 14-269(b) to add certain DAC employees to the list of individuals who are exempt from the law prohibiting the carrying of concealed firearms. Specifically, G.S. 14-269(b) would exempt a DAC employee from this prohibition if all the following were met: i) the employee has been designated in writing by the Secretary of DAC, ii) the person has a valid concealed carry permit, iii) the person carries the written proof of designation from the Secretary and does not consume any alcohol or drug while carrying the firearm.

Section 10 would modify the Administrative Procedure Act to exempt all divisions of DAC from the contested case provisions. Currently, only the Division of Prisons of DAC is exempt.

Section 11 would extend the date that security guards licensed under Chapter 74C are authorized to work at state prisons from January 1, 2014 to January 1, 2026.

Section 12 would allow certain prisoners to earn a higher wage for their work within DAC.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.