

§ 15A-1364. Response to nonpayment.

(a) Response to Default. – When a defendant who has been required to pay a fine or costs or both defaults in payment or in any installment, the court, upon the motion of the prosecutor or upon its own motion, may require the defendant to appear and show cause why he should not be imprisoned or may rely upon a conditional show cause order entered under G.S. 15A-1362(c). If the defendant fails to appear, an order for his arrest may be issued.

(b) Imprisonment; Criteria. – Following a requirement to show cause under subsection (a), unless the defendant shows inability to comply and that his nonpayment was not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the suspended sentence, if any, activated, or, if the law provides no term of imprisonment for the offense for which the defendant was convicted or if no suspended sentence was imposed, the court may order the defendant imprisoned for a term not to exceed 30 days. The court, before activating a sentence of imprisonment, may reduce the sentence. The court may provide in its order that payment or satisfaction at any time of the fine and costs imposed by the court will entitle the defendant to his release from the imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

(c) Modification of Fine or Costs. – If it appears that the default in the payment of a fine or costs is not attributable to failure on the defendant's part to make a good faith effort to obtain the necessary funds for payment, the court may enter an order:

- (1) Allowing the defendant additional time for payment; or
- (2) Reducing the amount of the fine or costs or of each installment; or
- (3) Revoking the fine or costs or the unpaid portion in whole or in part.

(d) Organizations. – When an organization is required to pay a fine or costs or both, it is the duty of the person or persons authorized to make disbursement of the assets of the organization to make payment from assets of the organization, and a failure to do so constitutes contempt of court. (1977, c. 711, s. 1.)