

§ 15A-1371. Parole eligibility, consideration, and refusal.

(a) Eligibility. – Unless his sentence includes a minimum sentence, a prisoner serving a term of imprisonment for a conviction of impaired driving under G.S. 20-138.1 other than one included in a sentence of special probation imposed under authority of this Subchapter is eligible for release on parole at any time. A prisoner whose sentence includes a minimum term of imprisonment imposed under authority of this Subchapter is eligible for release on parole only upon completion of the service of that minimum term or one fifth of the maximum penalty allowed by law for the offense for which the prisoner is sentenced, whichever is less, less any credit allowed under G.S. 15A-1355(c) and Article 19A of Chapter 15 of the General Statutes. A prisoner sentenced under the Fair Sentencing Act for a Class D through Class J felony, who meets the criteria established pursuant to this section, is eligible for parole consideration after completion of the service of at least 20 years imprisonment less any credit allowed under applicable State law.

(a1) Repealed by Session Laws 1994, Ex. Sess., c. 21, s. 3.

(b) (1), (2) Repealed by Session Laws 1993, c. 538, s. 22.

(3) Whenever the Post-Release Supervision and Parole Commission will be considering for parole a prisoner serving a sentence of life imprisonment the Commission must notify, at least 30 days in advance of considering the parole, by first class mail at the last known address:

a. The prisoner;

b. The district attorney of the district where the prisoner was convicted;

c. The head of the law enforcement agency that arrested the prisoner and the sheriff of the county where the crime occurred;

d. Any of the victim's immediate family members who have requested in writing to be notified; and

e. Repealed by Session Laws 1993, c. 538, s. 22.

f. As many newspapers of general circulation and other media in the county where the defendant was convicted and if different, in the county where the prisoner was charged, as reasonable. The Commission may elect to use electronic means rather than the mail to notify the media under this sub-subdivision if such notification would be more timely and cost-effective.

The Post-Release Supervision and Parole Commission must consider any information provided by any such parties before consideration of parole. The Commission must also give the district attorney, the head of the law enforcement agency who has requested in writing to be notified, the victim, any member of the victim's immediate family who has requested to be notified, and as many newspapers of general circulation and other media in the county or counties designated in sub-subdivision f. of this section as reasonable, written notice of its decision within 10 days of that decision. The Commission may elect to use electronic means rather than the mail to notify the media under this paragraph if such notification would be more timely and cost-effective. The Parole Commission shall not, however, include the name of any victim in its notification to the newspapers and other media.

(c) Repealed by Session Laws 1993, c. 538, s. 22.

(d) Criteria. – The Post-Release Supervision and Parole Commission may refuse to release on parole a prisoner it is considering for parole if it believes:

(1) There is a substantial risk that he will not conform to reasonable conditions of parole; or

- (2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or
 - (3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or
 - (4) There is a substantial risk that he would engage in further criminal conduct.
- (e) Refusal of Parole. – A prisoner who has been granted parole may elect to refuse parole and to serve the remainder of his term of imprisonment.
- (f) Repealed by Session Laws 1993, c. 538, s. 22.
- (g) Notwithstanding the provisions of subsection (a), a prisoner serving a sentence of not less than 30 days nor as great as 18 months for impaired driving may be released on parole when he completes service of one-third of his maximum sentence unless the Post-Release Supervision and Parole Commission finds in writing that:
- (1) There is a substantial risk that he will not conform to reasonable conditions of parole; or
 - (2) His release at that time would unduly depreciate the seriousness of his crime or promote disrespect for law; or
 - (3) His continued correctional treatment, medical care, or vocational or other training in the institution will substantially enhance his capacity to lead a law-abiding life if he is released at a later date; or
 - (4) There is a substantial risk that he would engage in further criminal conduct.

If a prisoner is released on parole by operation of this subsection, the term of parole is the unserved portion of the sentence to imprisonment, and the conditions of parole, unless otherwise specified by the Post-Release Supervision and Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

In order that the Post-Release Supervision and Parole Commission may have an adequate opportunity to make a determination whether parole under this section should be denied, no prisoner eligible for parole under this subsection shall be released from confinement prior to the fifth full working day after he shall have been placed in the custody of the Secretary of Public Safety or the custodian of a local confinement facility.

(h) Community Service Parole. – Notwithstanding the provisions of any other subsection herein, prisoners serving sentences for impaired driving shall be eligible for community service parole after serving the minimum sentence required by G.S. 20-179, in the discretion of the Post-Release Supervision and Parole Commission.

Community service parole is early parole for the purpose of participation in community service under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice. A parolee who is paroled under this subsection must perform as a condition of parole community service in an amount and over a period of time to be determined by the Post-Release Supervision and Parole Commission. However, the total amount of community service shall not exceed an amount equal to 32 hours for each month of active service remaining in his minimum sentence. The Post-Release Supervision and Parole Commission may grant early parole under this section without requiring the performance of community service if it determines that such performance is inappropriate to a particular case.

The probation/parole officer and the judicial services coordinator shall develop a program of community service for the parolee. The coordinator shall report any willful failure to perform community service work to the probation/parole officer. Parole may be revoked for any parolee who willfully fails to perform community service work as directed by the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice. The provisions of G.S. 15A-1376 shall apply to this violation of a condition of parole.

Community service parole eligibility shall be available to a prisoner:

- (1) Who is serving an active sentence the term of which exceeds six months; and
- (2) Who, in the opinion of the Post-Release Supervision and Parole Commission, is unlikely to engage in further criminal conduct; and
- (3) Who agrees to complete service of his sentence as herein specified; and
- (4) Who has served one-half of his minimum sentence, at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment, whichever is longer.

In computing the service requirements of subdivision (4) of this subsection, credit shall be given for good time and gain time credit earned pursuant to G.S. 148-13 but only after a person has served at least 10 days if sentenced to Level One punishment or at least seven days if sentenced to Level Two punishment. Nothing herein is intended to create or shall be construed to create a right or entitlement to community service parole in any prisoner.

(i) The fee required by G.S. 143B-708 shall be paid by all persons who participate in the Community Service Parole Program.

(j) The Post-Release Supervision and Parole Commission may terminate a prisoner's community service parole before the expiration of the term of imprisonment where doing so will not endanger the public, unduly depreciate the seriousness of the crime, or promote disrespect for the law. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 19A-22; 1979, c. 749, ss. 9, 10; 1979, 2nd Sess., c. 1316, s. 42; 1981, c. 63, s. 1; c. 179, s. 14; 1983 (Reg. Sess., 1984), c. 1098, s. 1; 1985, c. 453, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 960, s. 2; c. 1012, ss. 2, 5; 1987, c. 47; c. 783, s. 7; 1989, c. 1, ss. 3, 4; 1991, c. 217, s. 3; c. 288, s. 2; 1993, c. 538, s. 22; 1994, Ex. Sess., c. 21, s. 3; c. 24, s. 14(b); c. 25, ss. 1, 2; 2002-126, s. 29A.1(a); 2006-264, s. 34; 2008-133, s. 1; 2009-372, s. 13(a), (b); 2009-451, s. 19.26(a), (d); 2009-575, s. 16A; 2010-107, s. 1; 2011-145, ss. 19.1(i), (k); 2013-348, s. 3; 2013-368, s. 20; 2015-228, s. 1; 2017-186, s. 2(bbbb).)