

§ 5A-12. Punishment; circumstances for fine or imprisonment; reduction of punishment; other measures.

(a) A person who commits criminal contempt, whether direct or indirect, is subject to censure, imprisonment up to 30 days, fine not to exceed five hundred dollars (\$500.00), or any combination of the three, except that:

- (1) A person who commits a contempt described in G.S. 5A-11(8) is subject to censure, imprisonment not to exceed 6 months, fine not to exceed five hundred dollars (\$500.00), or any combination of the three;
- (2) A person who has not been arrested who fails to comply with a nontestimonial identification order, issued pursuant to Article 14 of Chapter 15A of the General Statutes is subject to censure, imprisonment not to exceed 90 days, fine not to exceed five hundred dollars (\$500.00), or any combination of the three; and
- (3) A person who commits criminal contempt by failing to comply with an order to pay child support is subject to censure, imprisonment up to 30 days, fine not to exceed five hundred dollars (\$500.00), or any combination of the three. However, a sentence of imprisonment up to 120 days may be imposed for a single act of criminal contempt resulting from the failure to pay child support, provided the sentence is suspended upon conditions reasonably related to the contemnor's payment of child support.

(b) Except for contempt under G.S. 5A-11(5) or 5A-11(9), fine or imprisonment may not be imposed for criminal contempt, whether direct or indirect, unless:

- (1) The act or omission was willfully contemptuous; or
- (2) The act or omission was preceded by a clear warning by the court that the conduct is improper.

(c) The judicial official who finds a person in contempt may at any time withdraw a censure, terminate or reduce a sentence of imprisonment, or remit or reduce a fine imposed as punishment for contempt if warranted by the conduct of the contemnor and the ends of justice.

(d) A person held in criminal contempt under this Article shall not, for the same conduct, be found in civil contempt under Article 2 of this Chapter, Civil Contempt.

(e) A person held in criminal contempt under G.S. 5A-11(9) may nevertheless, for the same conduct, be found guilty of a violation of G.S. 14-225.1, but he must be given credit for any imprisonment resulting from the contempt. (1977, c. 711, s. 3; 1985 (Reg. Sess., 1986), c. 843, s. 1; 1987 (Reg. Sess., 1988), c. 1040, ss. 2, 4; 1989 (Reg. Sess., 1990), c. 1039, s. 4; 1991, c. 686, s. 3; 1999-361, s. 3; 2009-335, s. 1.)