

**§ 15A-1343. Conditions of probation.**

(a) In General. – The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.

(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

- (1) House arrest with electronic monitoring.
  - (2) Perform community service and pay the fee prescribed by law for this supervision.
  - (3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
  - (4) Substance abuse assessment, monitoring, or treatment.
  - (4a) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.
  - (5) Participation in an educational or vocational skills development program, including an evidence-based program.
  - (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).
- (b) Regular Conditions. – As regular conditions of probation, a defendant must:
- (1) Commit no criminal offense in any jurisdiction.
  - (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
  - (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
  - (3a) Not abscond by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer, if the defendant is placed on supervised probation.
  - (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
  - (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
  - (6) Pay a supervision fee as specified in subsection (c1).
  - (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.

- (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
- (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
- (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
- (11) Repealed by Session Laws 2011-62, s. 1, as amended by Session Laws 2011-412, s. 2.2, effective December 1, 2011, and applicable to offenses committed on or after December 1, 2011.
- (12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice. A defendant attending an abuser treatment program shall abide by all of the rules of the program.
  - a. If the defendant is placed on supervised probation, the following procedures apply:
    1. The probation officer shall forward a copy of the judgment, including all conditions of probation, to the abuser treatment program.
    2. The program shall notify the probation officer if the defendant fails to participate in the program or if the defendant is discharged from the program for violating any of the program rules.
    3. If the defendant fails to participate in the program or is discharged from the program for failure to comply with the program or its rules, the probation officer shall file a violation report with the court and notify the district attorney of such noncompliance.
  - b. If the defendant is placed on unsupervised probation, the following procedures apply:
    1. The defendant shall be required to notify the district attorney and the abuser treatment program of their choice of program within 10 days of the judgment if the program has not previously been selected.
    2. The district attorney shall forward a copy of the judgment, including all conditions of probation, to the abuser treatment program.
    3. If the defendant fails to participate in the program or is discharged from the program for failure to comply with the program or its rules, the program shall notify the district attorney of such noncompliance.
- (13) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes directly related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful.
- (14) Submit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle, upon a reasonable

suspicion that the probationer is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court.

- (15) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.
- (16) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the actual costs of drug or alcohol screening and testing.
- (17) Waive all rights relating to extradition proceedings if taken into custody outside of this State for failing to comply with the conditions imposed by the court upon a felony conviction.
- (18) Submit to the taking of digitized photographs, including photographs of the probationer's face, scars, marks, and tattoos, to be included in the probationer's records.

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

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

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), (13), (14), (15), (16) and (17) of this subsection.

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

- (1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose. Notwithstanding the provisions of G.S. 15A-1344(e) or any other provision of law, the defendant may be required to participate in such treatment for its duration regardless of the length of the suspended sentence imposed.
- (2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

- (2a) Repealed by Session Laws 2002-126, s. 17.18, effective August 15, 2002.
- (2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.
- (2c) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.
- (3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).
- (3a) Repealed by Session Laws 1997-57, s. 3.
- (3b) Repealed by Session Laws 2011-192, s. 1(g), effective December 1, 2011.
- (3c) Remain at his or her residence. The court, in the sentencing order, may authorize the offender to leave the offender's residence for employment, counseling, a course of study, vocational training, or other specific purposes and may modify that authorization. The probation officer may authorize the offender to leave the offender's residence for specific purposes not authorized in the court order upon approval of the probation officer's supervisor. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically and to pay a fee for the device as specified in subsection (c2) of this section.
- (4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.
- (5) Compensate the Department of Environmental Quality or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environmental Quality or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. The court may also include, as a condition of probation, compensation of an agency for any reward paid for information leading to the arrest and conviction of the offender. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).
- (6) Perform community or reparation service under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and pay the fee required by G.S. 143B-708.
- (7), (8) Repealed by Session Laws 2009-372, s. 9(b), effective December 1, 2009, and applicable to offenses committed on or after that date.
- (8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.
- (9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

- (9a) Repealed by Session Laws 2004-186, s. 1.1, effective December 1, 2004, and applicable to offenses committed on or after that date.
- (9b) Any or all of the following conditions relating to criminal gangs as defined in G.S. 14-50.16A(1):
  - a. Not knowingly associate with any known criminal gang members and not knowingly be present at or frequent any place or location where criminal gangs gather or where criminal gang activity is known to occur.
  - b. Not wear clothes, jewelry, signs, symbols, or any paraphernalia readily identifiable as associated with or used by a criminal gang.
  - c. Not initiate or participate in any contact with any individual who was or may be a witness against or victim of the defendant or the defendant's criminal gang.
- (9c) Participate in any Project Safe Neighborhood activities as directed by the probation officer.
- (10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who 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, must:

- (1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).
- (2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.
- (3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.
- (4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.
- (5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.
- (6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.
- (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1).
- (8) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is in the category described by G.S. 14-208.40(a)(2), and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, based on the Division's risk assessment program, recommends that the defendant submit to the highest possible level of supervision and monitoring.
- (9) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes specified by the court and reasonably

related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. For purposes of this subdivision, warrantless searches of the probationer's computer or other electronic mechanism which may contain electronic data shall be considered reasonably related to the probation supervision. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer 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 screening and drug testing, if the results are positive.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation.

(b3) Screening and Assessing for Chemical Dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) or the Black Mountain Substance Abuse Treatment Center for Women operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

(b4) Intermediate Conditions. – The following conditions of probation apply to each defendant subject to intermediate punishment:

- (1) If required in the discretion of the defendant's probation officer, perform community service under the supervision of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice and pay the fee required by G.S. 143B-708.
- (2) Not use, possess, or control alcohol.
- (3) Remain within the county of residence unless granted written permission to leave by the court or the defendant's probation officer.
- (4) Participate in any evaluation, counseling, treatment, or educational program as directed by the probation officer, keeping all appointments and abiding by the rules, regulations, and direction of each program.

These conditions apply to each defendant subject to intermediate punishment unless the court specifically exempts the defendant from one or more of the conditions in its judgment or order. It is not necessary for the presiding judge to state each of these conditions in open court, but the conditions must be set forth in the judgment or order of the court.

(c) Statement of Conditions. – A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which the defendant is being released. If any modification of the terms of that probation is subsequently made, the defendant must be given a written statement setting forth the modifications.

Upon entry of an order of supervised probation by the court, a defendant shall submit to the Division of Adult Correction and Juvenile Justice for filing with the clerk of superior court a signed document stating that:

- (1) The defendant will comply with the conditions that have been imposed by the court.
- (2) If the defendant fails to comply with the conditions imposed by the court and is taken into custody outside of this State, the defendant waives all rights relating to extradition proceedings if the defendant was convicted of a felony.

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of forty dollars (\$40.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered, the deferred prosecution agreement was filed, or the conditional discharge was ordered. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(c2) Electronic Monitoring Device Fees. – Any person placed on house arrest with electronic monitoring under subsection (a1) or (b1) of this section shall pay a fee of ninety dollars (\$90.00) for the electronic monitoring device and a daily fee in an amount that reflects the actual cost of providing the electronic monitoring. The court may exempt a person from paying the fees only for good cause and upon motion of the person placed on house arrest with electronic monitoring. The court may require that the fees be paid in advance or in a lump sum or sums, and a probation officer may require payment by those methods if the officer is authorized by subsection (g) of this section to determine the payment schedule. The fees must be paid to the clerk of court for the county in which the judgment was entered, the deferred prosecution agreement was filed, or the conditional discharge was ordered. Fees collected under this subsection for the electronic monitoring device shall be transmitted to the State for deposit into the State's General Fund. The daily fees collected under this subsection shall be remitted to the Department of Public Safety to cover the costs of providing the electronic monitoring.

(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the factors set out in G.S. 15A-1340.35 and G.S. 15A-1340.36. As used herein, "reparation" shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein "aggrieved party" includes individuals, firms, corporations, associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.

(e) Costs of Court and Appointed Counsel. – Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and all fees and costs for appointed counsel, public defender, or counsel employed by or under contract with the Office of Indigent Defense Services in the case in which the person was convicted. The fees and costs for appointed counsel, public defender, or other counsel services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount of those costs and fees to be repaid and the method of payment.

(f) Repealed by Session Laws 1983, c. 561, s. 5.

(g) Probation Officer May Determine Payment Schedules and May Transfer Low-Risk Misdemeanants to Unsupervised Probation. – If a person placed on supervised probation is required as a condition of that probation to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action. In addition, a probation officer may transfer a misdemeanor from supervised to unsupervised probation if the misdemeanor is not subject to any special conditions and was placed on probation solely for the collection of court-ordered payments, and the risk assessment shows the misdemeanor to be a low-risk offender; however, such a transfer to unsupervised probation does not relieve the misdemeanor of the obligation to continue making court-ordered payments under the terms of the misdemeanor's probation. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 8-10; 1979, c. 662, s. 1; c. 801, s. 3; c. 830, s. 12; 1981, c. 530, ss. 1, 2; 1983, c. 135, s. 1; c. 561, ss. 1-6; c. 567, s. 2; c. 712, s. 1; 1983 (Reg. Sess., 1984), c. 972, ss. 1, 2; 1985, c. 474, ss. 1, 7, 8; 1985 (Reg. Sess., 1986), c. 859, ss. 1, 2; 1987, c. 282, s. 33; c. 397, s. 1; c. 579, ss. 1, 2; c. 598, s. 1; c. 819, s. 32; c. 830, s. 17; 1989, c. 529, s. 5; c. 727, s. 218(4); 1989 (Reg. Sess., 1990), c. 1010, s. 1; c. 1034, s. 1; 1991 (Reg. Sess., 1992), c. 1000, s. 1; 1993, c. 538, s. 16; 1994, Ex. Sess., c. 9, s. 1; c. 24, s. 14(b); 1996, 2nd Ex. Sess., c. 18, s. 20.14(c); 1997-57, s. 3; 1997-443, ss. 11A.119(a), 19.11(a); 1998-212, ss. 17.21(a), 19.4(f); 1999-298, s. 2; 2000-125, s. 8; 2000-144, s. 31; 2002-105, s. 3; 2002-126, ss. 17.18(a), 29A.2(a); 2003-141, s. 1; 2004-186, s. 1.1; 2005-250, s. 4; 2005-276, ss. 17.29, 43.1(f), 43.2(a); 2006-247, s. 15(b); 2007-213, s. 7; 2009-275, s. 1; 2009-372, s. 9(a)-(c); 2009-547, s. 7; 2010-31, s. 19.3(a); 2010-96, s. 28(a), (b); 2011-62, ss. 1, 2; 2011-145, s. 19.1(h), (k); 2011-192, s. 1(c), (g), 4(a); 2011-254, ss. 1, 2; 2011-412, ss. 2.1, 2.2, 2.3(a), 2.5; 2012-39, s. 1; 2012-146, ss. 3-5; 2012-188, s. 3; 2013-101, s. 1; 2013-123, s. 1; 2013-360, s. 16C.16(a); 2013-363, s. 6.7(a), (c); 2013-380, s. 2; 2014-119, s. 2(f); 2015-241, s. 14.30(u); 2016-77, s. 1; 2017-186, ss. 2(III), 3(a); 2017-194, s. 18.)