

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-234
SENATE BILL 393

AN ACT TO MANDATE THE REVOCATION OF A PERSON'S DRIVERS LICENSE OR LIMITED DRIVING PRIVILEGE FOR WILLFUL FAILURE TO COMPLETE COURT-ORDERED COMMUNITY SERVICE AND TO ELIMINATE THE REQUIREMENT FOR JUDICIAL INVOLVEMENT IN THE APPOINTMENT OF COMMUNITY SERVICE COORDINATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-179.4 reads as rewritten:

"§ 20-179.4. Community service alternative punishment; responsibilities of the Department of Crime Control and Public Safety; fee.

(a) The Department of Crime Control and Public Safety ~~must~~shall conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of Crime Control and Public Safety ~~must~~shall assign at least one coordinator to each district court district as defined in G.S. 7A-133 to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator shall be made in consultation with ~~and is subject to the approval of the~~ chief district court judge in the district to which the coordinator is assigned. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of one hundred dollars (\$100.00) ~~must~~shall be paid by all persons serving a community service sentence. That fee ~~must~~shall be paid to the clerk of court in the county in which the person is convicted. The fee ~~must~~shall be paid in full within two weeks unless the court, upon a showing of hardship by the person, allows additional time to pay the fee. The person may not be required to pay the fee before beginning the community service unless the court specifically orders the person to do so.

(d) Fees collected under this section ~~must~~shall be deposited in the general fund.

(e) The coordinator ~~must~~shall report to the court in which the community service was ordered a significant violation of the terms of the probation judgment related to community service. ~~In such cases, the~~ The court ~~must~~shall then conduct a hearing to determine if there is a willful failure to comply. If the court determines there is a willful failure to pay the prescribed fee or to complete the work as ordered by the coordinator within the applicable time limits, the court ~~must~~shall revoke any limited driving privilege issued in the impaired driving ~~case, case until the community service~~

requirement has been met and in addition may take any further action authorized by Article 82 of General Statutes Chapter 15A for violation of a condition of probation."

Section 2. G.S. 143B-475.1 reads as rewritten:

"§ 143B-475.1. Deferred prosecution, community service restitution, and volunteer program.

(a) The Department of Crime Control and Public Safety may conduct a deferred prosecution, community service restitution, and volunteer program for youthful and adult offenders. The Secretary of Crime Control and Public Safety may assign one or more coordinators to each district court district as defined in G.S. 7A-133 to assure and report to the Court the offender's compliance with the requirements of the program. The appointment of each coordinator shall be made in consultation with ~~and is subject to the approval of~~ the chief district court judge in the district to which the coordinator is assigned. Each county ~~must~~ shall provide office space in the courthouse or other convenient place, for the use of each coordinator assigned to that county.

(b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee of one hundred dollars (\$100.00) shall be paid by all persons who participate in the program or receive services from the program staff. If the person is convicted in a court in this State, the fee ~~must~~ shall be paid to the clerk of court in the county in which he is convicted. If the person is participating in the program as a result of a deferred prosecution or similar program, the fee ~~must~~ shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason ~~must~~ shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee ~~must~~ shall be paid in full within two weeks from the date the person is ordered to perform the community service, and before he begins his community service, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before he pays the fee by the court in which he is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin his community service before the fee is paid by the official or agency representing the State in the agreement.

Fees collected pursuant to this subsection shall be deposited in the General Fund.

(c) The Secretary ~~is authorized to~~ may designate the same person to serve as a coordinator under this section and under G.S. 20-179.4.

(d) A person is not liable for damages for any injury or loss sustained by an individual performing community or reparation service under this section unless the injury is caused by the person's gross negligence or intentional wrongdoing. As used in this subsection, 'person' includes any governmental unit or agency, nonprofit corporation, or other nonprofit agency that is supervising the individual, or for whom the individual is performing community service work, as well as any person employed by the agency or corporation while acting in the scope and course of the person's employment. This subsection does not affect the immunity from civil liability in tort available to local governmental units or agencies. Notice of the provisions of this

subsection ~~must~~shall be furnished to the individual at the time of assignment of community service work by the community service coordinator.

(e) In order to maximize the efficiency and effectiveness of the community service program, (i) beginning September 1, 1995, community service program districts shall have the same boundaries as the district court districts established in G.S. 7A-133 and (ii) beginning with persons hired on or after September 1, 1995, all community service program district supervisors employed by the Department of Crime Control and Public Safety to supervise each of the community service program districts shall reside in the district in which the supervisor works.

(f) The Community Service Staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States Mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least ten days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 3. G.S. 20-17(b) reads as rewritten:

"(b) On the basis of information provided by the child support enforcement agency or the clerk of court, the Division ~~shall~~shall:

- (1) ~~ensure~~Ensure that no license or right to operate a motor vehicle under this Chapter is renewed or issued to an obligor who is delinquent in making child support payments when a court of record has issued a revocation order pursuant to G.S. 110-142.2 or G.S. 50-13.12. The obligor shall not be entitled to any other hearing before the Division as a result of the revocation of his license pursuant to G.S. 110-142.2 or ~~G.S. 50-13.12.~~ G.S. 50-13.12; or
- (2) Revoke the drivers license of any person who has willfully failed to complete court-ordered community service and a court has issued a revocation order. This revocation shall continue until the Division receives certification from the clerk of court that the person has completed the court-ordered community service. No person whose drivers license is revoked pursuant to this subdivision shall be entitled to any other hearing before the Division as a result of this revocation."

Section 4. This act becomes effective October 1, 1997, and applies to any person hired or to any person notified of a hearing to determine if the person has willfully failed to perform community service on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:10 p.m. this 27th day of June, 1997