

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 377
SENATE BILL 263

AN ACT TO AUTHORIZE DEFERRED PROSECUTION IN CERTAIN CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1332(c) is hereby amended by deleting the first sentence and inserting in lieu thereof the following:

"When the court desires more detailed information as a basis for determining the sentence to be imposed than can be provided by a presentence investigation, the court may commit a defendant to the Department of Correction for study for the shortest period necessary to complete the study, not to exceed 90 days, if that defendant has been charged with or convicted of a crime or crimes for which he may be imprisoned for more than six months and if he consents."

Sec. 2. G.S. 15A-1341(a) is hereby amended by adding at the end thereof the following:

"A person who has been charged with a criminal offense not punishable by a term of imprisonment greater than 10 years may be placed on probation as provided in this Article on motion of the defendant and the prosecutor if the court finds each of the following facts:

- (1) Prosecution has been deferred by the prosecutor pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.
- (2) Each known victim of the crime has been notified of the motion for probation by subpoena or certified mail and has been given an opportunity to be heard.
- (3) The defendant has not been convicted of any felony or of any misdemeanor involving moral turpitude.
- (4) The defendant has not previously been placed on probation and so states under oath.
- (5) The defendant is unlikely to commit another offense punishable by a term of imprisonment greater than 30 days."

Sec. 3. G.S. 15A-1341(c) is hereby amended by adding at the end thereof the following:

"Any person placed on probation upon deferral of prosecution may at any time during the probationary period elect to be tried upon the charges deferred in lieu of remaining on probation."

Sec. 4. G.S. 15A-1342(a) is hereby amended by deleting the first sentence and by inserting in lieu thereof the following:

"The court may place a convicted offender on probation for a maximum of five years. The court may place a defendant as to whom prosecution has been deferred on probation for a maximum of two years."

Sec. 5. G.S. 15A-1342 is hereby amended by adding at the end thereof a new subsection (i) to read as follows:

"(i) Immunity from prosecution upon compliance. Upon the expiration or early termination as provided in subsection (b) of a period of probation imposed after deferral of

prosecution and before conviction, the defendant shall be immune from prosecution of the charges deferred."

Sec. 6. The first phrase of G.S. 15A-1342(c) is hereby amended to read as follows: "When the court places a convicted offender on probation,".

Sec. 7. The fourth sentence of G.S. 15A-1344(d) is hereby amended by inserting between the word "a" and the word "defendant" the word "convicted" and by striking out the semicolon after the words "initial sentencing" and inserting in lieu thereof the following: ", if any, or may order that charges as to which prosecution has been deferred be brought to trial;".

Sec. 8. This act shall become effective October 1, 1981.

In the General Assembly read three times and ratified, this the 13th day of May, 1981.