

Article 85.

Parole.

§ 15A-1370.1. Applicability of Article 85.

This Article is applicable to all prisoners serving sentences of imprisonment for convictions of impaired driving under G.S. 20-138.1. This Article does not apply to a prisoner serving a sentence of life imprisonment without parole. A prisoner serving a sentence of life imprisonment without parole shall not be eligible for parole at any time. (1979, c. 760, s. 4; 1979, 2nd Sess., c. 1316, s. 41; 1981, c. 662, s. 3; 1993, c. 538, s. 21; 1994, Ex. Sess., c. 21, s. 2, c. 22, ss. 33, 34, c. 24, s. 14(b).)

§ 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(a1) Repealed by Session Laws 1994, Ex.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(b) (1), (2) Repealed by Session Laws 1993, c. 538, s. 22.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- e. Repealed by Session Laws 1993, c. 538, s. 22.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).)

§ 15A-1372. Length and effect of parole term.

(a) Term of Parole. – The term of parole for any person released from imprisonment may be no greater than one year.

(b) Repealed by Session Laws 1993, c. 538, s. 23, effective October 1, 1994.

(c) Termination of Sentence. – When a parolee completes his period of parole, the sentence or sentences from which he was paroled are terminated.

(d) Repealed by Session Laws 1993, c. 538, s. 23, effective October 1, 1994. (1977, c. 711, s. 1; 1981, c. 642; 1989, c. 1, s. 8; 1989 (Reg. Sess., 1990), c. 1031, s. 3; 1991, c. 217, s. 1; 1993, c. 538, s. 23; 1994, Ex. Sess., c. 21, s. 4, c. 24, s. 14(b).)

§ 15A-1373. Incidents of parole.

(a) Conditionality of Parole. – Unless terminated sooner as provided in subsection (b), parole remains conditional and subject to revocation.

(b) Early Termination. – The Post-Release Supervision and Parole Commission may terminate a period of parole and discharge the parolee at any time after the expiration of one year of successful parole if warranted by the conduct of the parolee and the ends of justice.

(c) Modification of Conditions. – The Post-Release Supervision and Parole Commission may for good cause shown modify the conditions of parole at any time prior to the expiration or termination of the period for which the parole remains conditional.

(d) Effect of Violation. – If the parolee violates a condition at any time prior to the expiration or termination of the period, the Commission may continue him on the existing parole, with or without modifying the conditions, or, if continuation or modification is not appropriate, may revoke the parole as provided in G.S. 15A-1376 and reimprison the parolee for a term consistent with the following requirements:

(1) The time the parolee was at liberty on parole and in compliance with all terms and conditions of that parole shall be credited on a day-for-day basis against the maximum term of imprisonment imposed by the court under G.S. 15A-1351, except that the parolee shall receive no credit for the last six months of his parole.

(2) The prisoner must be given credit against the term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1376.

(e) Re-parole. – A prisoner who has been reimprisoned following parole may be re-paroled by the Post-Release Supervision and Parole Commission subject to the provisions which govern initial parole. In the event that a defendant serves the final six months of his maximum imprisonment as a result of being recommitted for violation of parole, he may not be required to serve a further period on parole.

(f) Timing of Revocation. – The Post-Release Supervision and Parole Commission may revoke parole for violation of a condition during the period of parole. The Commission also may revoke following the period of parole if:

- (1) Before the expiration of the period of parole, the Commission has recorded its intent to conduct a revocation hearing, and
- (2) The Commission finds that every reasonable effort has been made to notify the parolee and conduct the hearing earlier. (1977, c. 711, s. 1; 1979, c. 927; 1991, c. 217, s. 2; 1993, c. 538, s. 38; 1994, Ex. Sess., c. 24, s. 14(b).)

§ 15A-1374. Conditions of parole.

(a) In General. – The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

(a1) Required Conditions for Certain Offenders. – A person serving a term of imprisonment for an impaired driving offense sentenced pursuant to G.S. 20-179 that:

- (1) Has completed any recommended treatment or training program required by G.S. 20-179(p)(3); and
- (2) Is not being paroled to a residential treatment program;

shall, as a condition of parole, receive community service parole pursuant to G.S. 15A-1371(h), or be required to comply with subdivision (b)(8a) of this section.

(b) Appropriate Conditions. – As conditions of parole, the Commission may require that the parolee comply with one or more of the following conditions:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip him for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on parole.
- (4) Support his dependents and meet other family responsibilities.
- (5) Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or the parole officer.
- (6) Report to a parole officer at reasonable times and in a reasonable manner, as directed by the Commission or the parole officer.
- (7) Permit the parole officer to visit him at reasonable times at his home or elsewhere.
- (8) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the parole officer.
- (8a) Remain in one or more specified places for a specified period or periods each day and wear a device that permits the defendant's compliance with the condition to be monitored electronically.
- (8b) Remain alcohol free, and prove such abstinence through evaluation by a continuous alcohol monitoring system of a type approved by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

- (9) Answer all reasonable inquiries by the parole officer and obtain prior approval from the parole officer for any change in address or employment.
- (10) Promptly notify the parole officer of any change in address or employment.
- (11) Submit at reasonable times to warrantless searches by a parole officer of the parolee's person and of the parolee's vehicle and premises while the parolee is present, for purposes reasonably related to the parole supervision. The Commission may not require as a condition of parole that the parolee submit to any other searches that would otherwise be unlawful. If the parolee has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, warrantless searches of the parolee's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the parole supervision. Whenever the search consists of testing for the presence of illegal drugs, the parolee may also be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual cost of drug testing and drug screening, if the results are positive.
- (11a) Make restitution or reparation to an aggrieved party as provided in G.S. 148-57.1.
- (11b) Comply with an order from a court of competent jurisdiction regarding the payment of an obligation of the parolee in connection with any judgment rendered by the court.
- (11c) In the case of a parolee who was attending a basic skills program during incarceration, continue attending a basic skills program in pursuit of an adult high school equivalency diploma or adult high school diploma.
- (12) Satisfy other conditions reasonably related to his rehabilitation.

(b1) **Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders.** – If a parolee is in a category described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(2), the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes.

(c) **Supervision Fee.** – The Commission must require as a condition of parole that the parolee pay a supervision fee of forty dollars (\$40.00) per month. The Commission may exempt a parolee from this condition of parole only if it finds that requiring him to pay the fee will constitute an undue economic burden. The fee must be paid to the clerk of superior court of the county in which the parolee was convicted. The clerk must transmit any money collected pursuant to this subsection to the State to be deposited in the general fund of the State. In no event shall a person released on parole be required to pay more than one supervision fee per month.

(d) Any fees or costs paid by the parolee in order to comply with the imposition of subdivision (8b) of subsection (b) of this section shall be paid to the clerk of court for the county in which the parolee was convicted. Fees or costs collected under this subsection shall be transmitted to the entity providing the continuous alcohol monitoring system. (1977, c. 711, s. 1; 1979, c. 749, s. 11; 1983, c. 562; 1985, c. 474, s. 6; 1987, c. 579, s. 3; c. 830, s. 17; 1989 (Reg. Sess., 1990), c. 1034, s. 2; 1991, c. 54, s. 1; 1991 (Reg. Sess.,

1992), c. 1000, s. 2; 1993, c. 538, s. 39; 1994, Ex. Sess., c. 24, s. 14(b); 2002-126, s. 29A.2(c); 2006-247, s. 15(h); 2006-253, s. 27; 2007-165, ss. 4, 5; 2007-213, s. 8; 2010-31, s. 19.3(c); 2011-145, s. 19.1(h); 2014-115, s. 28(b); 2017-186, s. 2(cccc).)

§ 15A-1375. Commencement of parole; multiple sentences.

A period of parole commences on the day the prisoner is released from imprisonment. Periods of parole run concurrently with any federal or State prison, jail, probation, or parole term to which the defendant is subject during the period. (1977, c. 711, s. 1.)

§ 15A-1376. Arrest and hearing on parole violation.

(a) Arrest for Violation of Parole. – A parolee is subject to arrest by a law-enforcement officer or a parole officer for violation of conditions of parole only upon the issuance of an order of temporary or conditional revocation of parole by the Post-Release Supervision and Parole Commission. However, a parole revocation hearing under subsection (e) may be held without first arresting the parolee.

(b) When and Where Preliminary Hearing on Parole Violation Required. – Unless the hearing required by subsection (e) is first held or a continuance is requested by the parolee, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. The preliminary hearing for violations of parole may be conducted by videoconference. Otherwise, the parolee must be released seven working days after his arrest to continue on parole pending a hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A.

(c) Officers to Conduct Hearing. – The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the Post-Release Supervision and Parole Commission. No person employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may serve as a hearing officer at a hearing provided in this section unless he is a member of the Post-Release Supervision and Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

(e) Revocation Hearing. – Before finally revoking parole, the Post-Release Supervision and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole finally. The revocation hearing may be conducted by videoconference. The Post-Release Supervision and Parole Commission must adopt rules governing the hearing. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 23-26; 1987, c. 827, s. 1; 1993, c. 538, s. 40; 1994, Ex. Sess., c. 24, s. 14(b); 1996, 2nd Ex. Sess., c. 18, s. 20.15(a); 2000-189, s. 2; 2011-145, s. 19.1(h); 2016-77, s. 4(c); 2017-186, s. 2(ddd).)

§ 15A-1377. Repealed by Session Laws 1977, 2nd Sess., c. 1147, s. 27.

§§ 15A-1378 through 15A-1380. Reserved for future codification purposes.