

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 749
HOUSE BILL 159

AN ACT TO MAKE AMENDMENTS TO THE LAWS RELATING TO CRIMINAL
PROCEDURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1344(c) is amended by adding after the second sentence therein the following:

"In cases where the probation is revoked in a county other than the county of original conviction, the clerk in such county revoking probation shall file the Order of Revocation, which shall constitute sufficient permanent record of the proceedings in that court, and shall send one copy of the order revoking probation to the North Carolina Department of Correction to serve as a temporary commitment, and shall send the original order revoking probation and all other papers pertaining thereto, to the county of original conviction to be filed with the original records; the clerk of the county of original conviction shall then issue a formal commitment to the North Carolina Department of Correction."

Sec. 2. G.S. 15A-1344(d) is amended by adding after the first sentence therein the following:

"The probation period shall be tolled if the probationer shall have pending against him criminal charges in any court of competent jurisdiction, which, upon conviction, could result in revocation proceedings against him for violation of the terms of this probation."

Sec. 3. G.S. 15A-1344(e) is amended by inserting after the second sentence therein the following:

"In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order."

Sec. 4. G.S. 15A-1345(c) is amended by deleting the word "five", as it appears in the third line therein, and substituting in lieu thereof the word "seven".

Sec. 5. G.S. 15A-1351(a) is amended by inserting after the second sentence therein the following:

"In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order."

Sec. 6. G.S. 15A-1351(b) is amended by adding at the end of the second sentence the following:

"The fact that the punishment provision for any crime defined by the General Statutes may prescribe a minimum and maximum period within which the court, if imposing an active sentence, must sentence to imprisonment for a violation of that provision of the General Statutes shall not prevent the imposition by the court of only a maximum sentence in those instances."

Sec. 7. G.S. 15A-1351(c) is hereby repealed, and subsequent subsections re-designated accordingly.

Sec. 8. G.S. 15A-1355(c) is hereby amended by adding at the end of the first sentence therein the following:

"Provided, that one serving a period or periods of imprisonment as a condition of special probation shall serve his term of imprisonment day for day, without any credits toward service of his term by any provisions of any Rules and Regulations made by the Department of Correction."

Sec. 9. G.S. 15A-1371(a) is hereby amended by repealing the last sentence therein.

Sec. 10. G.S. 15A-1371(g) is hereby deleted, and the following substituted in lieu thereof:

"Notwithstanding the provisions of Subsection (a), a prisoner serving a sentence of not less than 30 days nor as great as 18 months for a felony or a misdemeanor may be released on parole when he completes service of one-third of his maximum sentence unless the 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 Parole Commission, are those authorized in G.S. 15A-1374(b)(4) through (10).

In order that the 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 section 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 Correction or the custodian of a local confinement facility."

Sec. 11. G.S. 15A-1374(b) is amended by re-designating Subsection 12 as Subsection 13, and writing a new Subsection 12 as follows:

"(12) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1."

Sec. 12. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 4th day of June, 1979.