

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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HOUSE BILL 1261  
Committee Substitute Favorable 4/26/99

Short Title: Law Officer/Search Probationer or Parolee.

(Public)

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Sponsors:

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Referred to:

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April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE LAW ENFORCEMENT OFFICERS TO CONDUCT  
2 SEARCHES OF PROBATIONERS OR PAROLEES WITHOUT PROBABLE  
3 CAUSE WHEN THAT IS IMPOSED AS A CONDITION OF THE PROBATION  
4 OR PAROLE.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 15A-1343(b1) reads as rewritten:

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

11 (1) Undergo available medical or psychiatric treatment and remain in a  
12 specified institution if required for that purpose.

13 (2) Attend or reside in a facility providing rehabilitation, counseling,  
14 treatment, social skills, or employment training, instruction, recreation,  
15 or residence for persons on probation.

16 (2a) Submit to a period of residential treatment in the Intensive Motivational  
17 Program of Alternative Correctional Treatment (IMPACT), pursuant to  
18 G.S. 15A-1343.1, for a minimum of 90 days or a maximum of 120 days  
19 and abide by all rules and regulations of that program. This condition

- 1                    may also include a period of supervision through the Post-Boot Camp  
2                    Probation Program.
- 3                    (3)        Submit to imprisonment required for special probation under G.S. 15A-  
4                    1351(a) or G.S. 15A-1344(e).
- 5                    (3a)       Repealed by Session Laws 1997-57, s. 3.
- 6                    (3b)       Submit to supervision by officers assigned to the Intensive Supervision  
7                    Program established pursuant to G.S. 143B-262(c), and abide by the  
8                    rules adopted for that Program. Unless otherwise ordered by the court,  
9                    intensive supervision also requires multiple contacts by a probation  
10                   officer per week, a specific period each day during which the offender  
11                   must be at his or her residence, and that the offender remain gainfully  
12                   and suitably employed or faithfully pursue a course of study or of  
13                   vocational training that will equip the offender for suitable employment.
- 14                   (3c)       Remain at his or her residence unless the court or the probation officer  
15                   authorizes the offender to leave for the purpose of employment,  
16                   counseling, a course of study, or vocational training. The offender shall  
17                   be required to wear a device which permits the supervising agency to  
18                   monitor the offender's compliance with the condition electronically.
- 19                   (4)        Surrender his driver's license to the clerk of superior court, and not  
20                   operate a motor vehicle for a period specified by the court.
- 21                   (5)        Compensate the Department of Environment and Natural Resources or  
22                   the North Carolina Wildlife Resources Commission, as the case may be,  
23                   for the replacement costs of any marine and estuarine resources or any  
24                   wildlife resources which were taken, injured, removed, harmfully  
25                   altered, damaged or destroyed as a result of a criminal offense of which  
26                   the defendant was convicted. If any investigation is required by officers  
27                   or agents of the Department of Environment and Natural Resources or  
28                   the Wildlife Resources Commission in determining the extent of the  
29                   destruction of resources involved, the court may include compensation  
30                   of the agency for investigative costs as a condition of probation. This  
31                   subdivision does not apply in any case governed by G.S. 143-  
32                   215.3(a)(7).
- 33                   (6)        Perform community or reparation service and pay any fee required by  
34                   law or ordered by the court for participation in the community or  
35                   reparation service program.
- 36                   (7)        Submit at reasonable times to warrantless searches by a probation  
37                   officer or a law enforcement officer of his person and of his vehicle and  
38                   premises while he is present, for purposes specified by the court and  
39                   reasonably related to his probation supervision, but the probationer may  
40                   not be required to submit to any other search that would otherwise be  
41                   unlawful. Any evidence obtained from this search may only be used for  
42                   purposes of probation and parole enforcement. Whenever the  
43                   warrantless search consists of testing for the presence of illegal drugs,

1 the probationer may also be required to reimburse the Department of  
2 Correction for the actual cost of drug screening and drug testing, if the  
3 results are positive.

4 (8) Not use, possess, or control any illegal drug or controlled substance  
5 unless it has been prescribed for him by a licensed physician and is in  
6 the original container with the prescription number affixed on it; not  
7 knowingly associate with any known or previously convicted users,  
8 possessors or sellers of any such illegal drugs or controlled substances;  
9 and not knowingly be present at or frequent any place where such illegal  
10 drugs or controlled substances are sold, kept, or used.

11 (8a) Purchase the least expensive annual statewide license or combination of  
12 licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-  
13 270.5, 113-271, 113-272, and 113-272.2 that would be required to  
14 engage lawfully in the specific activity or activities in which the  
15 defendant was engaged and which constitute the basis of the offense or  
16 offenses of which he was convicted.

17 (9) If the offense is one in which there is evidence of physical, mental or  
18 sexual abuse of a minor, the court should encourage the minor and the  
19 minor's parents or custodians to participate in rehabilitative treatment  
20 and may order the defendant to pay the cost of such treatment.

21 (10) Satisfy any other conditions determined by the court to be reasonably  
22 related to his rehabilitation."

23 Section 2. G.S. 15A-1374(b) reads as rewritten:

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

26 (1) Work faithfully at suitable employment or faithfully pursue a course of  
27 study or vocational training that will equip him for suitable  
28 employment.

29 (2) Undergo available medical or psychiatric treatment and remain in a  
30 specified institution if required for that purpose.

31 (3) Attend or reside in a facility providing rehabilitation, instruction,  
32 recreation, or residence for persons on parole.

33 (4) Support his dependents and meet other family responsibilities.

34 (5) Refrain from possessing a firearm, destructive device, or other  
35 dangerous weapon unless granted written permission by the  
36 Commission or the parole officer.

37 (6) Report to a parole officer at reasonable times and in a reasonable  
38 manner, as directed by the Commission or the parole officer.

39 (7) Permit the parole officer to visit him at reasonable times at his home or  
40 elsewhere.

41 (8) Remain within the geographic limits fixed by the Commission unless  
42 granted written permission to leave by the Commission or the parole  
43 officer.

- 1 (9) Answer all reasonable inquiries by the parole officer and obtain prior  
2 approval from the parole officer for any change in address or  
3 employment.
- 4 (10) Promptly notify the parole officer of any change in address or  
5 employment.
- 6 (11) Submit at reasonable times to searches of his person by a parole officer  
7 or law enforcement officer for purposes reasonably related to his parole  
8 supervision. The Commission may not require as a condition of parole  
9 that the parolee submit to any other searches that would otherwise be  
10 unlawful. Any evidence obtained from this search may only be used for  
11 purposes of probation and parole enforcement. Whenever the search  
12 consists of testing for the presence of illegal drugs, the parolee may also  
13 be required to reimburse the Department of Correction for the actual  
14 cost of drug testing and drug screening, if the results are positive.
- 15 (11a) Make restitution or reparation to an aggrieved party as provided in G.S.  
16 148-57.1.
- 17 (11b) Comply with an order from a court of competent jurisdiction regarding  
18 the payment of an obligation of the parolee in connection with any  
19 judgment rendered by the court.
- 20 (11c) In the case of a parolee who was attending a basic skills program during  
21 incarceration, continue attending a basic skills program in pursuit of a  
22 General Education Development Degree or adult high school diploma.
- 23 (12) Satisfy other conditions reasonably related to his rehabilitation."

24 Section 3. Article 10 of Chapter 15A of the General Statutes is amended by  
25 adding a new section to read:

26 "**§ 15A-232. Warrantless searches and seizures permitted under certain conditions**  
27 **of probation and parole.**

28 A warrantless search may be conducted by a probation officer or law enforcement  
29 officer as provided by G.S. 15A-1343(b1) or G.S. 15A-1374(b). Any evidence of  
30 illegal activity obtained as a result of a warrantless search made under this section shall  
31 not be the basis for a criminal charge or used as evidence in a criminal proceeding against  
32 the probationer or parolee."

33 Section 4. This act becomes effective December 1, 1999.