

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

3

HOUSE BILL 87
Second Edition Engrossed 3/8/23
Senate Judiciary Committee Substitute Adopted 5/23/23

Short Title: Probation Modifications/Sheriff Authority.

(Public)

Sponsors:

Referred to:

February 13, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW DISTRICT ATTORNEYS TO FILE PROBATION MODIFICATION
3 PETITIONS, TO ALLOW PROBATION OFFICERS TO REDUCE A TERM OF
4 SUPERVISED PROBATION IN CERTAIN INSTANCES, AND TO EXEMPT SHERIFF'S
5 OFFICES FROM CERTAIN STATE CONTRACTING REQUIREMENTS WHEN
6 CONTRACTING FOR FOOD AND FOOD SERVICES AT DETENTION FACILITIES.

7 The General Assembly of North Carolina enacts:

8
9 **DISTRICT ATTORNEYS MAY FILE PROBATION MODIFICATION PETITIONS**

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

11 "**(b2) District Attorney May File Petition.** – Based on the violation of a condition of
12 probation, the district attorney of the prosecutorial district as defined in G.S. 7A-60 in which
13 probation was imposed may file a petition to reduce, terminate, extend, modify, or revoke
14 probation in the district court district as defined in G.S. 7A-133 or superior court district or set
15 of districts as defined in G.S. 7A-41.1, as the case may be, where probation was imposed. Any
16 petition filed by a district attorney pursuant to this subsection shall be served on the probationer
17 by the supervising probation officer. If a motion to extend is filed under this subsection, a
18 probationer determined to be indigent shall be entitled to services of counsel under G.S. 7A-451."

19 **SECTION 1.(b)** G.S. 7A-451(a) reads as rewritten:

20 "(a) An indigent person is entitled to services of counsel in the following actions and
21 proceedings:

22 ...

23 **(4a) A hearing for extension of probation under G.S. 15A-1344(b2).**

24"

25 **SECTION 1.(c)** This section is effective when it becomes law and applies to
26 petitions filed on or after that date.

27
28 **COURTS MAY DELEGATE A LIMITED AMOUNT OF AUTHORITY TO**
29 **PROBATION OFFICERS TO REDUCE AN OFFENDER'S TERM OF SUPERVISED**
30 **PROBATION**

31 **SECTION 2.(a)** Article 82 of Chapter 15A of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 15A-1344.2. Delegation of authority to reduce a term of supervised probation.**

34 **(a) In any instance under this Article that the court may reduce a term of supervised**
35 **probation, the court may delegate, by written order filed with the clerk of superior court, the**



1 court's authority to reduce a term of supervised probation when a probation officer finds that an
2 offender (i) is currently in compliance with the terms of the offender's probation and (ii) has made
3 diligent progress regarding the offender's probation. The delegation of the court's authority may
4 be revoked by the court at any time by a written order filed with the clerk of superior court as
5 soon as practicable following the revocation. The clerk of superior court shall notify the probation
6 officer of this revocation of delegated authority as soon as practicably possible. Any order entered
7 pursuant to this section shall require that no term of supervision be reduced unless all restitution
8 ordered as part of the sentence has been paid in full.

9 (b) For the purpose of this section, proof of any one or more of the following,
10 demonstrated to the satisfaction of the probation officer, shall constitute diligent progress:

11 (1) The successful completion of a validated drug or mental health treatment
12 program, evidenced-based program, or any other vocational or life skills
13 program.

14 (2) The successful completion of at least six months of active enrollment in an
15 education program in which the offender is seeking a trade certification, high
16 school diploma, General Educational Development (GED) degree, associate
17 degree, bachelor's degree, or graduate degree.

18 (3) The successful completion of at least six months of employment,
19 demonstrated by proof of wages.

20 (c) A reduction of a term of supervision pursuant to this section does not become effective
21 until all of the following occur:

22 (1) The probation officer files a written affidavit with the clerk of superior court
23 seeking a final order of the court confirming the probation officer's decision
24 to reduce the offender's term.

25 (2) Notification is given to the district attorney and the victim pursuant to
26 G.S. 15A-837 and, if requested by either the district attorney or the victim, a
27 hearing and an opportunity to be heard is granted.

28 (3) The court approves the reduction.

29 (d) A probation officer may not reduce an offender's term of supervised probation
30 pursuant to this section by more than one-fourth the amount of time the offender was originally
31 required to serve on supervised probation. If a probation officer reduces an offender's term of
32 supervised probation pursuant to this section on more than one occasion, the total reduction of
33 the offender's term of supervised probation may not exceed one-fourth the amount of time the
34 offender was originally required to serve on supervised probation."

35 **SECTION 2.(b)** This section becomes effective December 1, 2023, and applies to
36 delegations of court authority entered on or after that date.
37

38 REMOVE RESTRICTIONS FOR CERTAIN SHERIFF'S CONTRACTS

39 **SECTION 3.** G.S. 143-131.1 reads as rewritten:

40 "**§ 143-131.1. Exception for contracts for the purchase of food and supplies for county**
41 **detention facilities by ~~the sheriffs of certain counties.~~sheriffs.**

42 **(a)** A county sheriff's office may contract for the purchase of food and food services
43 supplies for that county's detention facility without being subject to the requirements of
44 G.S. 143-129 and G.S. 143-131(a).

45 **(b)** ~~This section applies only to the following counties: Alamance, Anson, Beaufort,~~
46 ~~Caswell, Catawba, Cherokee, Chowan, Cleveland, Craven, Cumberland, Currituck, Dare,~~
47 ~~Davidson, Duplin, Gaston, Granville, Guilford, Haywood, Henderson, Iredell, Jones, Lincoln,~~
48 ~~Madison, Onslow, Orange, Pamlico, Pasquotank, Randolph, Rockingham, Sampson, Stanly,~~
49 ~~Transylvania, Wake, Washington, and Yancey."~~

50 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
51 law.