

§ 148-45. Escaping or attempting escape from State prison system; failure of conditionally and temporarily released prisoners and certain youthful offenders to return to custody of Division of Prisons of the Department of Adult Correction.

(a) Any person in the custody of the Division of Prisons of the Department of Adult Correction in any of the classifications hereinafter set forth who shall escape from the State prison system, shall for the first such offense, except as provided in subsection (g) of this section, be guilty of a Class 1 misdemeanor:

- (1) A prisoner serving a sentence imposed upon conviction of a misdemeanor;
- (2) A person who has been charged with a misdemeanor and who has been committed to the custody of the Division of Prisons of the Department of Adult Correction under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 4.
- (4) A person who shall have been convicted of a misdemeanor and who shall have been committed to the Division of Prisons of the Department of Adult Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c).

(b) Any person in the custody of the Division of Prisons of the Department of Adult Correction, in any of the classifications hereinafter set forth, who shall escape from the State prison system, shall, except as provided in subsection (g) of this section, be punished as a Class H felon:

- (1) A prisoner serving a sentence imposed upon conviction of a felony;
- (2) A person who has been charged with a felony and who has been committed to the custody of the Division of Prisons of the Department of Adult Correction under the provisions of G.S. 162-39;
- (3) Repealed by Session Laws 1985, c. 226, s. 5.
- (4) A person who shall have been convicted of a felony and who shall have been committed to the Division of Prisons of the Department of Adult Correction for presentence diagnostic study under the provisions of G.S. 15A-1332(c); or
- (5) Any person previously convicted of escaping or attempting to escape from the State prison system.

(c) Repealed by Session Laws 1979, c. 760, s. 5.

(d) Any person who aids or assists other persons to escape or attempt to escape from the State prison system shall be guilty of a Class 1 misdemeanor.

(e) Repealed by Session Laws 1983, c. 465, s. 5.

(f) Any person convicted of an escape or attempt to escape classified as a felony by this section shall be immediately classified and treated as a convicted felon even if such person has time remaining to be served in the State prison system on a sentence or sentences imposed upon conviction of a misdemeanor or misdemeanors.

(g) (1) Any person convicted and in the custody of the Division of Prisons of the Department of Adult Correction and ordered or otherwise assigned to work under the work-release program, G.S. 148-33.1, or any convicted person in the custody of the Division of Prisons of the Department of Adult Correction and temporarily allowed to leave a place of confinement by the Secretary of the Department of Adult Correction or his designee or other authority of law, who shall fail to return to the custody of the Division of Prisons of the Department of Adult Correction, shall be guilty of the crime of escape and subject to the applicable provisions of this section and shall be deemed an escapee. For the purpose of this subsection, escape is defined to include, but is not restricted to, willful failure to return to an appointed place and at an appointed time as ordered.

- (2) If a person, who would otherwise be guilty of a first violation of G.S. 148-45(g)(1), voluntarily returns to his place of confinement within 24 hours of the time at which he was ordered to return, such person shall not be charged with an escape as provided in this section but shall be subject to such administrative action as may be deemed appropriate for an escapee by the Division of Prisons of the Department of Adult Correction; said escapee shall not be allowed to be placed on work release for a four-month period or for the balance of his term if less than four months; provided, however, that if such person commits a subsequent violation of this section then such person shall be charged with that offense and, if convicted, punished under the provisions of this section. (1933, c. 172, s. 26; 1955, c. 279, s. 2; 1963, c. 681; 1965, c. 283; 1967, c. 996, s. 13; 1973, c. 1120; c. 1262, s. 10; 1975, cc. 170, 241, 705; c. 770, ss. 1, 2; 1977, c. 732, ss. 3, 4; c. 745; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1; c. 179, s. 14; 1983, c. 465, ss. 1-5; 1985, c. 226, ss. 3(4)-6; 1993, c. 539, ss. 1058, 1321, 1322; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 19.25(t); 2011-145, s. 19.1(h), (i); 2012-83, s. 61; 2017-186, s. 2(eeeeeeee); 2021-180, s. 19C.9(o), (p).)