

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 851*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S851-PCS35369-RD-75

Short Title: Supervision of Certain Defendants.

(Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW DISTRICT COURTS TO SUPERVISE DEFENDANTS CONVICTED
IN SUPERIOR COURT WHO ARE ASSIGNED TO DRUG TREATMENT COURTS OR
THERAPEUTIC COURTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-271 is amended by adding a new subsection to read:

"(f) The superior court has exclusive jurisdiction over all hearings to revoke probation pursuant to G.S. 15A-1345(e) in which the district court is supervising a drug treatment court or a therapeutic court probation judgment under G.S. 7A-272(e), except that the district court has jurisdiction to conduct the revocation proceedings when the chief district court judge and the senior resident superior court judge agree that it is in the interest of justice that the proceedings be conducted by the district court. If the district court exercises jurisdiction under this subsection to revoke probation, appeal of an order revoking probation is to the appellate division."

SECTION 2. G.S. 7A-272 is amended by adding two new subsections to read:

"(e) With the consent of the chief district court judge and the senior resident superior court judge, the district court has jurisdiction to preside over the supervision of a probation judgment entered in superior court in which the defendant is required to participate in a drug treatment court pursuant to G.S. 15A-1343(b1)(2b) or a therapeutic court, as defined in subsection (f) of this section, or is participating in the drug treatment court pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2). The district court may modify or extend the probation judgment, but jurisdiction to revoke probation supervised under this subsection is as provided in G.S. 7A-271(f).

"(f) As used in subsection (e) of this section, the term "therapeutic court" refers to a court, other than drug treatment court established pursuant to Article 62 of Chapter 7A of the General Statutes, in which a criminal defendant, either as a condition of probation or pursuant to a deferred prosecution agreement under G.S. 15A-1341, is ordered to participate in specified activities designed to address underlying problems of substance abuse and mental illness that contribute to the person's criminal activity. The ordered activities shall, at a minimum, require the person to participate in treatment and attend regular court sessions of the therapeutic court over an extended period of time. The senior resident superior court judge and the chief district court judge shall agree in writing that the therapeutic court is being established and shall file the written agreement with the Administrative Office of the Courts before jurisdiction established by subsection (e) of this section may be exercised by the district court."



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1 **SECTION 3.** G.S. 15A-1344(a) reads as rewritten:

2 "(a) Authority to Alter or Revoke. – Except as provided in subsection (a1) or (b),
3 probation may be reduced, terminated, continued, extended, modified, or revoked by any judge
4 entitled to sit in the court which imposed probation and who is resident or presiding in the
5 district court district as defined in G.S. 7A-133 or superior court district or set of districts as
6 defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed,
7 where the probationer violates probation, or where the probationer resides. Upon a finding that
8 an offender sentenced to community punishment under Article 81B has violated one or more
9 conditions of probation, the court's authority to modify the probation judgment includes the
10 authority to require the offender to comply with conditions of probation that would otherwise
11 make the sentence an intermediate punishment. The district attorney of the prosecutorial district
12 as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of
13 any hearing to affect probation substantially."

14 **SECTION 4.** G.S. 15A-1344 is amended by adding a new subsection to read:

15 "(a1) Authority to Supervise and Revoke Probation in Drug Treatment Court or
16 Therapeutic Court. – Jurisdiction to supervise, modify, and revoke probation imposed in cases
17 in which the offender is required to participate in a drug treatment court or a therapeutic court
18 is as provided in G.S. 7A-272(e) and (f) and G.S. 7A-271(f). Proceedings to modify or revoke
19 probation in these cases must be held in the county in which the drug treatment court or
20 therapeutic court is located."

21 **SECTION 5.** This act becomes effective October 1, 2009, and applies to probation
22 judgments entered or deferred prosecution agreements executed on or after that date.