

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 393  
Judiciary Committee Substitute Adopted 3/26/97

Short Title: Fail Comm. Service/Revoke License.

(Public)

Sponsors:

Referred to:

March 17, 1997

A BILL TO BE ENTITLED

AN ACT TO MANDATE THE REVOCATION OF A PERSON'S DRIVERS LICENSE OR LIMITED DRIVING PRIVILEGE FOR WILLFUL FAILURE TO COMPLETE COURT-ORDERED COMMUNITY SERVICE AND TO ELIMINATE THE REQUIREMENT FOR JUDICIAL INVOLVEMENT IN THE APPOINTMENT OF COMMUNITY SERVICE COORDINATORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-179.4 reads as rewritten:

**"§ 20-179.4. Community service alternative punishment; responsibilities of the Department of Crime Control and Public Safety; fee.**

(a) The Department of Crime Control and Public Safety ~~must~~shall conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of Crime Control and Public Safety ~~must~~shall assign at least one coordinator to each district court district as defined in G.S. 7A-133 to assure and report to the court the person's compliance with the community service sentence. ~~The appointment of each coordinator shall be made in consultation with and is subject to the approval of the chief district court judge in the district to which the coordinator is assigned.~~—Each county must

1 provide office space in the courthouse or other convenient place, necessary equipment,  
2 and secretarial service for the use of each coordinator assigned to that county.

3 (c) A fee of one hundred dollars (\$100.00) ~~must~~ shall be paid by all persons  
4 serving a community service sentence. That fee ~~must~~ shall be paid to the clerk of court in  
5 the county in which the person is convicted. The fee ~~must~~ shall be paid in full within two  
6 weeks unless the court, upon a showing of hardship by the person, allows additional time  
7 to pay the fee. The person may not be required to pay the fee before beginning the  
8 community service unless the court specifically orders the person to do so.

9 (d) Fees collected under this section ~~must~~ shall be deposited in the general fund.

10 (e) The coordinator ~~must~~ shall report to the court in which the community service  
11 was ordered a significant violation of the terms of the probation judgment related to  
12 community service. ~~In such cases, the~~ The court must shall then conduct a hearing to  
13 determine if there is a willful failure to comply. If the court determines there is a willful  
14 failure to pay the prescribed fee or to complete the work as ordered by the coordinator  
15 within the applicable time limits, the court ~~must~~ shall revoke any limited driving privilege  
16 issued in the impaired driving ~~ease, case until the community service requirement has~~  
17 been met and in addition may take any further action authorized by Article 82 of General  
18 Statutes Chapter 15A for violation of a condition of probation."

19 Section 2. G.S. 143B-475.1 reads as rewritten:

20 **"§ 143B-475.1. Deferred prosecution, community service restitution, and volunteer**  
21 **program.**

22 (a) The Department of Crime Control and Public Safety may conduct a deferred  
23 prosecution, community service restitution, and volunteer program for youthful and adult  
24 offenders. The Secretary of Crime Control and Public Safety may assign one or more  
25 coordinators to each district court district as defined in G.S. 7A-133 to assure and report  
26 to the Court the offender's compliance with the requirements of the program. ~~The~~  
27 ~~appointment of each coordinator shall be made in consultation with and is subject to the approval~~  
28 ~~of the chief district court judge in the district to which the coordinator is assigned.~~ Each county  
29 ~~must~~ shall provide office space in the courthouse or other convenient place, for the use of  
30 each coordinator assigned to that county.

31 (b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee  
32 of one hundred dollars (\$100.00) shall be paid by all persons who participate in the  
33 program or receive services from the program staff. If the person is convicted in a court  
34 in this State, the fee ~~must~~ shall be paid to the clerk of court in the county in which he is  
35 convicted. If the person is participating in the program as a result of a deferred  
36 prosecution or similar program, the fee ~~must~~ shall be paid to the clerk of court in the  
37 county in which the agreement is filed. Persons participating in the program for any  
38 other reason ~~must~~ shall pay the fee to the clerk of court in the county in which the  
39 services are provided by the program staff. The fee ~~must~~ shall be paid in full within two  
40 weeks from the date the person is ordered to perform the community service, and before  
41 he begins his community service, except that:

1 (1) A person convicted in a court in this State may be given an extension of  
2 time or allowed to begin the community service before he pays the fee  
3 by the court in which he is convicted; or

4 (2) A person performing community service pursuant to a deferred  
5 prosecution or similar agreement may be given an extension of time or  
6 allowed to begin his community service before the fee is paid by the  
7 official or agency representing the State in the agreement.

8 Fees collected pursuant to this subsection shall be deposited in the General Fund.

9 (c) The Secretary ~~is authorized to~~ may designate the same person to serve as a  
10 coordinator under this section and under G.S. 20-179.4.

11 (d) A person is not liable for damages for any injury or loss sustained by an  
12 individual performing community or reparation service under this section unless the  
13 injury is caused by the person's gross negligence or intentional wrongdoing. As used in  
14 this subsection, 'person' includes any governmental unit or agency, nonprofit corporation,  
15 or other nonprofit agency that is supervising the individual, or for whom the individual is  
16 performing community service work, as well as any person employed by the agency or  
17 corporation while acting in the scope and course of the person's employment. This  
18 subsection does not affect the immunity from civil liability in tort available to local  
19 governmental units or agencies. Notice of the provisions of this subsection ~~must~~ shall be  
20 furnished to the individual at the time of assignment of community service work by the  
21 community service coordinator.

22 (e) In order to maximize the efficiency and effectiveness of the community service  
23 program, (i) beginning September 1, 1995, community service program districts shall  
24 have the same boundaries as the district court districts established in G.S. 7A-133 and (ii)  
25 beginning with persons hired on or after September 1, 1995, all community service  
26 program district supervisors employed by the Department of Crime Control and Public  
27 Safety to supervise each of the community service program districts shall reside in the  
28 district in which the supervisor works.

29 (f) The Community Service Staff shall report to the court in which the community  
30 service was ordered, a significant violation of the terms of the probation, or deferred  
31 prosecution, related to community service. The community service staff shall give notice  
32 of the hearing to determine if there is a willful failure to comply to the person who was  
33 ordered to perform the community service. This notice shall be given by either personal  
34 delivery to the person to be notified or by depositing the notice in the United States Mail  
35 in an envelope with postage prepaid, addressed to the person at the address shown on the  
36 records of the community service staff. The notice shall be mailed at least ten days prior  
37 to any hearing and shall state the basis of the alleged willful failure to comply. The court  
38 shall then conduct a hearing, even if the person ordered to perform the community  
39 service fails to appear, to determine if there is a willful failure to complete the work as  
40 ordered by the community service staff within the applicable time limits. If the court  
41 determines there is a willful failure to comply, it shall revoke any drivers license issued to  
42 the person and notify the Division of Motor vehicles to revoke any drivers license issued  
43 to the person until the community service requirement has been met. In addition, if the

1 person is present, the court may take any further action authorized by Article 82 of  
2 Chapter 15A of the General Statutes for violation of a condition of probation."

3 Section 3. G.S. 20-17(b) reads as rewritten:

4 "(b) On the basis of information provided by the child support enforcement agency  
5 or the clerk of court, the Division ~~shall~~ shall:

6 (1) ~~ensure~~ Ensure that no license or right to operate a motor vehicle under  
7 this Chapter is renewed or issued to an obligor who is delinquent in  
8 making child support payments when a court of record has issued a  
9 revocation order pursuant to G.S. 110-142.2 or G.S. 50-13.12. The  
10 obligor shall not be entitled to any other hearing before the Division as a  
11 result of the revocation of his license pursuant to G.S. 110-142.2 or ~~G.S.~~  
12 ~~50-13.12.~~ G.S. 50-13.12; or

13 (2) Revoke the drivers license of any person who has willfully failed to  
14 complete court-ordered community service and a court has issued a  
15 revocation order. This revocation shall continue until the Division  
16 receives certification from the clerk of court that the person has  
17 completed the court-ordered community service. No person whose  
18 drivers license is revoked pursuant to this subdivision shall be entitled  
19 to any other hearing before the Division as a result of this revocation."

20 Section 4. This act becomes effective October 1, 1997, and applies to any  
21 person hired or to any person notified of a hearing to determine if the person has willfully  
22 failed to perform community service on or after that date.