

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

3

HOUSE BILL 270
Committee Substitute Favorable 3/17/11
Third Edition Engrossed 3/23/11

Short Title: Amend Conditions of Probation.

(Public)

Sponsors:

Referred to:

March 10, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW ESTABLISHING THE REGULAR AND SPECIAL
3 CONDITIONS OF PROBATION AND TO REPEAL THE LAW TOLLING THE
4 PROBATION PERIOD WHILE CRIMINAL CHARGES ARE PENDING THAT MIGHT
5 RESULT IN REVOCATION PROCEEDINGS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 15A-1343(b) reads as rewritten:

8 "(b) Regular Conditions. – As regular conditions of probation, a defendant must:

- 9 (1) Commit no criminal offense in any jurisdiction.
10 (2) Remain ~~within the jurisdiction of the court~~ accessible to the probation officer
11 by making the defendant's whereabouts known to the officer and not leave
12 the county of residence or the State of North Carolina unless granted written
13 permission to leave by the court or his probation officer.
14 (3) Report as directed by the court or his probation officer to the officer at
15 reasonable times and places and in a reasonable manner, permit the officer to
16 visit him at reasonable times, answer all reasonable inquiries by the officer
17 and obtain prior approval from the officer for, and notify the officer of, any
18 change in address or employment.
19 (4) Satisfy child support and other family obligations as required by the court. If
20 the court requires the payment of child support, the amount of the payments
21 shall be determined as provided in G.S. 50-13.4(c).
22 (5) Possess no firearm, explosive device or other deadly weapon listed in
23 G.S. 14-269 without the written permission of the court.
24 (6) Pay a supervision fee as specified in subsection (c1).
25 (7) Remain gainfully and suitably employed or faithfully pursue a course of
26 study or of vocational training that will equip him for suitable employment.
27 A defendant pursuing a course of study or of vocational training shall abide
28 by all of the rules of the institution providing the education or training, and
29 the probation officer shall forward a copy of the probation judgment to that
30 institution and request to be notified of any violations of institutional rules
31 by the defendant.
32 (8) Notify the probation officer if he fails to obtain or retain satisfactory
33 employment.
34 (9) Pay the costs of court, any fine ordered by the court, and make restitution or
35 reparation as provided in subsection (d).



- 1 (10) Pay the State of North Carolina for the costs of appointed counsel, public
2 defender, or appellate defender to represent him in the case(s) for which he
3 was placed on probation.
- 4 (11) ~~At a time to be designated by his probation officer, visit with his probation~~
5 ~~officer a facility maintained by the Division of Prisons.~~
- 6 (12) Attend and complete an abuser treatment program if (i) the court finds the
7 defendant is responsible for acts of domestic violence and (ii) there is a
8 program, approved by the Domestic Violence Commission, reasonably
9 available to the defendant, unless the court finds that such would not be in
10 the best interests of justice.
- 11 (13) Submit at reasonable times to warrantless searches by a probation officer of
12 the probationer's person and of the probationer's vehicle and premises while
13 the probationer is present, for purposes directly related to the probation
14 supervision, but the probationer may not be required to submit to any other
15 search that would otherwise be unlawful. ~~Whenever the warrantless search~~
16 ~~consists of testing for the presence of illegal drugs, the probationer may also~~
17 ~~be required to reimburse the Department of Correction for the actual cost of~~
18 ~~drug screening and drug testing, if the results are positive.~~
- 19 (14) Submit to warrantless searches by a law enforcement officer of the
20 probationer's person and of the probationer's vehicle, upon a reasonable
21 suspicion that the probationer is engaged in criminal activity or is in
22 possession of a firearm, explosive device, or other deadly weapon listed in
23 G.S. 14-269 without written permission of the court.
- 24 (15) Not use, possess, or control any illegal drug or controlled substance unless it
25 has been prescribed for him or her by a licensed physician and is in the
26 original container with the prescription number affixed on it; not knowingly
27 associate with any known or previously convicted users, possessors, or
28 sellers of any such illegal drugs or controlled substances; and not knowingly
29 be present at or frequent any place where such illegal drugs or controlled
30 substances are sold, kept, or used.
- 31 (16) Supply a breath, urine, or blood specimen for analysis of the possible
32 presence of prohibited drugs or alcohol when instructed by the defendant's
33 probation officer. If the results of the analysis are positive, the probationer
34 may be required to reimburse the Department of Correction for the actual
35 costs of drug or alcohol screening and testing.

36 A defendant shall not pay costs associated with a substance abuse monitoring program or
37 any other special condition of probation in lieu of, or prior to, the payments required by this
38 subsection.

39 In addition to these regular conditions of probation, a defendant required to serve an active
40 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or
41 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and
42 regulations of the Department of Correction governing the conduct of inmates while
43 imprisoned and report to a probation officer in the State of North Carolina within 72 hours of
44 his discharge from the active term of imprisonment.

45 Regular conditions of probation apply to each defendant placed on supervised probation
46 unless the presiding judge specifically exempts the defendant from one or more of the
47 conditions in open court and in the judgment of the court. It is not necessary for the presiding
48 judge to state each regular condition of probation in open court, but the conditions must be set
49 forth in the judgment of the court.

50 Defendants placed on unsupervised probation are subject to the provisions of this
51 subsection, except that defendants placed on unsupervised probation are not subject to the

1 regular conditions contained in subdivisions (2), (3), (6), (8), ~~(11)~~, (13), (14), and ~~(15)~~(15), and
2 (16) of this subsection."

3 **SECTION 2.** G.S. 15A-1343(b1) reads as rewritten:

4 "(b1) Special Conditions. – In addition to the regular conditions of probation specified in
5 subsection (b), the court may, as a condition of probation, require that during the probation the
6 defendant comply with one or more of the following special conditions:

- 7 (1) Undergo available medical or psychiatric treatment and remain in a specified
8 institution if required for that purpose.
- 9 (2) Attend or reside in a facility providing rehabilitation, counseling, treatment,
10 social skills, or employment training, instruction, recreation, or residence for
11 persons on probation.
- 12 (2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15,
13 2002.
- 14 (2b) Participate in and successfully complete a Drug Treatment Court Program
15 pursuant to Article 62 of Chapter 7A of the General Statutes.
- 16 (3) Submit to imprisonment required for special probation under
17 G.S. 15A-1351(a) or G.S. 15A-1344(e).
- 18 (3a) Repealed by Session Laws 1997-57, s. 3.
- 19 (3b) Submit to intensive supervision and abide by the rules adopted by the
20 Division of Community Corrections for that level of supervision.
- 21 (3c) Remain at his or her residence. The court, in the sentencing order, may
22 authorize the offender to leave the offender's residence for employment,
23 counseling, a course of study, vocational training, or other specific purposes
24 and may modify that authorization. The probation officer may authorize the
25 offender to leave the offender's residence for specific purposes not
26 authorized in the court order upon approval of the probation officer's
27 supervisor. The offender shall be required to wear a device which permits
28 the supervising agency to monitor the offender's compliance with the
29 condition electronically and to pay a fee for the device as specified in
30 subsection (c2) of this section.
- 31 (4) Surrender his or her driver's license to the clerk of superior court, and not
32 operate a motor vehicle for a period specified by the court.
- 33 (5) Compensate the Department of Environment and Natural Resources or the
34 North Carolina Wildlife Resources Commission, as the case may be, for the
35 replacement costs of any marine and estuarine resources or any wildlife
36 resources which were taken, injured, removed, harmfully altered, damaged
37 or destroyed as a result of a criminal offense of which the defendant was
38 convicted. If any investigation is required by officers or agents of the
39 Department of Environment and Natural Resources or the Wildlife
40 Resources Commission in determining the extent of the destruction of
41 resources involved, the court may include compensation of the agency for
42 investigative costs as a condition of probation. This subdivision does not
43 apply in any case governed by G.S. 143-215.3(a)(7).
- 44 (6) Perform community or reparation service under the supervision of the
45 Division of Community Corrections and pay the fee required by
46 G.S. 143B-262.4.
- 47 (7), (8) Repealed by Session Laws 2009-372, s. 9(b), effective December 1,
48 2009, and applicable to offenses committed on or after that date.
- 49 (8a) Purchase the least expensive annual statewide license or combination of
50 licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5,
51 113-271, 113-272, and 113-272.2 that would be required to engage lawfully

- 1 in the specific activity or activities in which the defendant was engaged and
2 which constitute the basis of the offense or offenses of which he was
3 convicted.
- 4 (9) If the offense is one in which there is evidence of physical, mental or sexual
5 abuse of a minor, the court should encourage the minor and the minor's
6 parents or custodians to participate in rehabilitative treatment and may order
7 the defendant to pay the cost of such treatment.
- 8 (9a) Repealed by Session Laws 2004-186, s. 1.1, effective December 1, 2004,
9 and applicable to offenses committed on or after that date.
- 10 (9b) Any or all of the following conditions relating to street gangs as defined in
11 G.S. 14-50.16(b):
- 12 a. Not knowingly associate with any known street gang members and
13 not knowingly be present at or frequent any place or location where
14 street gangs gather or where street gang activity is known to occur.
- 15 b. Not wear clothes, jewelry, signs, symbols, or any paraphernalia
16 readily identifiable as associated with or used by a street gang.
- 17 c. Not initiate or participate in any contact with any individual who was
18 or may be a witness against or victim of the defendant or the
19 defendant's street gang.
- 20 (9c) Participate in any Project Safe Neighborhood activities as directed by the
21 probation officer.
- 22 (10) Satisfy any other conditions determined by the court to be reasonably related
23 to his rehabilitation."
- 24 **SECTION 3.** G.S. 15A-1344(g) is repealed.
- 25 **SECTION 4.** This act becomes effective December 1, 2011, and applies to persons
26 placed on probation on or after that date.