

§ 148-64.1. Early conditional release of inmates subject to a removal order; revocation of release.

(a) Eligibility for Early Release. – Notwithstanding any other provision of law, the Post-Release Supervision and Parole Commission may conditionally release an inmate into the custody and control of United States Immigration and Customs Enforcement if all of the following requirements are satisfied:

- (1) The Division of Prisons of the Department of Adult Correction has received a final order of removal for the inmate from United States Immigration and Customs Enforcement.
- (2) The inmate was convicted of a nonviolent criminal offense and is incarcerated for that offense. If the inmate was convicted of and is incarcerated for more than one offense, then all of the offenses of which the inmate was convicted and is incarcerated must be nonviolent criminal offenses. As used in this subdivision, the term "nonviolent criminal offense" means a conviction for an impaired driving offense or a felony violation of any of the following:
 - a. G.S. 14-54.
 - b. G.S. 14-56.
 - c. G.S. 14-71.1.
 - d. G.S. 14-100, where the thing of value is less than one hundred thousand dollars (\$100,000).
 - e. G.S. 90-95(d)(4).
- (3) The inmate has served at least half of the minimum sentence imposed by the court or, in the case of an inmate convicted of an impaired driving offense under G.S. 20-138.1, the inmate has met all of the parole eligibility requirements under G.S. 15A-1371, notwithstanding G.S. 20-179(p)(3).
- (4) The inmate was not convicted of an impaired driving offense resulting in death or serious bodily injury, as that term is defined in G.S. 14-32.4.
- (5) The inmate agrees not to reenter the United States unlawfully.

(b) Release Is Discretionary. – The decision to release an inmate once the requirements of subsection (a) of this section are satisfied is in the sole, unappealable discretion of the Post-Release Supervision and Parole Commission.

(c) Return of Inmates. – In the event that the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the Division of Prisons of the Department of Adult Correction to serve the remainder of the original sentence.

(d) Unlawful Reentry Constitutes Violation. – An inmate released pursuant to this section who returns unlawfully and willfully to the United States violates the conditions of the inmate's early release.

(e) Arrest Authority. – An inmate who violates the conditions of the inmate's early release is subject to arrest by a law enforcement officer.

(f) Effect of Violation. – Upon notification from any federal or state law enforcement agency that the inmate is in custody, and after notice and opportunity to be heard, the Post-Release Supervision and Parole Commission shall revoke the inmate's release and reimprison the inmate for a period equal to the inmate's maximum sentence minus time already served by the inmate upon a finding that an inmate has violated the conditions of the inmate's early release.

(g) Violators Ineligible for Future Release. – Upon revocation of release under this subsection, the inmate shall not be eligible for any future release under this section or for any other release from confinement, other than post-release supervision, until the remainder of the

sentence of imprisonment is served. (2008-199, s. 3; 2011-145, s. 19.1(h); 2017-186, s. 2(kkkkkkkk); 2021-180, s. 19C.9(p).)