

§ 15A-1353. Order of commitment when imprisonment imposed; release pending appeal.

(a) When a sentence includes a term or terms of imprisonment, the court must issue an order of commitment setting forth the judgment. Unless otherwise specified in the order of commitment, the date of the order is the date service of the sentence is to begin.

If a female defendant is convicted of a nonviolent crime and the court is provided medical evidence from a licensed physician that the defendant is pregnant or the court otherwise determines that the defendant is pregnant, the court may specify in the order that the date of service of the sentence is not to begin until at least six weeks after the birth of the child or other termination of the pregnancy unless the defendant requests to serve her term as the court would otherwise order. The court may impose reasonable conditions upon defendant during such waiting period to insure that defendant will return to begin service of the sentence.

If the court sentences a defendant pursuant to G.S. 15A-1351(a), the period during which that defendant is awaiting imprisonment shall be considered part of the probationary sentence and such defendant shall be subject to all incidents and conditions of probation.

(b) There must be included in the commitment, or in a separate order referred to in the commitment, any provisions with regard to release under Article 26, Bail, if an appeal is taken, and the conditions of the release. If the commitment has been entered before appeal or the setting of the conditions for release, appropriate copies of those documents must be forwarded to the agency having custody of the defendant.

(c) Unless a later time is directed in the order of commitment, or the defendant has been released from custody pursuant to Article 26, Bail, or the defendant is appealing from a judgment of the district court to the superior court for a trial de novo, the sheriff must cause the defendant to be placed in the custody of the agency specified in the judgment on the day service of sentence is to begin or as soon thereafter as practicable.

(d) A certified copy of the order of commitment, together with any separate order providing for release of the defendant pending appeal, must be delivered to the custodian of the confinement facility.

(e) When a defendant has been committed pursuant to this section:

- (1) If appeal has been entered and conditions of release have been set as provided in Article 26, Bail, the agency having custody of the defendant may effect his release in the manner provided in G.S. 15A-537; or
- (2) If appeal is entered and the conditions of release are not set until after the order of commitment has been issued, and the defendant has been placed in the custody of the agency directed therein, appropriate copies of the conditions of release must be certified by the clerk and forwarded to the agency, which then may effect his release in the manner provided in G.S. 15A-537.

(f) When the sentencing court, with the consent of the person sentenced, orders that a person convicted of a misdemeanor be granted work release, the following provisions must be included in the commitment, or in a separate order referred to in the commitment:

- (1) The date work release is to begin;
- (2) The prison or local confinement facility to which the offender is to be committed;
- (3) A provision that work release terminates the date the offender loses his job or violates the conditions of the work-release plan established by the Division of Prisons of the Department of Adult Correction; and
- (4) A determination whether the earnings of the offender are to be disbursed by the Division of Prisons of the Department of Adult Correction or the clerk of the sentencing court in the manner that the court in its order directs. (1977, c. 711, s. 1; 1979, c. 758, s. 1; 1983, c. 389; 1985 (Reg. Sess., 1986), c. 1014, s. 201(c); 2011-145, s. 19.1(h); 2017-186, s. 2(rrr); 2021-180, s. 19C.9(p).)