Article 2.

Civil Contempt.

§ 5A-21. Civil contempt; imprisonment to compel compliance.

(a) Failure to comply with an order of a court is a continuing civil contempt as long as:

(1) The order remains in force;

(2) The purpose of the order may still be served by compliance with the order;

(2a) The noncompliance by the person to whom the order is directed is willful; and

(3) The person to whom the order is directed is able to comply with the order or is able to take reasonable measures that would enable the person to comply with the order.

(b) A person who is found in civil contempt may be imprisoned as long as the civil contempt continues, subject to the limitations provided in subsections (b1) and (b2) of this section. Notwithstanding subsection (b2) of this section, if a person is found in civil contempt for failure to pay child support or failure to comply with a court order to perform an act that does not require the payment of a monetary judgment, the person may be imprisoned as long as the civil contempt continues without further hearing.

(b1) A person who is found in civil contempt, but was not arrested, for failure to comply with a nontestimonial identification order issued pursuant to Article 14, Nontestimonial Identification Order, of Chapter 15A of the General Statutes may not be imprisoned more than 90 days unless the person is arrested on probable cause.

(b2) The period of imprisonment for a person found in civil contempt shall not exceed 90 days for the same act of disobedience or refusal to comply with an order of the court. A person who has not purged himself or herself of the contempt within the period of imprisonment imposed by the court under this subsection may be recommitted for one or more successive periods of imprisonment, each not to exceed 90 days. However, the total period of imprisonment for the same act of disobedience or refusal to comply with the order of the court shall not exceed 12 months, including both the initial period of imprisonment imposed under this section and any additional period of imprisonment imposed under this subsection. Before the court may recommit a person to any additional period of imprisonment under this subsection, the court shall conduct a hearing de novo. The court must enter a finding for or against the alleged contemnor on each of the elements of G.S. 5A-21(a), and must find that all of elements of G.S. 5A-21(a) continue to exist before the person can be recommitted. For purposes of this subsection, a person's failure or refusal to purge himself or herself of contempt shall not be deemed a separate or additional act of disobedience, failure, or refusal to comply with an order of the court.

(c) A person who is found in civil contempt under this Article shall not, for the same conduct, be found in criminal contempt under Article 1 of this Chapter.

(d) A person who is found in civil contempt under this Article is not subject to the imposition of a fine. (1977, c. 711, s. 3; 1979, 2nd Sess., c. 1080, s. 1; 1999-361, s. 1; 2015-210, s. 1.)

§ 5A-22. Release when civil contempt no longer continues.

(a) A person imprisoned for civil contempt must be released when his civil contempt no longer continues. The order of the court holding a person in civil contempt must specify how the person may purge himself of the contempt. Upon finding compliance with the specifications, the sheriff or other officer having custody may release the person without a further order from the court.

(b) On motion of the contemnor, the court must determine if he is subject to release and, on an affirmative determination, order his release. The motion must be directed to the judge who found civil contempt unless he is not available. Then the motion must be made to a judge of the same division in the same district court district as defined in G.S. 7A-133 or superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be. The contemnor may also seek his release under other procedures available under the law of this State. (1977, c. 711, s. 3; 1987 (Reg. Sess., 1988), c. 1037, s. 45.)

§ 5A-23. Proceedings for civil contempt.

(a) Proceedings for civil contempt are by motion pursuant to G.S. 5A-23(a1), by the order of a judicial official directing the alleged contemnor to appear at a specified reasonable time and show cause why he should not be held in civil contempt, or by the notice of a judicial official that the alleged contemnor will be held in contempt unless he appears at a specified reasonable time and shows cause why he should not be held in contempt. The order or notice must be given at least five days in advance of the hearing unless good cause is shown. The order or notice may be issued on the motion and sworn statement or affidavit of one with an interest in enforcing the order, including a judge, and a finding by the judicial official of probable cause to believe there is civil contempt.

(a1) Proceedings for civil contempt may be initiated by motion of an aggrieved party giving notice to the alleged contemnor to appear before the court for a hearing on whether the alleged contemnor should be held in civil contempt. A copy of the motion and notice must be served on the alleged contemnor at least five days in advance of the hearing unless good cause is shown. The motion must include a sworn statement or affidavit by the aggrieved party setting forth the reasons why the alleged contemnor should be held in civil contempt. The burden of proof in a hearing pursuant to this subsection shall be on the aggrieved party.

(b) Except when the clerk of superior court has original subject matter jurisdiction and issued the order or when the General Statutes specifically provide for the exercise of contempt power by the clerk of superior court, proceedings under this section are before a district court judge, unless a court superior to the district court issued the order in which case the proceedings are before that court. When the proceedings are before a superior court, venue is in the superior court district or set of districts as defined in G.S. 7A-41.1 of the court which issued the order. Otherwise, venue is in the county where the order was issued.

(c) The person ordered to show cause may move to dismiss the order.

(d) The judicial official is the trier of facts at the show cause hearing.

(e) At the conclusion of the hearing, the judicial official must enter a finding for or against the alleged contemnor on each of the elements set out in G.S. 5A-21(a). If civil contempt is found, the judicial official must enter an order finding the facts constituting contempt and specifying the action which the contemnor must take to purge himself or herself of the contempt.

(f) A person with an interest in enforcing the order may present the case for a finding of civil contempt for failure to comply with an order.

(g) A person who is found in civil contempt under this Article shall not, for the same conduct, be found in criminal contempt under Article 1 of this Chapter. (1977, c. 711, s. 3; 1979, 2nd Sess., c. 1080, ss. 2-4; 1987 (Reg. Sess., 1988), c. 1037, s. 46; 1999-361, ss. 2, 4, 5; 2000-140, s. 35; 2017-158, s. 11.)

§ 5A-24. Appeals.

A person found in civil contempt may appeal in the manner provided for appeals in civil actions. (1977, c. 711, s. 3.)

§ 5A-25. Proceedings as for contempt and civil contempt.

Whenever the laws of North Carolina call for proceedings as for contempt, the proceedings are those for civil contempt set out in this Article. (1977, c. 711, s. 3.)

§ 5A-26. Reserved for future codification purposes.

§ 5A-27. Reserved for future codification purposes.

§ 5A-28. Reserved for future codification purposes.

§ 5A-29. Reserved for future codification purposes.

§ 5A-30. Reserved for future codification purposes.