

Article 10.

Law Enforcement and Confinement Facilities.

Part 1. Law Enforcement.

**§ 153A-211. Training and development programs for law enforcement.**

A county may plan and execute training and development programs for law-enforcement agencies, and for that purpose may:

- (1) Contract with other counties, cities, and the State and federal governments and their agencies;
- (2) Accept, receive, and disburse funds, grants, and services;
- (3) Pursuant to the procedures and provisions of Chapter 160A, Article 20, Part 1, create joint agencies to act for and on behalf of the participating counties and cities;
- (4) Apply for, receive, administer, and expend federal grant funds;
- (5) Appropriate funds not otherwise limited as to use by law. (1969, c. 1145, s. 2; 1973, c. 822, s. 1.)

**§ 153A-212. Cooperation in law-enforcement matters.**

A county may cooperate with the State and other local governments in law-enforcement matters, as permitted by G.S. 160A-283 (joint auxiliary police), by G.S. 160A-288 (emergency aid), G.S. 160A-288.1 (assistance by State law-enforcement officers), and by Chapter 160A, Article 20, Part 1. (1973, c. 822, s. 1; 1979, c. 639, s. 2.)

**§ 153A-212.1. Resources to protect the public.**

Subject to the requirements of G.S. 7A-41, 7A-44.1, 7A-64, 7A-102, 7A-133, and 7A-498.7, a county may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts or the Office of Indigent Defense Services to maintain positions or services initially provided for under this section. (1999-237, s. 17.17(b); 2000-67, s. 15.4(e); 2001-424, s. 22.11(e).)

**§ 153A-212.2. Neighborhood crime watch programs.**

A county may establish neighborhood crime watch programs within the county to encourage residents and business owners to promote citizen involvement in securing homes, businesses, and personal property against criminal activity and to report suspicious activities to law enforcement officials. (2006-181, s. 1.)

**§ 153A-212.3: Reserved for future codification purposes.**

**§ 153A-212.4: Reserved for future codification purposes.**

**§ 153A-212.5: Expired pursuant to Session Laws 2018-113, s. 15.1(c), effective October 1, 2018.**

**§ 153A-213. Reserved for future codification purposes.**

**§ 153A-214. Reserved for future codification purposes.**

**§ 153A-215. Reserved for future codification purposes.**

Part 2. Local Confinement Facilities.

**§ 153A-216. Legislative policy.**

The policy of the General Assembly with respect to local confinement facilities is:

- (1) Local confinement facilities should provide secure custody of persons confined therein in order to protect the community and should be operated so as to protect the health and welfare of prisoners and provide for their humane treatment.
- (2) Minimum statewide standards should be provided to guide and assist local governments in planning, constructing, and maintaining confinement facilities and in developing programs that provide for humane treatment of prisoners and contribute to the rehabilitation of offenders.
- (3) The State should provide services to local governments to help improve the quality of administration and local confinement facilities. These services should include inspection, consultation, technical assistance, and other appropriate services.
- (4) Adequate qualifications and training of the personnel of local confinement facilities are essential to improving the quality of these facilities. The State shall establish entry level employment standards for jailers and supervisory and administrative personnel of local confinement facilities to include training as a condition of employment in a local confinement facility pursuant to the provisions of Article 1 of Chapter 17C and Chapter 17E and the rules promulgated thereunder. (1967, c. 581, s. 2; 1973, c. 822, s. 1; 1983, c. 745, s. 4; 2018-5, s. 17.1(a).)

**§ 153A-217. Definitions.**

Unless otherwise clearly required by the context, the words and phrases defined in this section have the meanings indicated when used in this Part:

- (1) "Commission" means the Social Services Commission.
- (2) "Secretary" means the Secretary of Health and Human Services.
- (3) "Department" means the Department of Health and Human Services.
- (4) "Governing body" means the governing body of a county or city or the policy-making body for a district or regional confinement facility.
- (5) "Local confinement facility" includes a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences except that it shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A.
- (6) "Prisoner" includes any person, adult or juvenile, confined or detained in a confinement facility.

- (7) "Unit," "unit of local government," or "local government" means a county or city. (1967, c. 581, s. 2; 1969, c. 981, s. 1; 1973, c. 476, s. 138; c. 822, s. 1; 1987, c. 207, s. 2; 1997-443, s. 11A.118(a); 1998-202, s. 4(cc).)

**§ 153A-218. County confinement facilities.**

A county may establish, acquire, erect, repair, maintain, and operate local confinement facilities and may for these purposes appropriate funds not otherwise limited as to use by law. Subject to the holdover provisions in G.S. 7B-2204, no person under the age of 18 may be held in a county confinement facility unless there is an agreement between the county confinement facility and the Division of Juvenile Justice allowing the housing of persons under the age of 18 at the facility or a portion of the facility that has been approved as a juvenile detention facility by the Division of Juvenile Justice. A juvenile detention facility may be located in the same facility as a county jail provided that the juvenile detention facility meets the requirements of this Article and G.S. 143B-819. (1868, c. 20, s. 8; Code, s. 707; Rev., s. 1318; 1915, c. 140; C.S., s. 1297; 1973, c. 822, s. 1; 1998-202, s. 4(dd); 2020-83, s. 8(n); 2021-180, s. 19C.9(pppp); 2023-114, s. 4(c).)

**§ 153A-219. District confinement facilities.**

(a) Two or more units of local government may enter into and carry out an agreement to establish, finance, and operate a district confinement facility. The units may construct such a facility or may designate an existing facility as a district confinement facility. In addition, two or more units of local government may enter into and carry out agreements under which one unit may use the local confinement facility owned and operated by another. In exercising the powers granted by this section, the units shall proceed according to the procedures and provisions of Chapter 160A, Article 20, Part 1.

(b) If a district confinement facility is established, the units involved shall provide for a jail administrator for the facility. The administrator need not be the sheriff or any other official of a participating unit. The administrator and the other custodial personnel of a district confinement facility have the authority of law-enforcement officers for the purposes of receiving, maintaining custody of, and transporting prisoners.

(c) If a district confinement facility is established, or if one unit contracts to use the local confinement facility of another, the law-enforcement officers of the contracting units and the custodial personnel of the facility may transport prisoners to and from the facility.

(d) The Department shall provide technical and other assistance to units wishing to exercise any of the powers granted by this section. (1933, c. 201; 1967, c. 581, s. 2; 1969, c. 743; 1971, c. 341, s. 1; 1973, c. 822, s. 1.)

**§ 153A-220. Jail and detention services.**

The Commission has policy responsibility for providing and coordinating State services to local government with respect to local confinement facilities. The Department shall:

- (1) Consult with and provide technical assistance to units of local government with respect to local confinement facilities.
- (2) Develop minimum standards for the construction and operation of local confinement facilities.
- (3) Visit and inspect local confinement facilities; advise the sheriff, jailer, governing board, and other appropriate officials as to deficiencies and

recommend improvements; and submit written reports on the inspections to appropriate local officials.

- (4) Review and approve plans for the construction and major modification of local confinement facilities.
- (5) Repealed by Session Laws 1983, c. 745, s. 5, effective September 1, 1983.
- (6) Perform any other duties that may be necessary to carry out the State's responsibilities concerning local confinement facilities. (1967, c. 581, s. 2; 1973, c. 476, s. 138; c. 822, s. 1; 1983, c. 745, s. 5.)

**§ 153A-221. Minimum standards.**

(a) The Secretary shall develop and publish minimum standards for the operation of local confinement facilities and may from time to time develop and publish amendments to the standards. The standards shall be developed with a view to providing secure custody of prisoners and to protecting their health and welfare and providing for their humane treatment. The standards shall provide for all of the following:

- (1) Secure and safe physical facilities.
- (2) Jail design.
- (3) Adequacy of space per prisoner.
- (4) Heat, light, and ventilation.
- (5) Supervision of prisoners.
- (6) Personal hygiene and comfort of prisoners.
- (7) Medical care for prisoners, including mental health, behavioral health, intellectual and other developmental disability, and substance abuse services.
- (8) Sanitation.
- (9) Food allowances, food preparation, and food handling.
- (10) Any other provisions that may be necessary for the safekeeping, privacy, care, protection, and welfare of prisoners.
- (11) Compliance with the requirements of Part 2B of Article 10 of Chapter 153A of the General Statutes, Dignity for Women Incarcerated in Local Confinement Facilities.

(b) In developing the standards and any amendments thereto, the Secretary shall consult with organizations representing local government and local law enforcement, including the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Sheriffs' Association, and the North Carolina Police Executives' Association. The Secretary shall also consult with interested State departments and agencies, including the Division of Prisons of the Department of Adult Correction, the Department of Health and Human Services, the Department of Insurance, and the North Carolina Criminal Justice Education and Training Standards Commission, and the North Carolina Sheriffs' Education and Training Standards Commission.

(c) Before the standards or any amendments thereto may become effective, they must be approved by the Commission and the Governor. Upon becoming effective, they have the force and effect of law.

(d) Notwithstanding any law or rule to the contrary, each dormitory in a county detention facility may house up to 64 inmates as long as the dormitory provides all of the following:

- (1) A minimum floor space of 70 square feet per inmate, including both the sleeping and dayroom areas.

- (2) One shower per eight inmates, one toilet per eight inmates, one sink with a security mirror per eight inmates, and one water fountain.
- (3) A telephone jack or other telephone arrangement provided within the dormitory.
- (4) Space designed to allow a variety of activities.
- (5) Sufficient seating and tables for all inmates.
- (6) A way for officers to observe the entire area from the entrance.

(e) Repealed by Session Laws 2022-74, s. 9K.2(a), effective July 11, 2022. (1967, c. 581, s. 2; 1973, c. 476, ss. 128, 133, 138; c. 822, s. 1; 1983, c. 745, s. 6; c. 768, s. 20; 1991, c. 237, s. 1; 1997-443, s. 11A.118(a); 2008-194, s. 10(a), (b); 2011-145, s. 19.1(h); 2011-324, s. 1; 2014-22, s. 1; 2017-186, s. 2(eeeeeeee); 2019-76, s. 30; 2021-143, s. 3(b); 2021-180, s. 19C.9(p); 2022-74, s. 9K.2(a).)

**§ 153A-221.1. Standards and inspections.**

The legal responsibility of the Division of Juvenile Justice of the Department of Public Safety for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human Services, in consultation with the Secretary of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility shall provide close supervision of any child placed in the holdover facility for the protection of the child. (1973, c. 1230, s. 2; c. 1262, s. 10; 1975, c. 426, s. 2; 1983, c. 768, s. 21; 1997-443, s. 11A.118(a); 1998-202, s. 13(nn); 1999-423, s. 12; 2000-137, s. 4(hh); 2012-172, s. 2; 2013-360, s. 16D.7(c); 2017-186, s. 2(fffffff); 2021-180, s. 19C.9(z).)

**§ 153A-222. Inspections of local confinement facilities.**

(a) Department personnel shall visit and inspect each local confinement facility at least semiannually. The purpose of the inspections is to investigate the conditions of confinement, the treatment of prisoners, the maintenance of entry level employment standards for jailers and supervisory and administrative personnel of local confinement facilities as provided for in G.S. 153A-216(4), and to determine whether the facilities meet the minimum standards published pursuant to G.S. 153A-221. The inspector shall make a written report of each inspection and submit it within 30 days after the day the inspection is completed to the governing body and other local officials responsible for the facility. The report shall specify each way in which the facility is alleged to be deficient.

(b) Within 30 days of receiving the inspection report under subsection (a) of this section, the governing body shall consider the report and shall promptly (i) initiate any action necessary to bring the facility into conformity with the minimum standards published pursuant to G.S. 153A-221 or (ii) request a contested case hearing regarding any or all findings in the report pursuant to subsection (c) of this section.

(c) A governing body, sheriff, or other administrator of a local confinement facility has a right to request a contested case hearing regarding any or all findings in the report pursuant to and in accordance with the provisions of Article 3 of Chapter 150B of the General Statutes. Appeals of

any contested case hearing shall be conducted pursuant to Article 4 of Chapter 150B of the General Statutes.

(d) Notwithstanding the provisions of G.S. 8-53 or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Health and Human Services who make inspections under this section may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been inmates of the facility being inspected. Physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving treatment at or through a facility who may be interviewed by representatives of the Department may disclose to these representatives information related to an inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53 or any other rule of law; provided the inmate has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the Department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the Department and not disclosed without written authorization of the inmate or legal representative, or unless disclosure is ordered by a court of competent jurisdiction. The Department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The Department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered "public records" within the meaning of G.S. 132-1. Prior to releasing any information or allowing any inspections referred to in this section, the inmate must be advised in writing of the inmate's right to object in writing to the release of information or review of the inmate's records, and that by objecting in writing the inmate may prohibit the inspection or release of the inmate's records. (1947, c. 915; 1967, c. 581, s. 2; 1973, c. 822, s. 1; 1981, c. 586, s. 6; 1983, c. 745, s. 7; 1997-443, s. 11A.118(a); 2022-74, s. 9K.1(a).)

#### **§ 153A-223. Enforcement of minimum standards.**

If an inspection conducted pursuant to G.S. 153A-222 discloses that the jailers and supervisory and administrative personnel of a local confinement facility do not meet the entry level employment standards established pursuant to Article 1 of Chapter 17C or Chapter 17E or that a local confinement facility does not meet the minimum standards published pursuant to G.S. 153A-221 and, in addition, if the Secretary determines that conditions in the facility jeopardize the safe custody, safety, health, or welfare of persons confined in the facility, the Secretary may order corrective action or close the facility, as provided in this section:

- (1) The Secretary shall give notice of his determination to the governing body and each other local official responsible for the facility. The Secretary shall also send a copy of this notice, along with a copy of the inspector's report, to the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the facility is located. Upon receipt of the Secretary's notice, the governing body shall call a public hearing to consider the report. The hearing shall be held within 20 days after the day the Secretary's notice is received. The inspector shall appear at this hearing to advise and consult with the governing body concerning any corrective action necessary to bring the facility into conformity with the standards.

- (2) The governing body shall, within 30 days after the day the Secretary's notice is received, request a contested case hearing, initiate appropriate corrective action or close the facility. The corrective action must be completed within a reasonable time.
- (3) A contested case hearing, if requested, shall be conducted pursuant to G.S. 150B, Article 3. The issues shall be: (i) whether the facility meets the minimum standards; (ii) whether the conditions in the facility jeopardize the safe custody, safety, health, or welfare of persons confined therein; and (iii) the appropriate corrective action to be taken and a reasonable time to complete that action.
- (4) If the governing body does not, within 30 days after the day the Secretary's notice is received, or within 30 days after service of the final decision if a contested case hearing is held, either initiate corrective action or close the facility, or does not complete the action within a reasonable time, the Secretary may order that the facility be closed.
- (5) The governing body may appeal an order of the Secretary or a final decision to the senior resident superior court judge. The governing body shall initiate the appeal by giving by registered mail to the judge and to the Secretary notice of its intention to appeal. The notice must be given within 15 days after the day the Secretary's order or the final decision is received. If notice is not given within the 15-day period, the right to appeal is terminated.
- (6) The senior resident superior court judge shall hear the appeal. He shall cause notice of the date, time, and place of the hearing to be given to each interested party, including the Secretary, the governing body, and each other local official involved. The Office of Administrative Hearings, if a contested case hearing has been held, shall file the official record, as defined in G.S. 150B-37, with the senior resident superior court judge and shall serve a copy on each person who has been given notice of the hearing. The judge shall conduct the hearing without a jury. He shall consider the official record, if any, and may accept evidence from the Secretary, the governing body, and each other local official which he finds appropriate. The issue before the court shall be whether the facility continues to jeopardize the safe custody, safety, health, or welfare of persons confined therein. The court may affirm, modify, or reverse the Secretary's order. (1947, c. 915; 1967, c. 581, s. 2; 1973, c. 476, s. 138; c. 822, s. 1; 1981, c. 614, ss. 20, 21; 1983, c. 745, s. 8; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 123; 2011-398, s. 55; 2018-5, s. 17.1(a).)

#### **§ 153A-224. Supervision of local confinement facilities.**

(a) No person may be confined in a local confinement facility unless custodial personnel are present and available to provide continuous supervision in order that custody will be secure and that, in event of emergency, such as fire, illness, assaults by other prisoners, or otherwise, the prisoners can be protected. These personnel shall supervise prisoners closely enough to maintain safe custody and control and to be at all times informed of the prisoners' general health and emergency medical needs.

(b) In a medical emergency, the custodial personnel shall secure emergency medical care from a licensed physician according to the unit's plan for medical care. If a physician designated in

the plan is not available, the personnel shall secure medical services from any licensed physician who is available. The unit operating the facility shall pay the cost of emergency medical services unless the inmate has third-party insurance, in which case the third-party insurer shall be the initial payor and the medical provider shall bill the third-party insurer. The county shall only be liable for costs not reimbursed by the third-party insurer, in which event the county may recover from the inmate the cost of the non-reimbursed medical services.

(c) If a person violates any provision of this section, he is guilty of a Class 1 misdemeanor. (1967, c. 581, s. 2; 1973, c. 822, s. 1; 1993, c. 510, c. 539, s. 1061; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 153A-225. Medical care of prisoners.**

(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan:

- (1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;
- (2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;
- (3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases; and
- (4) May utilize Medicaid coverage for inpatient hospitalization or for any other Medicaid services allowable for eligible prisoners, provided that the plan includes a reimbursement process which pays to the State the State portion of the costs, including the costs of the services provided and any administrative costs directly related to the services to be reimbursed, to the State's Medicaid program.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00) per incident for the provision of nonemergency medical care to prisoners and a fee of not more than ten dollars (\$10.00) for a 30-day supply or less of a prescription drug. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners.

(b) If a prisoner in the custody of a local confinement facility dies, the medical examiner and the coroner shall be notified immediately, regardless of the physical location of the prisoner at the time of death. Within five days after the day of the death, the administrator of the facility shall make a written report to the local or district health director and to the Secretary of Health and Human Services. The report shall be made on forms developed and distributed by the Department of Health and Human Services.

(b1) Whenever a local confinement facility transfers a prisoner from that facility to another local confinement facility, the transferring facility shall provide the receiving facility with any health information or medical records the transferring facility has in its possession pertaining to the transferred prisoner.



(c) If a person violates any provision of this section (including the requirements regarding G.S. 130-97 and 130-121), he is guilty of a Class 1 misdemeanor. (1967, c. 581, s. 2; 1973, c. 476, ss. 128, 138; c. 822, s. 1; 1973, c. 1140, s. 3; 1989, c. 727, s. 204; 1991, c. 237, s. 2; 1993, c. 539, s. 1062; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 385, s. 1; 1997-443, s. 11A.112; 2003-392, s. 1; 2004-199, s. 46(a); 2011-145, s. 31.26(f); 2011-192, s. 7(n); 2013-387, s. 2; 2013-389, s. 1; 2018-76, s. 1.)

#### **§ 153A-225.1. Duty of custodial personnel when prisoners are unconscious or semiconscious.**

(a) Whenever a custodial officer of a local confinement facility takes custody of a prisoner who is unconscious, semiconscious, or otherwise apparently suffering from some disabling condition and unable to provide information on the causes of the condition, the officer should make a reasonable effort to determine if the prisoner is wearing a bracelet or necklace containing the Medic Alert Foundation's emergency alert symbol to indicate that the prisoner suffers from diabetes, epilepsy, a cardiac condition or any other form of illness which would cause a loss of consciousness. If such a symbol is found indicating that the prisoner suffers from one of those conditions, the officer must make a reasonable effort to have appropriate medical care provided.

(b) Failure of a custodial officer of a local confinement facility to make a reasonable effort to discover an emergency alert symbol as required by this section does not by itself establish negligence of the officer but may be considered along with other evidence to determine if the officer took reasonable precautions to ascertain the emergency medical needs of the prisoner in his custody.

(c) A prisoner who is provided medical care under the provisions of this section is liable for the reasonable costs of that care unless he is indigent.

(d) Repealed by Session Laws 1975, c. 818, s. 2. (1975, c. 306, s. 2; c. 818, s. 2.)

#### **§ 153A-225.2. Payment of medical care of prisoners.**

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

(b) Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in subsection (a) of this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.

(c) The county shall make reasonable efforts to equitably distribute prisoners among all hospitals or other appropriate health care facilities located within the same county and shall do so based upon the licensed acute care bed capacity at each of the hospitals located within the same county. Counties with more than one hospital or other appropriate health care facility shall provide semiannual reports conspicuously posted on the county's Web site that detail compliance with this section, including information on the distribution of prisoner health care services among different hospitals and health care facilities.

(d) For the purposes of this section, "requested or emergency medical care" shall include all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers

until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate. (2013-387, s. 1.)

**§ 153A-226. Sanitation and food.**

(a) The Commission for Public Health shall adopt rules governing the sanitation of local confinement facilities, including the kitchens and other places where food is prepared for prisoners. The rules shall address, but not be limited to, the cleanliness of floors, walls, ceilings, storage spaces, utensils, ventilation equipment, and other facilities; adequacy of lighting, water, lavatory facilities, bedding, food protection facilities, treatment of eating and drinking utensils, and waste disposal; methods of food preparation, handling, storage, and serving; and any other item necessary to the health of the prisoners or the public.

(b) The Commission for Public Health shall prepare a score sheet to be used by local health departments in inspecting local confinement facilities. The local health departments shall inspect local confinement facilities as often as may be required by the Commission for Public Health. If an inspector of the Department finds conditions that reflect hazards or deficiencies in the sanitation or food service of a local confinement facility, he shall immediately notify the local health department. The health department shall promptly inspect the facility. After making its inspection, the local health department shall forward a copy of its report to the Department of Health and Human Services and to the unit operating the facility, on forms prepared by the Department of Environmental Quality. The report shall indicate whether the facility and its kitchen or other place for preparing food is approved or disapproved for public health purposes. If the facility is disapproved, the situation shall be rectified according to the procedures of G.S. 153A-223. (1967, c. 581, s. 2; 1973, c. 476, s. 128; c. 822, s. 1; 1989, c. 727, s. 205; 1993, c. 262, s. 5; 1997-443, ss. 11A.113, 11A.118(a); 2007-182, s. 2; 2015-241, s. 14.30(u).)

**§ 153A-227: Repealed by Session Laws 1983, c. 745, s. 9.**

**§ 153A-228. Separation of sexes.**

Male and female prisoners shall be confined in separate facilities or in separate quarters in local confinement facilities. (1967, c. 581, s. 2; 1973, c. 822, s. 1.)

**§ 153A-229. Jailers' report of jailed defendants.**

The person having administrative control of a local confinement facility must furnish to the clerk of superior court a report listing such information reasonably at his disposal as is necessary to enable said clerk of superior court to comply with the provisions of G.S. 7A-109.1. (1973, c. 1286, s. 23; 1981, c. 522.)

Part 2B. Dignity for Women Incarcerated in Local Confinement Facilities.

**§ 153A-229.1. Definitions.**

As used in this Article, the following definitions apply:

- (1) Body cavity searches. – The probing of body orifices in search of contraband.
- (2) Escape risk. – An incarcerated person who is determined to be at high risk for escape based on an individualized risk assessment.
- (3) Facility employee. – Any person who is employed by the local government and who works at or in a local confinement facility.

- (4) Important circumstance. – There has been an individualized determination that there are reasonable grounds to believe that the female incarcerated person presents a threat of harming herself, the fetus, or any other person, or an escape risk that cannot be reasonably contained by other means, including the use of additional personnel.
- (5) Incarcerated person. – Any person incarcerated or detained in a local confinement facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.
- (6) Local confinement facility. – "Local confinement facility" includes a county or city jail, a local lockup, a regional or district jail, a juvenile detention facility, a detention facility for adults operated by a local government, and any other facility operated by a local government for confinement of persons awaiting trial or serving sentences except that it shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A of the General Statutes.
- (7) Menstrual products. – Products that women use during their menstrual cycle. These include tampons and sanitary napkins.
- (8) Postpartum recovery. – The six-week period following delivery, or longer, as determined by the health care professional responsible for the health and safety of the female incarcerated person.
- (9) Restraints. – Any physical or mechanical device used to restrict or control the movement of an incarcerated person's body, limbs, or both.
- (10) Restrictive housing. – Any type of detention that involves removal from general population and an inability to leave a room or cell for the vast majority of the day. This term shall not include any of the following:
  - a. Single-cell accommodations in facilities that provide those accommodations to all incarcerated persons.
  - b. Single-cell accommodations in facilities that provide those accommodations to all persons of a certain sex or gender.
  - c. Single-cell accommodations provided for medical reasons, except when pregnancy, alone, is the medical reason for the single-cell accommodations.
  - d. Single-cell accommodations provided when an individualized determination has been made that there are reasonable grounds to believe that there exists a threat of harm to the female incarcerated person or the fetus.
  - e. Single-cell accommodations provided at the request of the incarcerated person.
- (11) State of undress. – A situation when an incarcerated person is partially or fully naked, either in the shower, toilet areas, a medical examination room, or while having a body cavity search conducted. (2021-143, s. 3(a).)

**§ 153A-229.2. Care for female incarcerated persons related to pregnancy, childbirth, and postpartum recovery.**

(a) Limitation on Use of Restraints. – Except as otherwise provided in this subsection, facility employees shall not apply restraints on a pregnant female incarcerated person during the second and third trimester of pregnancy, during labor and delivery, and during the postpartum recovery period.

A female incarcerated person who is in the postpartum recovery period may only be restrained if a facility employee makes an individualized determination that an important circumstance exists. In this case, only wrist handcuffs held in front of the female incarcerated person's body may be used and only when she is ambulatory. The facility employee ordering use of restraints on any female incarcerated person while in the postpartum recovery period shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the use of restraints. The report shall contain the justification for restraining the female incarcerated person during postpartum recovery.

Nothing in this subsection shall prohibit the use of handcuffs or wrist restraints held in front of the female incarcerated person's body when in transport outside of the local confinement facility, except that these restraints shall not be used in transport when the female incarcerated person is in labor or is suspected to be in labor.

Nothing in this subsection shall prohibit the use of medical restraints by a licensed health care professional to ensure the medical safety of a pregnant female incarcerated person.

(b) Body Cavity Searches. – No facility employee, other than a certified health care professional, shall conduct body cavity searches of a female incarcerated person who is pregnant or in the postpartum recovery period unless the facility employee has probable cause to believe that the female incarcerated person is concealing contraband that presents an immediate threat of harm to the female incarcerated person, the fetus, or another person. In this case, the facility employee shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the body cavity search, containing the justification for the body cavity search and the presence or absence of any contraband.

(c) Nutrition. – The sheriff or the administrator of the local confinement facility shall ensure that pregnant female incarcerated persons are provided sufficient food and dietary supplements and are provided access to food at appropriate times of day, as ordered by a physician, a physician staff member, or a local confinement facility nutritionist in accordance with the guidelines for women who are pregnant or lactating as set forth in the most recent edition of Dietary Guidelines for Americans published by the United States Department of Health and Human Services and the United States Department of Agriculture. Orders by a physician or physician staff regarding dietary needs or restrictions for any particular pregnant incarcerated person shall take precedence over the Dietary Guidelines for Americans. While in the hospital, pregnant female incarcerated persons and female incarcerated persons in the postpartum recovery period shall have access to the full range of meal options provided by the hospital to ensure that each meal meets the female incarcerated person's nutritional needs.

(d) Restrictive Housing. – The sheriff or the administrator of the local confinement facility shall not place any pregnant female incarcerated person, or any female incarcerated person who is in the postpartum recovery period, in restrictive housing unless a local confinement facility employee makes an individualized determination that an important circumstance exists. In this case, the facility employee authorizing the placement of the female incarcerated person in restrictive housing shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the transfer. The report shall contain the justification for confining the female incarcerated person in restrictive housing.

(e) Bed Assignments. – The sheriff or the administrator of the local confinement facility shall not assign any female incarcerated person who is pregnant or in postpartum recovery to any bed that is elevated more than 3 feet from the floor of the local confinement facility.

(f) Cost of Care. – While a pregnant female incarcerated person is incarcerated, the pregnant female incarcerated person shall be provided necessary prenatal, labor, and delivery care as needed at no cost to the pregnant female incarcerated person.

(g) Bonding Period. – Following the delivery of a newborn by a female incarcerated person, the administrator of the local confinement facility shall permit the newborn to remain with the female incarcerated person while the female incarcerated person is in the hospital, unless the medical provider has a reasonable belief that remaining with the female incarcerated person poses a health or safety risk to the newborn.

(h) Nutritional and Hygiene Products During the Postpartum Period. – During the period of postpartum recovery, the sheriff or administrator of the local confinement facility shall make available the necessary nutritional and hygiene products, including sanitary napkins, underwear, and hygiene products for the postpartum female incarcerated person. The products shall be provided at no cost to the female incarcerated person.

(i) Reporting. – The sheriff or administrator of the local confinement facility shall compile a monthly summary of all written reports received pursuant to this section and G.S. 148-25.3. (2021-143, s. 3(a); 2022-74, s. 9K.2(b).)

### **§ 153A-229.3. Inspection by facility employees.**

(a) Inspections When a Female Incarcerated Person is in the State of Undress. – To the greatest extent practicable and consistent with safety and order in a local confinement facility, there shall be a limitation on inspections by male facility employees when a female incarcerated person is in a state of undress. Nothing in this section shall limit the ability of a male facility employee from conducting inspections when a female incarcerated person may be in a state of undress if no female facility employees are available within a reasonable period of time.

(b) Documentation Requirement. – If a male facility employee deems it is appropriate to conduct an inspection or search while a female incarcerated person is in a clear state of undress in an area such as the shower, the medical examination room, toilet areas, or while a female incarcerated person is having a body cavity search, the male local confinement facility employee shall submit a written report to the sheriff or administrator of the local confinement facility within five days following the inspection or search, containing the justification for a male facility employee to inspect the female incarcerated person while in a state of undress. (2021-143, s. 3(a).)

### **§ 153A-229.4. Access to menstrual products.**

Access to Menstrual Products. – The sheriff or the administrator of the local confinement facility shall ensure that sufficient menstrual products are available at the local confinement facility for all female incarcerated persons who have an active menstrual cycle. Female incarcerated persons who menstruate shall be provided menstrual products as needed at no cost to the female incarcerated person. (2021-143, s. 3(a).)

## Part 3. Satellite Jail/Work Release Units.

### **§ 153A-230. Legislative policy.**

The policy of the General Assembly with respect to satellite jail/work release units is:

- (1) To encourage counties to accept responsibility for incarcerated misdemeanants thereby relieving the State prison system of its misdemeanor population;
- (2) To assist counties in providing suitable facilities for certain misdemeanants who receive active sentences;
- (3) To allow more misdemeanants who are employed at the time of sentencing to retain their jobs by eliminating the time involved in processing persons through the State system;
- (4) To enable misdemeanants to pay for their upkeep while serving time, to pay restitution, to continue to support their dependents, and to remain near the communities and families to which they will return after serving their time;
- (5) To provide more appropriate, cost effective housing for certain minimum custody misdemeanants and to utilize vacant buildings where possible and suitable for renovation;
- (6) To provide a rehabilitative atmosphere for non-violent misdemeanants who otherwise would face a substantial threat of imprisonment; and
- (7) To encourage the use of alternative to incarceration programs. (1987, c. 207, s. 1.)

**§ 153A-230.1. Definitions.**

Unless otherwise clearly required by the context, the words and phrases defined in this section have the meanings indicated when used in this Part:

- (1) "Office" means the Office of State Budget and Management.
- (2) "Satellite Jail/Work Release Unit" means a building or designated portion of a building primarily designed, staffed, and used for the housing of misdemeanants participating in a work release program. These units shall house misdemeanants only, except that, if he so chooses, the Sheriff may accept responsibility from the Division of Prisons of the Department of Adult Correction for the housing of felons who do not present security risks, who have achieved work release status, and who will be employed on work release, or for felons committed directly to his custody pursuant to G.S. 15A-1352(b). These units shall be operated on a full time basis, i.e., seven days/nights a week. (1987, c. 207, s. 1; 1987, (Reg. Sess., 1988), c. 1106, s. 1; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2011-145, s. 19.1(h); 2017-186, s. 2(ggggggggg); 2021-180, s. 19C.9(p).)

**§ 153A-230.2. Creation of Satellite Jail/Work Release Unit Fund.**

(a) There is created in the Office of State Budget and Management the County Satellite Jail/Work Release Unit Fund to provide State grant funds for counties or groups of counties for construction of satellite jail/work release units for certain misdemeanants who receive active sentences. A county or group of counties may apply to the Office for a grant under this section. The application shall be in a form established by the Office. The Office shall:

- (1) Develop application and grant criteria based on the basic requirements listed in this Part,
- (2) Provide all Boards of County Commissioners and Sheriffs with the criteria and appropriate application forms, technical assistance, if requested, and a proposed written agreement,

- (3) Review all applications,
- (4) Select grantees and award grants,
- (5) Award no more than seven hundred fifty thousand dollars (\$750,000) for any one county or group of counties except that if a group of counties agrees to jointly operate one unit for males and one unit for females, the maximum amount may be awarded for each unit,
- (6) Take into consideration the potential number of misdemeanants and the percentage of the county's or counties' misdemeanor population to be diverted from the State prison system,
- (7) Take into consideration the utilization of existing buildings suitable for renovation where appropriate,
- (8) Take into consideration the timeliness with which a county proposes to complete and occupy the unit,
- (9) Take into consideration the appropriateness and cost effectiveness of the proposal,
- (10) Take into consideration the plan with which the county intends to coordinate the unit with other community service programs such as intensive supervision, community penalties, and community service.

When considering the items listed in subdivisions (6) through (10), the Office shall determine the appropriate weight to be given each item.

(b) A county or group of counties is eligible for a grant under this section if it agrees to abide by the basic requirements for satellite jail/work release units established in G.S. 153A-230.3. In order to receive a grant under this section, there must be a written agreement to abide by the basic requirements for satellite jail/work release units set forth in G.S. 153A-230.3. The written agreement shall be signed by the Chairman of the Board of County Commissioners, with approval of the Board of County Commissioners and after consultation with the Sheriff, and a representative of the Office of State Budget and Management. If a group of counties applies for the grant, then the agreement must be signed by the Chairman of the Board of County Commissioners of each county. Any variation from, including termination of, the original signed agreement must be approved by both the Office of State Budget and Management and by a vote of the Board of County Commissioners of the county or counties.

When the county or group of counties receives a grant under this section, the county or group of counties accepts ownership of the satellite jail/work release unit and full financial responsibility for maintaining and operating the unit, and for the upkeep of its occupants who comply with the eligibility criteria in G.S. 153A-230.3(a)(1). The county shall receive from the Division of Prisons of the Department of Adult Correction the amount paid to local confinement facilities under G.S. 148-32.1 for prisoners which are in the unit, but do not meet the eligibility of requirements under G.S. 153A-230.3(a)(1). (1987, c. 207, s. 1; 1987 (Reg. Sess., 1988), c. 1106, ss. 2, 3; 1989, c. 761, s. 2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2009-372, s. 7; 2011-145, s. 19.1(h); 2017-186, s. 2(hhhhhhhhh); 2021-180, s. 19C.9(p).)

**§ 153A-230.3. Basic requirements for satellite jail/work release units.**

(a) Eligibility for Unit. – The following rules shall govern which misdemeanants are housed in a satellite jail/work release unit:

- (1) Any convicted misdemeanor who:

- a. Receives an active sentence in the county or group of counties operating the unit,
  - b. Is employed in the area or can otherwise earn his keep by working at the unit on maintenance and other jobs related to upkeep and operation of the unit or by assignment to community service work, and
  - c. Consents to placement in the unit under these conditions, shall not be sent to the State prison system except by written findings of the sentencing judge that the misdemeanor is violent or otherwise a threat to the public and therefore unsuitable for confinement in the unit.
- (2) The County shall offer work release programs to both male and female misdemeanants, through local facilities for both, or through a contractual agreement with another entity for either, provided that such arrangement is in reasonable proximity to the misdemeanor's workplace.
  - (3) The sentencing judge shall make a finding of fact as to whether the misdemeanor is qualified for occupancy in the unit pursuant to G.S. 15A-1352(a). If the sentencing judge determines that the misdemeanor is qualified for occupancy in the unit and the misdemeanor meets the requirements of subdivision (1), then the custodian of the local confinement facility may transfer the misdemeanor to the unit. If at any time either prior to or after placement of an inmate into the unit the Sheriff determines that there is an indication of violence, unsuitable behavior, or other threat to the public that could make the prisoner unsuitable for the unit, the Sheriff may place the prisoner in the county jail.
  - (4) The Sheriff may accept work release misdemeanants from other counties provided that those inmates agree to pay for their upkeep, that space is available, and that the Sheriff is willing to accept responsibility for the prisoner after screening.
  - (5) The Sheriff may accept work release misdemeanants or felons from the Division of Prisons of the Department of Adult Correction provided that those inmates agree to pay for their upkeep, that space is available, and that the Sheriff is willing to accept responsibility for the prisoner after screening.

(a1) Non-eligible for unit. – If the sentencing judge finds that the misdemeanor does not meet the eligibility criteria set forth in G.S. 135A-230.3(a)(1)b, but is otherwise eligible for placement in the unit, then the Sheriff may transfer the misdemeanor from the local confinement facility to the unit if the misdemeanor meets the eligibility criteria at a later date. The Sheriff may also transfer prisoners who were placed in the unit pursuant to G.S. 148-32.1(b) to the local confinement facility when space becomes available.

(b) Operation of Satellite Jail/Work Release Unit. – A county or group of counties operating a satellite jail/work release unit shall comply with the following requirements concerning operation of the unit:

- (1) The county shall make every effort to ensure that at least eighty percent (80%) of the unit occupants shall be employed and on work release, and that the remainder shall earn their keep by working at the unit on maintenance and other jobs related to the upkeep and operation of the unit or by assignment to community service work, and that alcohol and drug rehabilitation be available through community resources.



- (2) The county shall require the occupants to give their earnings, less standard payroll deduction required by law and premiums for group health insurance coverage, to the Sheriff. The county may charge a per day charge from those occupants who are employed or otherwise able to pay from other resources available to the occupants. The per day charge shall be calculated based on the following formula: The charge shall be either the amount that the Division of Prisons of the Department of Adult Correction deducts from a prisoner's work-release earnings to pay for the cost of the prisoner's keep or fifty percent (50%) of the occupant's net weekly income, whichever is greater, but in no event may the per day charge exceed an amount that is twice the amount that the Division of Prisons of the Department of Adult Correction pays each local confinement facility for the cost of providing food, clothing, personal items, supervision, and necessary ordinary medical expenses. The per day charge may be adjusted on an individual basis where restitution and/or child support has been ordered, or where the occupant's salary or resources are insufficient to pay the charge.

The county also shall accumulate a reasonable sum from the earnings of the occupant to be returned to him when he is released from the unit. The county also shall follow the guidelines established for the Division of Prisons of the Department of Adult Correction in G.S. 148-33.1(f) for determining the amount and order of disbursements from the occupant's earnings.

- (3) Any and all proceeds from daily fees shall belong to the county's General Fund to aid in offsetting the operation and maintenance of the satellite unit.
- (4) The unit shall be operated on a full-time basis, i.e., seven days/nights a week, but weekend leave may be granted by the Sheriff. In granting weekend leave, the Sheriff shall follow the policies and procedures of the Division of Prisons of the Department of Adult Correction for granting weekend leave for Level 3 minimum custody inmates.
- (5) Earned time shall be applied to these county prisoners in the same manner as prescribed in G.S. 15A-1340.20 and G.S. 148-13 for State prisoners.
- (6) The Sheriff shall maintain complete and accurate records on each inmate. These records shall contain the same information as required for State prisoners that are housed in county local confinement facilities. (1987, c. 207, s. 1; 1987 (Reg. Sess., 1988), c. 1106, ss. 4, 5; 1989, c. 761, ss. 4, 7; 1993 (Reg. Sess., 1994), c. 767, s. 3; 2011-145, s. 19.1(h); 2017-186, s. 2(iiiiiiii); 2021-180, s. 19C.9(p).)

#### **§ 153A-230.4. Standards.**

The county satellite jail/work release units for misdemeanants shall not be subject to the standards promulgated for local confinement facilities pursuant to G.S. 153A-221. The Secretary of Health and Human Services shall develop and enforce standards for satellite/work release units. The Secretary shall take into consideration that they are to house only screened misdemeanants most of whom are on work release and therefore occupy the premises only in their off-work hours. After consultation with the North Carolina Sheriff's Association, the North Carolina Association of County Commissioners, and the Joint Legislative Commission on Governmental Operations, the Secretary of Health and Human Services shall promulgate standards suitable for these units by January 1, 1988, and shall include these units in the Department's monitoring and inspection

responsibilities. Further, the North Carolina Sheriffs' Education and Training Standards Commission shall include appropriate training for Sheriffs and other county law enforcement personnel in regard to the operation, management and guidelines for county work release centers pursuant to its authority under G.S. 17E-4. (1987, c. 207, s. 1; 1987 (Reg. Sess., 1988), c. 1106, s. 6; 1997-443, s. 11A.118(a).)

**§ 153A-230.5. Satellite jails/work release units built with non-State funds.**

(a) If a county is operating a satellite jail/work release unit prior to the enactment of this act, the county may apply to the Office of State Budget and Management for grant funds to recover any verifiable construction or renovation costs for those units and for improvement funds except that the total for reimbursement and improvement shall not exceed seven hundred fifty thousand dollars (\$750,000). Any county accepting such a grant or any other State monies for county satellite jails must agree to all of the basic requirements listed in G.S. 153A-230.2 and G.S. 153A-230.3.

(b) If a county operates a non-State funded satellite jail/work release unit that does not comply with the basic requirements listed in G.S. 153A-230.2 and G.S. 153A-230.3, then the satellite jail shall be subject to the standards, rules, and regulations to be promulgated by the Secretary of Health and Human Services pursuant to Part 2 of Article 10 of Chapter 153A. If a county is reimbursed for the cost of a prisoner's keep from an inmate's work release earnings in an amount equal to or greater than that paid by the Division of Prisons of the Department of Adult Correction to local confinement facilities under G.S. 148-32.1, the county may not receive additional payments from the Division for the cost of a prisoner's keep. However, if reimbursement to the county for the cost of a prisoner's keep is less than the amount allowed under G.S. 148-32.1, the county may receive from the Division of Prisons of the Department of Adult Correction the difference in the amount received from work release earnings and the amount paid by the Division to local confinement facilities. The Division may promulgate rules regarding such payment arrangements. (1987, c. 207, s. 1; 1987 (Reg. Sess., 1988), c. 1106, s. 7; 1989, c. 761, s. 5; 1997-443, s. 11A.118(a); 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2011-145, s. 19.1(h); 2017-186, s. 2(jjjjjjjj); 2021-180, s. 19C.9(p).)

**§§ G.S. 153A-231 through 153A-232. Reserved for future codification purposes.**