



*State of North Carolina  
Department of Public Safety  
Prisons*

Chapter: Q  
Section: .0400  
Title: **Extension of Limits of  
Confinement**  
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***POLICY AND PROCEDURE***

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**.0401 PURPOSE**

The Secretary of the Department of Public Safety may extend the limits of confinement for a terminally ill or permanently and totally disabled offender to receive palliative care. This extension of the limits of confinement will be for a prescribed period of time and the offender may be unaccompanied by a custodial agent

**.0402 TERMINALLY ILL OR PERMANENTLY AND TOTALLY DISABLED  
OFFENDERS**

- (a) To be eligible for an extension of the limits of confinement under this provision, the following conditions must be met:
- (1) A Department of Public Safety, Prisons physician determines that the offender is “terminally ill” or “permanently and totally disabled”. For the purposes of this policy, “terminally ill” is defined as a condition caused by an illness or disease that causes physical incapacitation and will likely produce death within six months and is so debilitating that it is highly unlikely that the offender poses a significant public safety risk. For the purposes of this policy, “permanently and totally disabled” is defined as permanent and irreversible physical incapacitation as a result of an existing physical or medical condition.
  - (2) The illness or disease was unknown at the time of sentencing and was not diagnosed upon entry to prison.
  - (3) The Department’s medical director shall notify the Secretary immediately when an offender is classified as terminally ill and shall provide regular reports on offenders classified as permanently and totally disabled. For those offenders diagnosed as terminally ill, information should be available to the Secretary within 10 working days so a final determination can be made within 30 days of notification.
  - (4) The offender must be in minimum custody.
  - (5) The Secretary of the Department of Public Safety determines that the offender no longer poses a significant public safety risk.
  - (6) The offender must be pre-certified for acceptance into Hospice or to receive

similar palliative care in the community. The Department of Public Safety, Prisons will assume no financial cost associated with care or treatment for those offenders whose limits of confinement are extended under these provisions. DOP Health Services will investigate the possibility of community resources for provision of needed care.

- (7) If conditions described in items (1) through (4) of this section, C.2202, are met, DOC Victim Services will be notified. Victim Services will make reasonable efforts to contact registered victims. If no victims are registered, Victim Services will contact the District Attorney's office in the sentencing county in an attempt to locate victim information. The contact by Victim Services for consultation with the victim will be by telephone. If no telephone number is available, a letter will be sent to the victims or victim's families seeking their input. Victim Services will explain that the offender is being considered for an extension of the limits of confinement based on the general statute. The specifics of General Statute 148-4 will be provided to the victims or families of the victims and a request for their input for consideration in the review process will be made. The confidentiality of the offender's health condition must be maintained, therefore, no specifics regarding the offender's health status may be released. Victim Services will document the details of the consultation and victim input on the OR07 OPUS screen. The confidentiality of the victim input shall be maintained. In any case in which a victim has been contacted for input, they will be notified by Victim Services of the outcome once a final decision has been reached. If an offender is granted an extension of the limits of confinement under this provision the victim will be notified by the Office of Victim Services if the offender is returned to custody or if the offender dies.
- (8) Prisons may request that the offender be electronically monitored by Community Corrections. Community Corrections will immediately notify Prisons if the offender leaves the authorized place of confinement. Failure to comply with the terms of the agreement of the extension of the limits of confinement will result in the offender's return to custody. The failure of an offender to remain within the extended limits of his/her place of confinement, or failure to return to custody if so instructed shall be deemed an escape from Prisons.
- (9) Extensions of the limits of confinement will be granted in ninety-day intervals. The extension of the limits of confinement will be re-evaluated every ninety days and a decision will be made regarding whether an additional extension is to be granted or if the offender needs to be returned to custody. Factors to include in the evaluation include changes in the offender's medical condition and violations of the terms of the agreement.
- (10) The Secretary of the Department of Public Safety or designee may at any time return an offender to custody that has been granted an extension of the limits of confinement.

- (b) Procedures for Administration of Extension of Limits of Confinement Under This Provision:
- (1) A request to consider an **offender** for an extension of the limits of confinement under this provision may come from any source. Any such request would be referred to the Facility Head at the prison housing the **offender**. The Facility Head should review the request in accordance with these guidelines and, if appropriate, refer the request to a Department of **Public Safety, Prisons** physician. The Department of **Public Safety, Prisons** physician, who may also initiate a request for a review of a specific case, will conduct an evaluation for an initial determination as to whether or not the **offender** meets the criteria to be designated as terminally ill or permanently and totally disabled. If the physician determines that the **offender** is terminally ill or permanently and totally disabled in accordance with these guidelines, the physician will request a review by the **Assistant** Director of Health Services.
  - (2) The **Assistant** Director of Health Services will review the case and make a determination as to whether or not the **offender** meets the criteria established to designate the **offender** as terminally ill or permanently and totally disabled.
  - (3) The **Assistant** Director of Health Services will refer the case of an **offender** identified as terminally ill or permanently and totally disabled to the Director of Prisons.
  - (4) The Director of Prisons or designee will review the case and determine whether or not to refer the matter for investigation. If the decision is to continue the investigation, the Director of Prisons or designee will determine whether the **offender** poses a threat to the community.
  - (5) At the same time the **offender's** threat to the community is being evaluated, **Prisons** Health Services will investigate the possibility of the **offender's** pre-certification for acceptance into Hospice or to receive similar palliative care in the community. **Prisons** Health Services will investigate the possibility of community resources for provision of needed care, since the Department of **Public Safety, Prisons** will assume no financial cost associated with this care.
  - (6) **Prisons** Health Services will notify the Director of Prisons or designee regarding the outcome of the investigation for palliative care. If pre-certification is not obtained, the case will be denied.
  - (7) If the **offender** is pre-certified for acceptance into palliative care, the Director of Prisons or designee will refer the case to the Office of Victim Services.
  - (8) Victim Services will seek to contact the victims or victim's families, explain that the **offender** is being considered for an extension of the limits of confinement, provide the specifics of General Statute 148-4 and seek their input for

consideration in the review process.

- (9) Victim Services will relay the input from the victim, if any, to the Director of Prisons.
- (10) The Director of Prisons will make a recommendation to the Secretary of **Public Safety**. The Secretary of the Department of **Public Safety** will make a final decision regarding the case and will notify the Director of Prisons, the Director of the Community Correction and Victim Services. The Director of Prisons will notify **Prisons** Health Services and the Facility Head. Victim Services will notify the victim concerning the final decision of the Secretary of **Public Safety**.
- (11) If the **offender** is approved for an extension of the limits of confinement to a location that is not in close proximity to the prison facility housing the **offender** then arrangements should be made to have the closest prison facility to the palliative care facility to be the responsible facility, to include, handling the agreement for the extension of the limits of confinement and checking on the **offender**. That facility becomes the responsible facility for the **offender**.
- (12) The **offender** will sign an agreement for the extension of the limits of confinement at the facility he/she is housed at. If the **offender** is mentally ill, comatose or otherwise unable to sign the agreement, the **offender's** guardian or individual with the power of attorney will sign for the **offender**. The **offender**, their guardian, the individual with the power of attorney, and medical professional responsible for the palliative care of the **offender** must promptly notify the Facility Head of significant changes in the **offender's** medical condition or in the circumstances of the extended limits of confinement.
- (13) The agreement will be granted in ninety-day intervals. The Facility Head will ensure that a re-evaluation occurs every ninety days. The Facility Head will make a recommendation and the final decision regarding the extension will be made by the Director of Prisons or designee. The facility responsible for the offender should make weekly unannounced checks to ensure compliance with the terms of the agreement for the extension of the limits of confinement.
- (14) The Division of Prisons may request that Community Correction electronically monitor the **offender**. Community Correction will immediately notify the Facility Head if the **offender** leaves the authorized place of confinement or if **Community Correction** determines that the **offender** has tampered with the monitoring equipment. The Facility Head will then immediately return the **offender** to custody.

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Commissioner of Prisons

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10/29/2021

Review Date