

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 859
PROPOSED COMMITTEE SUBSTITUTE H859-PCS30370-RD-34

Short Title: Amend Conditions of Probation.

(Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING THE CONDITIONS OF PROBATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b) reads as rewritten:

"(b) Regular Conditions. – As regular conditions of probation, a defendant must:

- (1) Commit no criminal offense in any jurisdiction.
- (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
- (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
- (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
- (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
- (6) Pay a supervision fee as specified in subsection (c1).
- (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.
- (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
- (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
- (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.



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- 1 (11) ~~At a time to be designated by his probation officer, visit with his probation~~
2 ~~officer a facility maintained by the Division of Prisons.~~
- 3 (12) Attend and complete an abuser treatment program if (i) the court finds the
4 defendant is responsible for acts of domestic violence and (ii) there is a
5 program, approved by the Domestic Violence Commission, reasonably
6 available to the defendant, unless the court finds that such would not be in
7 the best interests of justice.
- 8 (13) Submit at reasonable times to warrantless searches by a probation officer of
9 his or her person and of his or her vehicle and premises while the
10 probationer is present, for purposes specified by the court and reasonably
11 related to his or her probation supervision, but the probationer may not be
12 required to submit to any other search that would otherwise be unlawful.
13 Whenever the warrantless search consists of testing for the presence of
14 illegal drugs, the probationer may also be required to reimburse the
15 Department of Correction for the actual cost of drug screening and drug
16 testing, if the results are positive.
- 17 (14) Not use, possess, or control any illegal drug or controlled substance unless it
18 has been prescribed for him or her by a licensed physician and is in the
19 original container with the prescription number affixed on it; not knowingly
20 associate with any known or previously convicted users, possessors, or
21 sellers of any such illegal drugs or controlled substances; and not knowingly
22 be present at or frequent any place where such illegal drugs or controlled
23 substances are sold, kept, or used.

24 A defendant shall not pay costs associated with a substance abuse monitoring program or
25 any other special condition of probation in lieu of, or prior to, the payments required by this
26 subsection.

27 In addition to these regular conditions of probation, a defendant required to serve an active
28 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or
29 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and
30 regulations of the Department of Correction governing the conduct of inmates while
31 imprisoned and report to a probation officer in the State of North Carolina within 72 hours of
32 his discharge from the active term of imprisonment.

33 Regular conditions of probation apply to each defendant placed on supervised probation
34 unless the presiding judge specifically exempts the defendant from one or more of the
35 conditions in open court and in the judgment of the court. It is not necessary for the presiding
36 judge to state each regular condition of probation in open court, but the conditions must be set
37 forth in the judgment of the court.

38 Defendants placed on unsupervised probation are subject to the provisions of this
39 subsection, except that defendants placed on unsupervised probation are not subject to the
40 regular conditions contained in subdivisions (2), (3), (6), (8), and (11)."

41 **SECTION 2.** G.S. 15A-1343(b1) reads as rewritten:

42 "(b1) Special Conditions. – In addition to the regular conditions of probation specified in
43 subsection (b), the court may, as a condition of probation, require that during the probation the
44 defendant comply with one or more of the following special conditions:

- 45 (1) Undergo available medical or psychiatric treatment and remain in a specified
46 institution if required for that purpose.
- 47 (2) Attend or reside in a facility providing rehabilitation, counseling, treatment,
48 social skills, or employment training, instruction, recreation, or residence for
49 persons on probation.
- 50 (2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15,
51 2002.

- 1 (2b) Participate in and successfully complete a Drug Treatment Court Program
2 pursuant to Article 62 of Chapter 7A of the General Statutes.
- 3 (3) Submit to imprisonment required for special probation under
4 G.S. 15A-1351(a) or G.S. 15A-1344(e).
- 5 (3a) Repealed by Session Laws 1997-57, s. 3.
- 6 (3b) Submit to supervision by officers assigned to the Intensive Supervision
7 Program established pursuant to G.S. 143B-262(c), and abide by the rules
8 adopted for that Program. Unless otherwise ordered by the court, intensive
9 supervision also requires multiple contacts by a probation officer per week, a
10 specific period each day during which the offender must be at his or her
11 residence, and that the offender remain gainfully and suitably employed or
12 faithfully pursue a course of study or of vocational training that will equip
13 the offender for suitable employment.
- 14 (3c) Remain at his or her residence unless the court or the probation officer
15 authorizes the offender to leave for the purpose of employment, counseling,
16 a course of study, or vocational training. The offender shall be required to
17 wear a device which permits the supervising agency to monitor the
18 offender's compliance with the condition electronically and to pay a fee for
19 the device as specified in subsection (c2) of this section.
- 20 (4) Surrender his or her driver's license to the clerk of superior court, and not
21 operate a motor vehicle for a period specified by the court.
- 22 (5) Compensate the Department of Environment and Natural Resources or the
23 North Carolina Wildlife Resources Commission, as the case may be, for the
24 replacement costs of any marine and estuarine resources or any wildlife
25 resources which were taken, injured, removed, harmfully altered, damaged
26 or destroyed as a result of a criminal offense of which the defendant was
27 convicted. If any investigation is required by officers or agents of the
28 Department of Environment and Natural Resources or the Wildlife
29 Resources Commission in determining the extent of the destruction of
30 resources involved, the court may include compensation of the agency for
31 investigative costs as a condition of probation. This subdivision does not
32 apply in any case governed by G.S. 143-215.3(a)(7).
- 33 (6) Perform community or reparation service and pay any fee required by law or
34 ordered by the court for participation in the community or reparation service
35 program.
- 36 ~~(7) Submit at reasonable times to warrantless searches by a probation officer of
37 his or her person and of his or her vehicle and premises while the
38 probationer is present, for purposes specified by the court and reasonably
39 related to his or her probation supervision, but the probationer may not be
40 required to submit to any other search that would otherwise be unlawful.
41 Whenever the warrantless search consists of testing for the presence of
42 illegal drugs, the probationer may also be required to reimburse the
43 Department of Correction for the actual cost of drug screening and drug
44 testing, if the results are positive.~~
- 45 ~~(8) Not use, possess, or control any illegal drug or controlled substance unless it
46 has been prescribed for him or her by a licensed physician and is in the
47 original container with the prescription number affixed on it; not knowingly
48 associate with any known or previously convicted users, possessors or
49 sellers of any such illegal drugs or controlled substances; and not knowingly
50 be present at or frequent any place where such illegal drugs or controlled
51 substances are sold, kept, or used.~~

- 1 (8a) Purchase the least expensive annual statewide license or combination of
2 licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5,
3 113-271, 113-272, and 113-272.2 that would be required to engage lawfully
4 in the specific activity or activities in which the defendant was engaged and
5 which constitute the basis of the offense or offenses of which he was
6 convicted.
- 7 (9) If the offense is one in which there is evidence of physical, mental or sexual
8 abuse of a minor, the court should encourage the minor and the minor's
9 parents or custodians to participate in rehabilitative treatment and may order
10 the defendant to pay the cost of such treatment.
- 11 (9a) Repealed by Session Laws 2004-186, s. 1.1, effective December 1, 2004,
12 and applicable to offenses committed on or after that date.
- 13 (10) Satisfy any other conditions determined by the court to be reasonably related
14 to his rehabilitation."
- 15 **SECTION 3.** This act becomes effective December 1, 2009, and applies to persons
16 sentenced to probation on or after that date.