

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 561
HOUSE BILL 455

AN ACT TO ESTABLISH UNIFORM REGULAR AND SPECIAL CONDITIONS OF PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1343(b) is rewritten to read as follows:

"(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) Support his dependents.
- (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 ten dollars (\$10.00) per month for probation supervision to the clerk of superior court. The clerk of superior court must transmit this money to the State of North Carolina to be deposited in the General Fund. No person placed on supervised probation may be required to pay more than one supervision fee per month.
- (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment.
- (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 or public defender to represent him in the case(s) for which he was placed on probation.
- (11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-

1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

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

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

Sec. 2. G.S. 15A-1343 is amended by adding a new subsection (b1) to read as follows:

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

- (1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (2) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on probation.
- (3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).
- (4) Surrender his driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.
- (5) Compensate the Department of Natural Resources and Community Development or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Natural Resources and Community Development or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).
- (6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.
- (7) Submit at reasonable times to warrantless searches by a probation officer of his person and of his vehicle and premises while he is present, for purposes specified by the court and reasonably related to

his probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(9) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

Sec. 3. G.S. 15A-1343(d) is amended by deleting the fourth sentence of that subsection.

Sec. 4. G.S. 15A-1343(e), as amended by Chapter 135 of the 1983 Session Laws, is rewritten to read as follows:

"(e) Direct Repayment of Appointed Counsel. With the consent of counsel appointed by the court to represent the defendant, the court may order that money received pursuant to subdivision (b)(10) for the payment of the counsel's fee be paid to the clerk on behalf of the counsel. The clerk must promptly pay to the appointed counsel any money received on his behalf."

Sec. 5. G.S. 15A-1343(f) is repealed.

Sec. 6. G.S. 15A-1343 is amended by adding a new subsection (g) to read as follows:

"(g) Probation Officer May Determine Payment Schedules. If a person placed on supervised probation is required as a condition of that probation to pay any monies to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the monies are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

Sec. 7. Subsection (g) of G.S. 15A-1342 is rewritten as follows:

"(g) Invalid Conditions; Timing of Objection. The regular conditions of probation imposed pursuant to G.S. 15A-1343(b) are in every circumstance valid conditions of probation. A court may not revoke probation for violation of an invalid condition imposed pursuant to G.S. 15A-1343(b1). The failure of a defendant to object to a condition of probation imposed pursuant to G.S. 15A-1343(b1) at the time such a condition is imposed does not constitute a waiver of the right to object at a later time to the condition."

Sec. 8. This act shall become effective October 1, 1983, and shall apply to persons placed on probation on or after that date. Section 4 of this act shall expire on July 1, 1985.

In the General Assembly read three times and ratified, this the 20th day of June, 1983.