

§ 20-13.3. Immediate civil license revocation for provisional licensees charged with certain offenses.

(a) Definitions. – As used in this section, the following words and phrases have the following meanings:

- (1) Clerk. – As defined in G.S. 15A-101(2).
- (2) Criminal moving violation. – A violation of Part 9 or 10 of Article 3 of this Chapter which is punishable as a misdemeanor or a felony offense. This term does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter.
- (3) Judicial official. – As defined in G.S. 15A-101(5).
- (4) Provisional licensee. – A person under the age of 18 who has a limited learner's permit, a limited provisional license, or a full provisional license issued pursuant to G.S. 20-11.
- (5) Revocation report. – A sworn statement by a law enforcement officer containing facts indicating that the conditions of subsection (b) of this section have been met.

(b) Revocations for Provisional Licensees Charged With Criminal Moving Violation. – A provisional licensee's permit or license is subject to revocation under this section if a law enforcement officer has reasonable grounds to believe that the provisional licensee has committed a criminal moving violation, the provisional licensee is charged with that offense, and the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5.

(c) Duty of Law Enforcement Officers to Notify Provisional Licensee and Report to Judicial Officials. – If a provisional licensee's permit or license is subject to revocation under this section, the law enforcement officer must execute a revocation report. It is the specific duty of the law enforcement officer to make sure that the report is expeditiously filed with a judicial official as required by this section. If no initial appearance is required on the underlying criminal moving violation at the time of the issuance of the charge, the law enforcement officer must verbally notify the provisional licensee that the provisional licensee's permit or license is subject to revocation pursuant to this section and must provide the provisional licensee with a written form containing notice of the process for revocation and hearing under this section.

(c1) Which Judicial Official Must Receive Report. – The judicial official with whom the revocation report must be filed is:

- (1) The judicial official conducting the initial appearance on the underlying criminal moving violation.
- (2) The clerk of superior court in the county in which the underlying criminal charge has been brought if no initial appearance is required.

(d) Procedure If Report Filed With Judicial Official When Provisional Licensee Is Present. – If an initial appearance is required, the law enforcement officer must file the revocation report with the judicial official conducting the initial appearance on the underlying criminal moving violation. If a properly executed revocation report concerning a provisional licensee is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the provisional licensee, determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the judicial official determines there is such probable cause, the judicial official shall enter an order revoking the provisional licensee's permit or license. In addition to setting it out in the order, the judicial official shall personally inform the provisional licensee of the right to a hearing as specified in subsection (d2) of this section and that the provisional licensee's permit or license remains revoked pending the hearing. The period of revocation is for 30 days and begins at the time the revocation order is issued and

continues for 30 additional calendar days. The judicial official shall give the provisional licensee a copy of the revocation order, which shall include the beginning date of the revocation and shall clearly state the final day of the revocation period and the date on which the provisional licensee's permit or license will again become valid. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d1) Procedure If Report Filed With Clerk of Court When Provisional Licensee Not Present. – When a clerk receives a properly executed report under subdivision (2) of subsection (c1) of this section and the provisional licensee named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the clerk determines there is such probable cause, the clerk shall mail to the provisional licensee a revocation order by first-class mail. The order shall inform the provisional licensee that the period of revocation is for 30 days, that the revocation becomes effective on the fourth day after the order is deposited in the United States mail and continues for 30 additional calendar days, of the right to a hearing as specified in subsection (d2) of this section, and that the revocation remains in effect pending the hearing. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d2) Hearing Before Magistrate or Judge If Provisional Licensee Contests Validity of Revocation. – A provisional licensee whose permit or license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any provisional licensee requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the provisional licensee requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within ten working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged, and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if the judicial official is not satisfied with the accuracy or completeness of evidence. The provisional licensee contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) of this section is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing, the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the provisional licensee contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) of this section considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the

written request for a hearing before a magistrate or within ten working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the provisional licensee contesting the revocation contributed to the delay in completing the hearing. If the provisional licensee requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, the provisional licensee forfeits the right to a hearing.

(e) Report to Division. – The clerk shall notify the Division of the issuance of a revocation order pursuant to this section within two business days of the issuance of the revocation order. The notification shall identify the person whose provisional license has been revoked and specify the beginning and end date of the revocation period.

(f) Effect of Revocations. – A revocation under this section revokes a provisional licensee's privilege to drive in North Carolina. Revocations under this section are independent of and run concurrently with any other revocations, except for a revocation pursuant to G.S. 20-16.5. Any civil revocation issued pursuant to G.S. 20-16.5 for the same underlying conduct as a revocation under this section shall have the effect of terminating a revocation pursuant to this section. No court imposing a period of revocation following conviction for an offense involving impaired driving may give credit for any period of revocation imposed under this section. A person whose license is revoked pursuant to this section is not eligible to receive a limited driving privilege.

(g) Designation of Proceedings. – Proceedings under this section are civil actions and must be identified by the caption "In the Matter of _____" and filed as directed by the Administrative Office of the Courts.

(h) No drivers license points or insurance surcharge shall be assessed for a revocation pursuant to this section. Possession of a drivers license revoked pursuant to this section shall not be a violation of G.S. 20-30.

(i) The Administrative Office of the Courts shall adopt forms to implement this section. (2011-385, s. 4; 2011-412, s. 3.2; 2012-168, s. 3.)