

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 513
Judiciary I Committee Substitute Adopted 4/1/09
Third Edition Engrossed 4/7/09
House Committee Substitute Favorable 6/16/09
Fifth Edition Engrossed 7/6/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S513-PCS35367-RK-88

Short Title: Notice of Hearing/Unsupervised Probation.

(Public)

Sponsors:

Referred to:

March 11, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE SERVICE BY MAIL OF NOTICES OF HEARINGS ON
3 VIOLATIONS OF UNSUPERVISED PROBATION, CLARIFYING PROCEDURES FOR
4 COMMUNITY SERVICE STAFF NOTIFYING PERSONS OF WILLFUL
5 VIOLATIONS, AND TO CLARIFY THE COURT'S AUTHORITY WHEN A NOTICE
6 OF VIOLATION OF UNSUPERVISED PROBATION IS SERVED BY MAIL.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 15A-1344 is amended by adding a new subsection to read:

9 "(b1) Service of Notice of Hearing on Violation of Unsupervised Probation. –

10 (1) Notice of a hearing in response to a violation of unsupervised probation shall
11 be given either by personal delivery to the person to be notified or by
12 depositing the notice in the United States mail in an envelope with postage
13 prepaid, addressed to the person at the last known address available to the
14 preparer of the notice and reasonably believed to provide actual notice to the
15 offender. The notice shall be mailed at least 10 days prior to any hearing and
16 shall state the nature of the violation.

17 (2) If notice is given by depositing the notice in the United States mail, pursuant
18 to subdivision (1) of this subsection, and the defendant does not appear at the
19 hearing, the court may do either of the following:

20 a. Terminate the probation and enter appropriate orders for the
21 enforcement of any outstanding monetary obligations as otherwise
22 provided by law.

23 b. Provide for other notice to the person as authorized by this Chapter
24 for further proceedings and action authorized by Article 82 of
25 Chapter 15A of the General Statutes for a violation of a condition of
26 probation.

27 If the person is present at the hearing, the court may take any further action
28 authorized by Article 82 of Chapter 15A of the General Statutes for a
29 violation of a condition of probation."

30 **SECTION 2.** G.S. 143B-262.4(f) reads as rewritten:



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1 "(f) The community service staff shall report to the court in which the community
2 service was ordered, a significant violation of the terms of the probation, or deferred
3 prosecution, related to community service. The community service staff shall give notice of the
4 hearing to determine if there is a willful failure to comply to the person who was ordered to
5 perform the community service. This notice shall be given by either personal delivery to the
6 person to be notified or by depositing the notice in the United States mail in an envelope with
7 postage prepaid, addressed to the person at the last known address available to the preparer of
8 the notice and reasonably believed to provide actual notice to the person. ~~address shown on the~~
9 ~~records of the community service staff.~~ The notice shall be mailed at least 10 days prior to any
10 hearing and shall state the basis of the alleged willful failure to comply. The court shall then
11 conduct a hearing, even if the person ordered to perform the community service fails to appear,
12 to determine if there is a willful failure to complete the work as ordered by the community
13 service staff within the applicable time limits. If the court determines there is a willful failure to
14 comply, it shall revoke any drivers [driver's] license issued to the person and notify the
15 Division of Motor Vehicles to revoke any drivers [driver's] license issued to the person until the
16 community service requirement has been met. In addition, if the person is present, the court
17 may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for
18 violation of a condition of probation."

19 **SECTION 3.** This act becomes effective December 1, 2009.