

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 253
PROPOSED COMMITTEE SUBSTITUTE H253-PCS30312-ST-18**

Short Title: Justice Reinvestment Act Changes.-AB

(Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED
AN ACT TO AMEND PROVISIONS OF THE JUSTICE REINVESTMENT ACT.
The General Assembly of North Carolina enacts:

**PART I. ADD WAIVER OF EXTRADITION AS REGULAR CONDITION OF
PROBATION/FILE WAIVER WITH CLERK OF SUPERIOR COURT**

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

"§ 15A-1343. Conditions of probation.

...

- (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.
 - (3a) Not abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer, if the defendant is placed on supervised probation.
 - (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) Repealed by Session Laws 2011-62, s. 1, as amended by Session Laws
7 2011-412, s. 2.2, effective December 1, 2011, and applicable to offenses
8 committed on or after December 1, 2011.
- 9 (12) Attend and complete an abuser treatment program if (i) the court finds the
10 defendant is responsible for acts of domestic violence and (ii) there is a
11 program, approved by the Domestic Violence Commission, reasonably
12 available to the defendant, unless the court finds that such would not be in
13 the best interests of justice. A defendant attending an abuser treatment
14 program shall abide by all of the rules of the program.
- 15 a. If the defendant is placed on supervised probation, the following
16 procedures apply:
- 17 1. The probation officer shall forward a copy of the judgment,
18 including all conditions of probation, to the abuser treatment
19 program.
- 20 2. The program shall notify the probation officer if the
21 defendant fails to participate in the program or if the
22 defendant is discharged from the program for violating any of
23 the program rules.
- 24 3. If the defendant fails to participate in the program or is
25 discharged from the program for failure to comply with the
26 program or its rules, the probation officer shall file a violation
27 report with the court and notify the district attorney of such
28 noncompliance.
- 29 b. If the defendant is placed on unsupervised probation, the following
30 procedures apply:
- 31 1. The defendant shall be required to notify the district attorney
32 and the abuser treatment program of their choice of program
33 within 10 days of the judgment if the program has not
34 previously been selected.
- 35 2. The district attorney shall forward a copy of the judgment,
36 including all conditions of probation, to the abuser treatment
37 program.
- 38 3. If the defendant fails to participate in the program or is
39 discharged from the program for failure to comply with the
40 program or its rules, the program shall notify the district
41 attorney of such noncompliance.
- 42 (13) Submit at reasonable times to warrantless searches by a probation officer of
43 the probationer's person and of the probationer's vehicle and premises while
44 the probationer is present, for purposes directly related to the probation
45 supervision, but the probationer may not be required to submit to any other
46 search that would otherwise be unlawful.
- 47 (14) Submit to warrantless searches by a law enforcement officer of the
48 probationer's person and of the probationer's vehicle, upon a reasonable
49 suspicion that the probationer is engaged in criminal activity or is in
50 possession of a firearm, explosive device, or other deadly weapon listed in
51 G.S. 14-269 without written permission of the court.

- 1 (15) Not use, possess, or control any illegal drug or controlled substance unless it
 2 has been prescribed for him or her by a licensed physician and is in the
 3 original container with the prescription number affixed on it; not knowingly
 4 associate with any known or previously convicted users, possessors, or
 5 sellers of any such illegal drugs or controlled substances; and not knowingly
 6 be present at or frequent any place where such illegal drugs or controlled
 7 substances are sold, kept, or used.
- 8 (16) Supply a breath, urine, or blood specimen for analysis of the possible
 9 presence of prohibited drugs or alcohol when instructed by the defendant's
 10 probation officer for purposes directly related to the probation supervision. If
 11 the results of the analysis are positive, the probationer may be required to
 12 reimburse the Division of Adult Correction of the Department of Public
 13 Safety for the actual costs of drug or alcohol screening and testing.
- 14 (17) Waive all rights relating to extradition proceedings if taken into custody
 15 outside of this State for failing to comply with the conditions imposed by the
 16 court.

17 In addition to these regular conditions of probation, a defendant required to serve an active
 18 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or
 19 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and
 20 regulations of the Division of Adult Correction of the Department of Public Safety governing
 21 the conduct of inmates while imprisoned and report to a probation officer in the State of North
 22 Carolina within 72 hours of his discharge from the active term of imprisonment.

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

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

32 (c) Statement of Conditions. – A defendant released on supervised probation must be
 33 given a written statement explicitly setting forth the conditions on which ~~he~~ the defendant
 34 being released. If any modification of the terms of that probation is subsequently made, ~~he~~ the
 35 defendant must be given a written statement setting forth the modifications.

36 Upon entry of an order of supervised probation by the court, a defendant shall submit to the
 37 Division of Adult Correction for filing with the clerk of superior court a signed document
 38 stating that:

- 39 (1) The defendant will comply with the conditions that have been imposed by
 40 the court.
- 41 (2) If the defendant fails to comply with the conditions imposed by the court and
 42 is taken into custody outside of this State, the defendant waives all rights
 43 relating to extradition proceedings.

44"

45 PART II. EXPAND DELEGATED AUTHORITY

46 SECTION 2.(a) G.S. 15A-1343.2 reads as rewritten:

47 "§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.

48 ...

49 (e) Delegation to Probation Officer in Community Punishment. – Unless the presiding
 50 judge specifically finds in the judgment of the court that delegation is not appropriate, the
 51 Section of Community Corrections of the Division of Adult Correction of the Department of

1 Public Safety may require an offender sentenced to community punishment to do any of the
2 following:

- 3 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
4 law for this supervision.
- 5 (2) Report to the offender's probation officer on a frequency to be determined by
6 the officer.
- 7 (3) Submit to substance abuse assessment, monitoring or treatment.
- 8 (4) Submit to house arrest with electronic monitoring.
- 9 (5) Submit to a period or periods of confinement in a local confinement facility
10 for a total of no more than six days per month during any three separate
11 months during the period of probation. The six days per month confinement
12 provided for in this subdivision may only be imposed as two-day or
13 three-day consecutive periods. When a defendant is on probation for
14 multiple judgments, confinement periods imposed under this subdivision
15 shall run concurrently and may total no more than six days per month.
- 16 (6) Submit to a curfew which requires the offender to remain in a specified
17 place for a specified period each day and wear a device that permits the
18 offender's compliance with the condition to be monitored electronically.
- 19 (7) Participate in an educational or vocational skills development program,
20 including an evidence-based program.
- 21 (8) Obtain a specific sex offender assessment and follow all recommended
22 treatment.
- 23 (9) Obtain a mental health assessment and follow all recommended treatment.

24 If the Section imposes any of the above requirements, then it may subsequently reduce or
25 remove those same requirements.

26 The probation officer may exercise authority delegated to him or her by the court pursuant
27 to ~~subsection (e) of this section~~ this subsection after administrative review and approval by a
28 Chief Probation Officer. The offender may file a motion with the court to review the action
29 taken by the probation officer. The offender shall be given notice of the right to seek such a
30 court review. However, the offender shall have no right of review if he or she has signed a
31 written waiver of rights as required by this subsection. The Section may exercise any authority
32 delegated to it under this subsection only if it first determines that the offender has failed to
33 comply with one or more of the conditions of probation ~~imposed by the court~~ or the offender is
34 determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2,
35 except that the condition at subdivision (5) of this subsection may not be imposed unless the
36 Section determines that the offender failed to comply with one or more of the conditions
37 ~~imposed by the court of probation.~~ Nothing in this section shall be construed to limit the
38 availability of the procedures authorized under G.S. 15A-1345.

39 The Division shall adopt guidelines and procedures to implement the requirements of this
40 section, which shall include a supervisor's approval prior to exercise of the delegation of
41 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5)
42 of this subsection, the probationer must first be presented with a violation report, with the
43 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
44 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the
45 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses
46 who have relevant information concerning the alleged violations; and (iv) to examine any
47 witnesses or evidence. The probationer may be confined for the period designated on the
48 violation report upon the execution of a waiver of rights signed by the probationer and by two
49 officers acting as witnesses. Those two witnesses shall be the probation officer and another
50 officer to be designated by the Chief of the Community Corrections Section in written Division
51 policy.

1 (e1) Delegation to Probation Officer for Supervision for Conditional Discharge and
2 Deferred Prosecution. – Unless the presiding judge specifically finds in the judgment of the
3 court that delegation is not appropriate, the Section of Community Corrections of the Division
4 of Adult Correction of the Department of Public Safety may require an offender placed on
5 supervised probation for a conditional discharge or a deferred prosecution to comply with any
6 of the conditions in G.S. 15A-1343.2(e) with the exception of subdivision (5) of that
7 subsection. If the Section of Community Corrections imposes any of the above requirements,
8 then it may subsequently reduce or remove those same requirements. The probation officer may
9 exercise authority delegated to him or her by the court pursuant to this subsection after
10 administrative review and approval by a chief probation officer. The offender may file a motion
11 with the court to review the action taken by the probation officer. The offender shall be given
12 notice of the right to seek such a court review. The Section of Community Corrections may
13 exercise any authority delegated to it under this subsection only if it first determines that the
14 offender has failed to comply with one or more of the conditions of probation or the offender is
15 determined to be high risk based on the results of a validated instrument to assess each
16 probationer for risk of reoffending. Nothing in this section shall be construed to limit the
17 availability of the procedures authorized under G.S. 15A-1345.

18 (f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding
19 judge specifically finds in the judgment of the court that delegation is not appropriate, the
20 Section of Community Corrections of the Division of Adult Correction of the Department of
21 Public Safety may require an offender sentenced to intermediate punishment to do any of the
22 following:

- 23 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
24 law for this supervision.
- 25 (2) Submit to a curfew which requires the offender to remain in a specified
26 place for a specified period each day and wear a device that permits the
27 offender's compliance with the condition to be monitored electronically.
- 28 (3) Submit to substance abuse assessment, monitoring or treatment, including
29 continuous alcohol monitoring when abstinence from alcohol consumption
30 has been specified as a term of probation.
- 31 (4) Participate in an educational or vocational skills development program,
32 including an evidence-based program.
- 33 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
34 Chapter 14 of the General Statutes, if the defendant is described by
35 G.S. 14-208.40(a)(2).
- 36 (6) Submit to a period or periods of confinement in a local confinement facility
37 for a total of no more than six days per month during any three separate
38 months during the period of probation. The six days per month confinement
39 provided for in this subdivision may only be imposed as two-day or
40 three-day consecutive periods. When a defendant is on probation for
41 multiple judgments, confinement periods imposed under this subdivision
42 shall run concurrently and may total no more than six days per month.
- 43 (7) Submit to house arrest with electronic monitoring.
- 44 (8) Report to the offender's probation officer on a frequency to be determined by
45 the officer.
- 46 (9) Obtain a specific sex offender assessment and follow all recommended
47 treatment.
- 48 (10) Obtain a mental health assessment and follow all recommended treatment.

49 If the Section imposes any of the above requirements, then it may subsequently reduce or
50 remove those same requirements.

1 The probation officer may exercise authority delegated to him or her by the court pursuant
2 to ~~subsection (f) of this section~~ this subsection after administrative review and approval by a
3 Chief Probation Officer. The offender may file a motion with the court to review the action
4 taken by the probation officer. The offender shall be given notice of the right to seek such a
5 court review. However, the offender shall have no right of review if he or she has signed a
6 written waiver of rights as required by this subsection. The Section may exercise any authority
7 delegated to it under this subsection only if it first determines that the offender has failed to
8 comply with one or more of the conditions of probation ~~imposed by the court~~ or the offender is
9 determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2,
10 except that the condition at subdivision (6) of this subsection may not be imposed unless the
11 Section determines that the offender failed to comply with one or more of the conditions
12 ~~imposed by the court of probation~~. Nothing in this section shall be construed to limit the
13 availability of the procedures authorized under G.S. 15A-1345.

14 The Division shall adopt guidelines and procedures to implement the requirements of this
15 section, which shall include a supervisor's approval prior to exercise of the delegation of
16 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6)
17 of this subsection, the probationer must first be presented with a violation report, with the
18 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
19 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the
20 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses
21 who have relevant information concerning the alleged violations; and (iv) to examine any
22 witnesses or evidence. The probationer may be confined for the period designated on the
23 violation report upon the execution of a waiver of rights signed by the probationer and by two
24 officers acting as witnesses. Those two witnesses shall be the probation officer and another
25 officer to be designated by the Chief of the Community Corrections Section in written Division
26 policy.

27"

28 **SECTION 2.(b)** G.S. 20-179 is amended by adding a new subsection to read:

29 "(k5) Delegation to Probation Officer. – Unless the presiding judge specifically finds in
30 the judgment of the court that delegation is not appropriate, the Section of Community
31 Corrections of the Division of Adult Corrections of the Department of Public Safety may
32 require an offender sentenced pursuant to subsections (f3), (g), (h), (i), (j), or (k) and placed on
33 supervised probation to do any of the following:

- 34 (1) Perform up to 20 hours of community service, and pay the fee prescribed by
35 law for this supervision.
- 36 (2) Report to the offender's probation officer on a frequency to be determined by
37 the officer.
- 38 (3) Submit to substance abuse assessment, monitoring, or treatment.
- 39 (4) Submit to house arrest with electronic monitoring.
- 40 (5) Submit to a period or periods of confinement in a local confinement facility
41 for a total of no more than six days per month during any three separate
42 months during the period of probation. The six days per month confinement
43 provided for in this subdivision may only be imposed as two-day or
44 three-day consecutive periods. When a defendant is on probation for
45 multiple judgments, confinement periods imposed under this subdivision
46 shall run concurrently and may total no more than six days per month.
- 47 (6) Submit to a curfew which requires the offender to remain in a specified
48 place for a specified period each day and wear a device that permits the
49 offender's compliance with the condition to be monitored electronically.
- 50 (7) Participate in an educational or vocational skills development program,
51 including an evidence-based program.

1 (8) Obtain a specific sex offender assessment and follow all recommended
2 treatment.

3 (9) Obtain a mental health assessment and follow all recommended treatment.

4 If the Section imposes any of the above requirements, then it may subsequently reduce or
5 remove those same requirements.

6 The probation officer may exercise authority delegated to him or her by the court pursuant
7 to this subsection after administrative review and approval by a Chief Probation Officer. The
8 offender may file a motion with the court to review the action taken by the probation officer.
9 The offender shall be given notice of the right to seek such a court review. However, the
10 offender shall have no right of review if he or she has signed a written waiver of rights as
11 required by this subsection. The Section may exercise any authority delegated to it under this
12 subsection only if it first determines that the offender has failed to comply with one or more of
13 the conditions of probation or the offender is determined to be high risk based on the results of
14 a validated instrument to assess each probationer for risk of reoffending, except that the
15 condition at subdivision (5) of this subsection may not be imposed unless the Section
16 determines that the offender failed to comply with one or more of the conditions of probation.
17 Nothing in this section shall be construed to limit the availability of the procedures authorized
18 under G.S. 15A-1345.

19 The Division shall adopt guidelines and procedures to implement the requirements of this
20 section, which shall include a supervisor's approval prior to exercise of the delegation of
21 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5)
22 of this subsection, the probationer must first be presented with a violation report, with the
23 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged
24 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the
25 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses
26 who have relevant information concerning the alleged violations; and (iv) to examine any
27 witnesses or evidence. The probationer may be confined for the period designated on the
28 violation report upon the execution of a waiver of rights signed by the probationer and by two
29 officers acting as witnesses. Those two witnesses shall be the probation officer and another
30 officer to be designated by the Director of the Community Corrections Section in written
31 Division policy.

32
33 **PART III. ALLOW PROBATION OFFICER TO IMPOSE CONDITIONS SIMILAR**
34 **TO THOSE ALREADY IMPOSED THROUGH DELEGATED AUTHORITY IN**
35 **SUPERVISED PROBATION CASES**

36 **SECTION 3.(a)** G.S. 15A-1368.4 is amended by adding a new subsection to read:

37 "(g) Delegation to Post-Release Supervision Officer. – Unless the Commission
38 specifically finds that delegation is not appropriate, the Section of Community Corrections of
39 the Division of Adult Corrections of the Department of Public Safety may require a supervisee
40 to do any of the following:

41 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
42 law for this supervision.

43 (2) Submit to a curfew which requires the offender to remain in a specified
44 place for a specified period each day and wear a device that permits the
45 offender's compliance with the condition to be monitored electronically.

46 (3) Submit to substance abuse assessment, monitoring, or treatment

47 (4) Participate in an educational or vocational skills development program,
48 including an evidence-based program.

49 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
50 Chapter 14 of the General Statutes, if the defendant is described by
51 G.S. 14-208.40(a)(2).

1 (6) Submit to house arrest with electronic monitoring.

2 (7) Report to the offender's probation officer on a frequency to be determined by
3 the officer.

4 (8) Obtain a specific sex offender assessment and follow all recommended
5 treatment.

6 (9) Obtain a mental health assessment and follow all recommended treatment.

7 If the Section imposes any of the above requirements, then it may subsequently reduce or
8 remove those same requirements.

9 The post-release supervision officer may exercise authority delegated to him or her by the
10 Commission pursuant to this subsection after administrative review and approval by a Chief
11 Probation Officer. The supervisee may request a Commission review of the action taken by the
12 officer. The supervisee shall be given notice of the right to seek such a review. The Section
13 may exercise any authority delegated to it under this subsection only if it first determines that
14 the supervisee has failed to comply with one or more of the conditions of supervision or the
15 supervisee is determined to be high risk based on a validated instrument to assess each
16 supervisee for risk of reoffending. Nothing in this section shall be construed to limit the
17 availability of the procedures authorized under G.S. 15A-1368.6.

18 The Division shall adopt guidelines and procedures to implement the requirements of this
19 section, which shall include a supervisor's approval prior to exercise of the delegation of
20 authority authorized by this section.

21 The Commission may also impose a condition of community service on a supervisee who
22 was a Class F through I felon and who has failed to fully satisfy any order for restitution,
23 reparation, or costs imposed against the supervisee as part of the supervisee's sentence;
24 however, the Commission shall not impose such a condition of community service if the
25 Commission determines, upon inquiry, that the supervisee has the financial resources to satisfy
26 the order."

27 **SECTION 3.(b)** G.S. 15A-1374 is amended by adding a new subsection to read:

28 "(e) Delegation to Parole Officer. – Unless the Commission specifically finds that
29 delegation is not appropriate, the Section of Community Corrections of the Division of Adult
30 Corrections of the Department of Public Safety may require a parolee to do any of the
31 following:

32 (1) Perform up to 50 hours of community service, and pay the fee prescribed by
33 law for this supervision.

34 (2) Submit to a curfew which requires the offender to remain in a specified
35 place for a specified period each day and wear a device that permits the
36 offender's compliance with the condition to be monitored electronically.

37 (3) Submit to substance abuse assessment, monitoring, or treatment.

38 (4) Participate in an educational or vocational skills development program,
39 including an evidence-based program.

40 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of
41 Chapter 14 of the General Statutes, if the defendant is described by
42 G.S. 14-208.40(a)(2).

43 (6) Submit to house arrest with electronic monitoring.

44 (7) Report to the offender's probation officer on a frequency to be determined by
45 the officer.

46 (8) Obtain a specific sex offender assessment and follow all recommended
47 treatment.

48 (9) Obtain a mental health assessment and follow all recommended treatment.

49 If the Section imposes any of the above requirements, then it may subsequently reduce or
50 remove those same requirements.

1 The parole officer may exercise authority delegated to him or her by the Commission
2 pursuant to this subsection after administrative review and approval by a Chief Probation
3 Officer. The parolee may request a Commission review of the action taken by the parole
4 officer. The parolee shall be given notice of the right to seek such a review. The Section may
5 exercise any authority delegated to it under this subsection only if it first determines that the
6 parolee has failed to comply with one or more of the conditions of supervision or the parolee is
7 determined to be high risk based on a validated instrument to assess each parolee for risk of
8 reoffending. Nothing in this section shall be construed to limit the availability of the procedures
9 authorized under G.S. 15A-1376.

10 The Division shall adopt guidelines and procedures to implement the requirements of this
11 section, which shall include a supervisor's approval prior to exercise of the delegation of
12 authority authorized by this section."

13
14 **PART IV. ELIMINATE CREDIT FOR TIME SPENT IN CUSTODY AS A RESULT OF**
15 **POST-RELEASE SUPERVISION OR PAROLE REVOCATION PROCEEDING**
16 **AGAINST A THREE-MONTH REIMPRISONMENT**

17 **SECTION 4.** G.S. 15A-1368.3(c) reads as rewritten:

18 "(c) Effect of Violation. – If the supervisee violates a condition, described in
19 G.S. 15A-1368.4, at any time before the termination of the supervision period, the Commission
20 may continue the supervisee on the existing supervision, with or without modifying the
21 conditions, or if continuation or modification is not appropriate, may revoke post-release
22 supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent
23 with the following requirements:

24 ...

- 25 (3) Pursuant to Article 19A of Chapter 15, the Division of Adult Correction of
26 the Department of Public Safety shall award a prisoner credit against any
27 term of reimprisonment for all time spent in custody as a result of revocation
28 proceedings under ~~G.S. 15A-1368.6~~ G.S. 15A-1368.6, unless as a result of a
29 violation of the conditions, the supervisee is returned to prison for a
30 three-month period. The three-month period shall not be reduced by credit
31 for time already served. Any such credit shall be applied toward the
32 maximum prison term.

33 "

34
35 **PART V. ELIMINATE THE COMMUNITY CORRECTIONS BOARD AND CREATE**
36 **THE JUSTICE REINVESTMENT COUNCIL**

37 **SECTION 5.(a)** G.S. 143B-1157 and G.S. 143B-1158 are repealed.

38 **SECTION 5.(b)** Article 13 of Chapter 143 of the General Statutes is amended by
39 adding a new section to read:

40 "**§ 143-1161. Justice Reinvestment Council.**

41 (a) The Justice Reinvestment Council is established to act as an advisory body to the
42 Commissioner of Adult Correction with regard to this Subpart. The Council shall consist of 13
43 members as follows, to be appointed as provided in subsection (b) of this section:

- 44 (1) Two members of the Senate.
45 (2) Two members of the House of Representatives.
46 (3) A judge of the superior court.
47 (4) A judge of the district court.
48 (5) A district attorney.
49 (6) A criminal defense attorney.
50 (7) A county sheriff.
51 (8) A chief of a city police department.

- 1 (9) A victim service provider.
 2 (10) A member selected to represent behavioral health services.
 3 (11) A member selected to represent substance abuse treatment services.
 4 **(b)** The membership of the Council shall be selected as follows:
 5 (1) The Governor shall appoint the following members: the county sheriff, the
 6 chief of a city police department, the member representing behavioral health
 7 services, and the member representing substance abuse treatment services.
 8 (2) The Lieutenant Governor shall appoint the victim service provider.
 9 (3) The Chief Justice of the North Carolina Supreme Court shall appoint the
 10 following members: the superior court judge, the district court judge, the
 11 district attorney, and the criminal defense attorney.
 12 (4) The President Pro Tempore of the Senate shall appoint the two members of
 13 the Senate.
 14 (5) The Speaker of the House shall appoint the two members of the House of
 15 Representatives.

16 In appointing the members of the Council, the appointing authorities shall make every
 17 effort to ensure fair geographic representation of the Council membership and to ensure that
 18 minority persons and women are fairly represented.

19 (c) The initial members shall serve staggered terms. The members identified in
 20 subdivisions (1) and (2) of subsection (a) of this section shall be appointed initially for a term
 21 of one year. The members identified in subdivisions (3) through (7) of subsection (a) of this
 22 section shall be appointed initially for a term of two years. The members identified in
 23 subdivisions (8) through (11) of subsection (a) of this section shall be appointed initially for a
 24 term of three years. The terms of office of the initial members appointed under this section
 25 commence effective October 1, 2015.

26 At the end of their respective terms of office, their successors shall be appointed for terms
 27 of three years effective July 1. A vacancy occurring before the expiration of the term of office
 28 shall be filled in the same manner as original appointments for the remainder of the term.
 29 Members may be reappointed without limitation.

30 (d) The purpose of the Justice Reinvestment Council in conjunction with the
 31 Department of Public Safety, Division of Adult Correction is to:

- 32 (1) Recommend policy enhancements to the Justice Reinvestment Act of 2011.
 33 (2) Assist in the continued education of criminal justice system stakeholders.
 34 (3) Support implementation of the Justice Reinvestment Act of 2011.
 35 (4) Identify new initiatives that further implementation of the Justice
 36 Reinvestment Act of 2011 and the Adult Corrections Recidivism Reduction
 37 Plan."

38
 39 **PART VI. AUTHORIZE POST-RELEASE SUPERVISION AND PAROLE**
 40 **PRELIMINARY HEARINGS TO BE CONDUCTED BY VIDEOCONFERENCE**

41 **SECTION 6.(a) G.S. 143B-720 reads as rewritten:**

42 **"§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
 43 **duties.**

44 ...

- 45 **(f)** The Commission may conduct the following proceedings by videoconference:
 46 (1) All hearings regarding ~~the revocation or termination~~ violation of conditions
 47 of post-release supervision and all hearings regarding revocation,
 48 termination, or suspension violation of conditions of parole.
 49 (2) All hearings regarding criminal contempt for willful refusal to accept
 50 post-release supervision or comply with the terms of post-release
 51 supervision by a prisoner whose offense requiring post-release supervision is

1 a reportable conviction subject to the registration requirement of Article 27A
2 of Chapter 14 of the General Statutes.

3 (g) A hearing officer may conduct the following proceedings by videoconference:

4 (1) Preliminary hearings regarding violation of conditions of post-release
5 supervision.

6 (2) Preliminary hearings regarding violation of conditions of parole."

7 **SECTION 6.(b)** G.S. 15A-1368.6 reads as rewritten:

8 **"§ 15A-1368.6. Arrest and hearing on post-release supervision violation.**

9 ...
10 (b) When and Where Preliminary Hearing on Post-Release Supervision Violation
11 Required. – Unless the hearing required by subsection (e) of this section is first held or a
12 continuance is requested by the supervisee, a preliminary hearing on supervision violation shall
13 be held reasonably near the place of the alleged violation or arrest and within seven working
14 days of the arrest of a supervisee to determine whether there is probable cause to believe that
15 the supervisee violated a condition of post-release supervision. The preliminary hearing for
16 violations of post-release supervision may be conducted by videoconference. Otherwise, the
17 supervisee shall be released seven working days after arrest to continue on supervision pending
18 a hearing. If the supervisee is not within the State, the preliminary hearing is as prescribed by
19 G.S. 148-65.1A.

20 ...
21 (e) Revocation Hearing. – Before finally revoking post-release supervision, the
22 Commission shall, unless the supervisee waived the hearing or the time limit, provide a hearing
23 within 45 days of the supervisee's reconfinement to determine whether to revoke supervision
24 finally. For purposes of this subsection, the 45-day period begins when the preliminary hearing
25 required by subsection (b) of this section is held or waived, or upon the passage of seven
26 working days after arrest, whichever is sooner. The revocation hearing for violations of
27 post-release supervision may be conducted by videoconference. The Commission shall adopt
28 rules governing the hearing."

29 **SECTION 6.(c)** G.S. 15A-1376 reads as rewritten:

30 **"§ 15A-1376. Arrest and hearing on parole violation.**

31 (a) Arrest for Violation of Parole. – A parolee is subject to arrest by a law-enforcement
32 officer or a parole officer for violation of conditions of parole only upon the issuance of an
33 order of temporary or conditional revocation of parole by the Post-Release Supervision and
34 Parole Commission. However, a parole revocation hearing under subsection (e) may be held
35 without first arresting the parolee.

36 (b) When and Where Preliminary Hearing on Parole Violation Required. – Unless the
37 hearing required by subsection (e) is first held or a continuance is requested by the parolee, a
38 preliminary hearing on parole violation must be held reasonably near the place of the alleged
39 violation or arrest and within seven working days of the arrest of a parolee to determine
40 whether there is probable cause to believe that he violated a condition of parole. The
41 preliminary hearing for violations of parole may be conducted by videoconference. Otherwise,
42 the parolee must be released seven working days after his arrest to continue on parole pending a
43 hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by
44 G.S. 148-65.1A.

45 (c) Officers to Conduct Hearing. – The preliminary hearing on parole violation must be
46 conducted by a judicial official, or by a hearing officer designated by the Post-Release
47 Supervision and Parole Commission. No person employed by the Division of Adult Correction
48 of the Department of Public Safety may serve as a hearing officer at a hearing provided in this
49 section unless he is a member of the Post-Release Supervision and Parole Commission or is
50 employed solely as a hearing officer.

1 (d) Procedure for Preliminary Hearing on Parole Violation. – The Division of Adult
2 Correction of the Department of Public Safety must give the parolee notice of the preliminary
3 hearing and its purpose, including a statement of the violations alleged. At the hearing, the
4 parolee may appear and speak in his own behalf, may present relevant information, and may,
5 on request, personally question witnesses and adverse informants, unless the hearing officer
6 finds good cause for not allowing confrontation. If the person holding the hearing determines
7 there is probable cause to believe the parolee violated his parole, he must summarize the
8 reasons for his determination and the evidence he relied on. Formal rules of evidence do not
9 apply at the hearing. If probable cause is found, the parolee may be held in the custody of the
10 Division of Adult Correction of the Department of Public Safety to serve the appropriate term
11 of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

12 (e) Revocation Hearing. – Before finally revoking parole, the Post-Release Supervision
13 and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a
14 hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole
15 finally. The revocation hearing may be conducted by videoconference. The Post-Release
16 Supervision and Parole Commission must adopt rules governing the hearing."
17

18 **PART VII. CLARIFY CONFINEMENT IN RESPONSE TO VIOLATION**

19 **SECTION 7.** G.S. 15-196.2 reads as rewritten:

20 "**§ 15-196.2. Allowance in cases of multiple sentences.**

21 In the event time creditable under this section shall have been spent in custody as the result
22 of more than one pending charge, resulting in imprisonment for more than one offense, credit
23 shall be allowed as herein provided. Consecutive sentences shall be considered as one sentence
24 for the purpose of providing credit, and the creditable time shall not be multiplied by the
25 number of consecutive offenses for which a defendant is imprisoned. Each concurrent sentence
26 shall be credited with so much of the time as was spent in custody due to the offense resulting
27 in the sentence. When both concurrent and consecutive sentences are imposed, both of the
28 above rules shall obtain to the applicable extent.

29 Upon revocation of two or more consecutive sentences as a result of a probation violation,
30 credit for time served on concurrent confinements in response to violation under
31 G.S. 15A-1344(d2) shall be credited to only one sentence."
32

33 **PART VIII. AMEND APPLICATION FOR ISSUANCE OF REQUISITION TO** 34 **INCLUDE POST-RELEASE SUPERVISION**

35 **SECTION 8.** G.S. 15A-743(b) reads as rewritten:

36 "(b) When the return to this State is required of a person who has been convicted of a
37 crime in this State and has escaped from confinement or broken the terms of his bail, ~~probation~~
38 ~~probation, post-release supervision,~~ or parole, the prosecuting attorney of the county in which
39 the offense was committed, the ~~parole board,~~ or Post-Release Supervision and Parole
40 Commission, the Director of ~~Prisons~~Prisons, the Director of Community Corrections, or sheriff
41 of the county from which escape was made, shall present to the Governor a written application
42 for a requisition for the return of such person, in which application shall be stated the name of
43 the person, the crime of which he was convicted, the circumstances of his escape from
44 confinement or of the breach of the terms of his bail, probation or parole, the state in which he
45 is believed to be, including the location of the person therein at the time application is made."
46

47 **PART IX. EFFECTIVE DATE**

48 **SECTION 9.** Sections 5, 6, and 8 of this act become effective July 1, 2015. The
49 remainder of this act becomes effective December 1, 2015, and applies to persons placed on
50 probation or post-release supervision on or after that date.