

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 270
PROPOSED COMMITTEE SUBSTITUTE H270-PCS11098-SA-8

Short Title: Amend Conditions of Probation.

(Public)

Sponsors:

Referred to:

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW ESTABLISHING THE REGULAR AND SPECIAL
CONDITIONS OF PROBATION AND TO REPEAL THE LAW TOLLING THE
PROBATION PERIOD WHILE CRIMINAL CHARGES ARE PENDING THAT MIGHT
RESULT IN REVOCATION PROCEEDINGS.

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~~ accessible to the probation officer by making the defendant's whereabouts known to the officer at all times and not leave the county of residence or the State of North Carolina 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.



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- 1 (9) Pay the costs of court, any fine ordered by the court, and make restitution or
2 reparation as provided in subsection (d).
- 3 (10) Pay the State of North Carolina for the costs of appointed counsel, public
4 defender, or appellate defender to represent him in the case(s) for which he
5 was placed on probation.
- 6 ~~(11) At a time to be designated by his probation officer, visit with his probation~~
7 ~~officer a facility maintained by the Division of Prisons.~~
- 8 (12) Attend and complete an abuser treatment program if (i) the court finds the
9 defendant is responsible for acts of domestic violence and (ii) there is a
10 program, approved by the Domestic Violence Commission, reasonably
11 available to the defendant, unless the court finds that such would not be in
12 the best interests of justice.
- 13 (13) Submit at reasonable times to warrantless searches by a probation officer of
14 the probationer's person and of the probationer's vehicle and premises while
15 the probationer is present, for purposes directly related to the probation
16 supervision, but the probationer may not be required to submit to any other
17 search that would otherwise be unlawful. ~~Whenever the warrantless search~~
18 ~~consists of testing for the presence of illegal drugs, the probationer may also~~
19 ~~be required to reimburse the Department of Correction for the actual cost of~~
20 ~~drug screening and drug testing, if the results are positive.~~
- 21 (14) Submit to warrantless searches by a law enforcement officer of the
22 probationer's person and of the probationer's vehicle, upon a reasonable
23 suspicion that the probationer is engaged in criminal activity or is in
24 possession of a firearm, explosive device, or other deadly weapon listed in
25 G.S. 14-269 without written permission of the court.
- 26 (15) Not use, possess, or control any illegal drug or controlled substance unless it
27 has been prescribed for him or her by a licensed physician and is in the
28 original container with the prescription number affixed on it; not knowingly
29 associate with any known or previously convicted users, possessors, or
30 sellers of any such illegal drugs or controlled substances; and not knowingly
31 be present at or frequent any place where such illegal drugs or controlled
32 substances are sold, kept, or used.
- 33 (16) Supply a breath, urine, or blood specimen for analysis of the possible
34 presence of prohibited drugs or alcohol when instructed by the defendant's
35 probation officer and pay the costs of that analysis when instructed by the
36 probation officer.

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

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

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

1 Defendants placed on unsupervised probation are subject to the provisions of this
2 subsection, except that defendants placed on unsupervised probation are not subject to the
3 regular conditions contained in subdivisions (2), (3), (6), (8), ~~(11)~~, ~~(13)~~, (14), ~~and (15)~~ (15), and
4 (16) of this subsection."

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

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

- 9 (1) Undergo available medical or psychiatric treatment and remain in a specified
10 institution if required for that purpose.
- 11 (2) Attend or reside in a facility providing rehabilitation, counseling, treatment,
12 social skills, or employment training, instruction, recreation, or residence for
13 persons on probation.
- 14 (2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15,
15 2002.
- 16 (2b) Participate in and successfully complete a Drug Treatment Court Program
17 pursuant to Article 62 of Chapter 7A of the General Statutes.
- 18 (3) Submit to imprisonment required for special probation under
19 G.S. 15A-1351(a) or G.S. 15A-1344(e).
- 20 (3a) Repealed by Session Laws 1997-57, s. 3.
- 21 (3b) Submit to intensive supervision and abide by the rules adopted by the
22 Division of Community Corrections for that level of supervision.
- 23 (3c) Remain at his or her residence. The court, in the sentencing order, may
24 authorize the offender to leave the offender's residence for employment,
25 counseling, a course of study, vocational training, or other specific purposes
26 and may modify that authorization. The probation officer may authorize the
27 offender to leave the offender's residence for specific purposes not
28 authorized in the court order upon approval of the probation officer's
29 supervisor. The offender shall be required to wear a device which permits
30 the supervising agency to monitor the offender's compliance with the
31 condition electronically and to pay a fee for the device as specified in
32 subsection (c2) of this section.
- 33 (4) Surrender his or her driver's license to the clerk of superior court, and not
34 operate a motor vehicle for a period specified by the court.
- 35 (5) Compensate the Department of Environment and Natural Resources or the
36 North Carolina Wildlife Resources Commission, as the case may be, for the
37 replacement costs of any marine and estuarine resources or any wildlife
38 resources which were taken, injured, removed, harmfully altered, damaged
39 or destroyed as a result of a criminal offense of which the defendant was
40 convicted. If any investigation is required by officers or agents of the
41 Department of Environment and Natural Resources or the Wildlife
42 Resources Commission in determining the extent of the destruction of
43 resources involved, the court may include compensation of the agency for
44 investigative costs as a condition of probation. This subdivision does not
45 apply in any case governed by G.S. 143-215.3(a)(7).
- 46 (6) Perform community or reparation service under the supervision of the
47 Division of Community Corrections and pay the fee required by
48 G.S. 143B-262.4.
- 49 (7), (8) Repealed by Session Laws 2009-372, s. 9(b), effective December 1,
50 2009, and applicable to offenses committed on or after that date.

- 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 (9b) Any or all of the following conditions relating to street gangs as defined in
14 G.S. 14-50.16(b):
- 15 a. Not knowingly associate with any known street gang members and
16 not knowingly be present at or frequent any place or location where
17 street gangs gather or where street gang activity is known to occur.
- 18 b. Not wear clothes, jewelry, signs, symbols, or any paraphernalia
19 readily identifiable as associated with or used by a street gang.
- 20 c. Not initiate or participate in any contact with any individual who was
21 or may be a witness against or victim of the defendant or the
22 defendant's street gang.
- 23 (9c) Participate in any Project Safe Neighborhood activities as directed by the
24 probation officer.
- 25 (10) Satisfy any other conditions determined by the court to be reasonably related
26 to his rehabilitation."
- 27 **SECTION 3.** G.S. 15A-1344(g) is repealed.
- 28 **SECTION 4.** This act becomes effective December 1, 2011, and applies to persons
29 placed on probation on or after that date.