



1           (4) The last nine months of the term of imprisonment shall be suspended  
2           during the term of post-release punishment and may be activated as  
3           provided in Article 84B of this Chapter."

4           **SECTION 3.** G.S. 15A-1340.15(b) reads as rewritten:

5           "(b) Consolidation of Sentences. – If an offender is convicted of more than one  
6 offense at the same time, the court may consolidate the offenses for judgment and  
7 impose a single judgment for the consolidated offenses. The judgment shall contain a  
8 sentence disposition specified for the class of offense and prior record level of the most  
9 serious offense, and its minimum sentence of imprisonment shall be within the ranges  
10 specified for that class of offense and prior record level, unless applicable statutes  
11 require or authorize another minimum sentence of imprisonment. If one or more of the  
12 offenses is a Class B1, B2, C, D, or E felony, other than a felony for which the offender  
13 receives a term of life imprisonment without parole, the term of imprisonment for the  
14 consolidated offenses shall contain one term of post-release punishment, as provided in  
15 G.S. 15A-1340.13(d1)."

16           **SECTION 4.** G.S. 15A-1342(c) reads as rewritten:

17           "(c) Conditions; Suspended Sentence. – When the court places a convicted  
18 offender on probation, it must determine conditions of probation as provided in  
19 G.S. 15A-1343. In addition, it must impose a suspended sentence of imprisonment,  
20 determined as provided in ~~Article 83, Imprisonment,~~ Article 83 of this Chapter, which  
21 may be activated upon violation of conditions of probation."

22           **SECTION 5.** G.S. 15A-1344(d) reads as rewritten:

23           "(d) Extension and Modification; Response to Violations. – At any time prior to  
24 the expiration or termination of the probation period, the court may after notice and  
25 hearing and for good cause shown extend the period of probation up to the maximum  
26 allowed under G.S. 15A-1342(a) and may modify the conditions of probation. The  
27 probation period shall be tolled if the probationer shall have pending against him  
28 criminal charges in any court of competent jurisdiction, which, upon conviction, could  
29 result in revocation proceedings against him for violation of the terms of this probation.  
30 The hearing may be held in the absence of the defendant, if he fails to appear for the  
31 hearing after a reasonable effort to notify him. If a convicted defendant violates a  
32 condition of probation at any time prior to the expiration or termination of the period of  
33 probation, the court, in accordance with the provisions of G.S. 15A-1345, may continue  
34 him on probation, with or without modifying the conditions, may place the defendant on  
35 special probation as provided in subsection (e), or, if continuation, modification, or  
36 special probation is not appropriate, may revoke the probation and activate the  
37 suspended sentence imposed at the time of initial sentencing, if any, including the term  
38 of post-release punishment, or may order that charges as to which prosecution has been  
39 deferred be brought to trial; provided that probation may not be revoked solely for  
40 conviction of a Class 3 misdemeanor. The court, before activating a sentence to  
41 imprisonment established when the defendant was placed on probation, may reduce the  
42 ~~sentence,~~ sentence of imprisonment, but the reduction shall be consistent with  
43 subsection (d1) of this section. A sentence activated upon revocation of probation  
44 commences on the day probation is revoked and runs concurrently with any other period

1 of probation, parole, or ~~imprisonment~~ imprisonment, including the term of post-release  
2 punishment, to which the defendant is subject during that period unless the revoking  
3 judge specifies that it is to run consecutively with the other period."

4 **SECTION 6.** G.S. 15A-1354 reads as rewritten:

5 **"§ 15A-1354. Concurrent and consecutive terms of imprisonment.**

6 (a) Authority of Court. – When multiple sentences of imprisonment are imposed  
7 on a person at the same time or when a term of imprisonment is imposed on a person  
8 who is already subject to an undischarged term of imprisonment, including a term of  
9 imprisonment in another jurisdiction, the sentences may run either concurrently or  
10 consecutively, as determined by the court. If not specified or not required by statute to  
11 run consecutively, sentences shall run concurrently.

12 (b) Effect of Consecutive Terms. – In determining the effect of consecutive  
13 sentences imposed under authority of this Article and the manner in which they will be  
14 served, the Department of Correction must treat the defendant as though he has been  
15 committed for a single term with the following incidents:

- 16 (1) The maximum prison sentence consists of the total of the maximum  
17 terms of the consecutive sentences, less nine months for each of the  
18 second and subsequent sentences imposed for Class B through Class E  
19 felonies; and
- 20 (2) The minimum term consists of the total of the minimum terms of the  
21 consecutive ~~sentences.~~ sentences; and
- 22 (3) The term of imprisonment includes one term of post-release  
23 punishment."

24 **SECTION 7.** Article 84A of Chapter 15A of the General Statutes is  
25 repealed.

26 **SECTION 8.** Chapter 15A of the General Statutes is amended by adding a  
27 new Article to read:

28 "Article 84B.

29 "Judicially Imposed and Enforced Post-Release Supervision.

30 **"§ 15A-1370. Applicability of Article 84B.**

31 This Article applies to all offenders convicted of felonies in Class B1 through Class  
32 E who are sentenced to an active punishment under Article 81B of this Chapter, whether  
33 originally or upon activation of a suspended sentence, but does not apply to offenders  
34 convicted of felonies in Class B1 who are sentenced to life imprisonment without  
35 parole. Prisoners subject to Articles 84A, 85, and 85A of this Chapter are excluded from  
36 this Article's coverage.

37 **"§ 15A-1370.1. Definitions.**

38 As used in this Article:

- 39 (1) "Department" means the North Carolina Department of Correction and  
40 includes any employee of the Department acting on behalf of the  
41 Department under this Article.
- 42 (2) "Offender" means any person sentenced to post-release punishment  
43 pursuant to G.S. 15A-1340.13.

44 **"§ 15A-1370.2. Purposes of post-release punishment.**

1       The purposes of post-release punishment are to:

- 2           (1)   Monitor and control the offender in the community;
- 3           (2)   Assist the offender in reintegrating into society;
- 4           (3)   Collect restitution and other court indebtedness from the prisoner; and
- 5           (4)   Continue the prisoner's treatment or education.

6       **"§ 15A-1370.3. Purposes of court imposition and enforcement.**

7       The principal purposes of court imposition and enforcement of post-release  
8 punishment are to:

- 9           (1)   Assure that those conditions are determined by the court at the time of  
10 sentencing and enforced by the court while the offender is on release  
11 under post-release punishment;
- 12          (2)   Acknowledge and emphasize that release from imprisonment under  
13 post-release punishment is a form of punishment involving significant  
14 restrictions on the liberty of the offender;
- 15          (3)   Assure due process of law in the imposition and enforcement of  
16 post-release punishment;
- 17          (4)   Protect the rights of victims under Article 46 of this Chapter.

18       **"§ 15A-1370.4. Imposition of post-release punishment; provisions of judgment.**

19       (a)   When sentencing an offender for an offense to which this Article applies, the  
20 court shall suspend the last nine months of the offender's term of imprisonment and  
21 impose a term of post-release punishment as provided in G.S. 15A-1340.13(d1).

22       (b)   The sentencing judgment:

- 23           (1)   Shall provide that:
  - 24           a.   The term of post-release punishment shall begin on the date  
25 calculated by the Department by determining the offender's  
26 maximum term of imprisonment, less nine months and less any  
27 earned time credits awarded pursuant to G.S. 15A-1340.13(d).
  - 28           b.   Immediately upon the commencement of the offender's term of  
29 post-release punishment, the offender shall be released from  
30 imprisonment under post-release supervision; and
  - 31           c.   The last nine months of the term of imprisonment shall be  
32 suspended during the term of post-release punishment.
- 33           (2)   Shall state the duration of the term of post-release supervision.
- 34           (3)   Shall require that the offender, as a condition of the offender's release  
35 on post-release supervision, comply with all the mandatory conditions  
36 set forth in G.S. 15A-1370.6;
- 37           (4)   May require that the offender comply with one or more of the  
38 discretionary conditions set forth in G.S. 15A-1370.6, and may also  
39 delegate to the Department the authority to establish or modify  
40 discretionary conditions of the offender's release; unless the judgment  
41 provides otherwise, the delegation of that authority to the Department  
42 is presumed; and
- 43           (5)   Shall provide that the court may, after notice and hearing and upon  
44 necessary findings, revoke the offender's post-release punishment and

1           activate the portion of the term of imprisonment that was suspended  
2           pursuant to subsection (a) of this section.

3 **"§ 15A-1370.5. Planning for post-release punishment.**

4       (a) Not fewer than 30 days before the projected date on which an offender will be  
5 released from imprisonment under a term of post-release punishment, the Department  
6 shall prepare a detailed and individualized plan for the offender's supervision while  
7 serving that term. The plan shall maximize the likelihood that post-release punishment  
8 will achieve the purposes of post-release punishment set forth in G.S. 15A-1370.2.

9       (b) To facilitate preparation of a plan when the offender is imprisoned in a local  
10 confinement facility, the administrator of that facility shall, not fewer than 30 days  
11 before the projected date on which the offender will be released from imprisonment  
12 under a term of post-release punishment, notify the Department of that date.

13       (c) Based on the plan developed pursuant to this section, the Department shall  
14 determine the level of supervision and the nature and number of discretionary  
15 conditions of release necessary for the plan to succeed. If the court has delegated to the  
16 Department the authority to establish or modify discretionary conditions of release, the  
17 Department shall do so on its own authority. Otherwise the Department shall impose the  
18 discretionary conditions determined by the court and shall as soon as practicable seek to  
19 obtain a modification of the discretionary conditions pursuant to G.S. 15A-1370.6(f).

20 **"§ 15A-1370.6. Conditions of release under term of post-release punishment.**

21       (a) All conditions of release to serve the term of post-release punishment shall be  
22 imposed, interpreted, applied, and enforced so as to achieve the purposes of post-release  
23 punishment stated in G.S. 15A-1370.2.

24       (b) Mandatory Conditions – All Offenders. – For each offender, the mandatory  
25 conditions of release to serve the term of post-release punishment are that the offender:

- 26           (1) Not commit another crime during the period for which the offender  
27 remains subject to revocation.
- 28           (2) Not use, possess, or control any illegal drug or controlled substance  
29 unless it has been prescribed for the offender by a licensed physician  
30 and is in the original container with the prescription number affixed on  
31 it; not knowingly associate with any known or previously convicted  
32 users, possessors, or sellers of any illegal drugs or controlled  
33 substances; and not knowingly be present at or frequent any place  
34 where illegal drugs or controlled substances are sold, kept, or used.
- 35           (3) Comply with a court order to pay court costs and costs for appointed  
36 counsel or public defender in the case for which the offender was  
37 convicted.
- 38           (4) Not possess a firearm, destructive device, or other dangerous weapon  
39 unless granted written permission by the Department.
- 40           (5) Report to a post-release supervision officer at reasonable times and in  
41 a reasonable manner, as directed by the officer, or, if released under  
42 intensive supervision, submit to supervision by post-release  
43 supervision officers assigned to the Intensive Supervision Program

1 established pursuant to G.S. 143B-262(c), and abide by the rules  
2 adopted for that Program.

3 (6) Permit any post-release supervision officer to visit at reasonable times  
4 at the offender's home or elsewhere.

5 (7) Remain within any geographic limits prescribed in the judgment or, if  
6 no such limits are prescribed in the judgment, by the post-release  
7 supervision officer, unless granted written permission to leave by the  
8 post-release supervision officer.

9 (8) Answer all reasonable inquiries by a post-release supervision officer  
10 and obtain prior approval from the post-release supervision officer for  
11 any change in address or employment.

12 (9) Promptly notify the post-release supervision officer of any change in  
13 address or employment.

14 (10) Submit at reasonable times to searches of the offender's person,  
15 including drug testing, by a post-release supervision officer for  
16 purposes reasonably related to the post-release supervision. The  
17 offender shall not be required to submit to any other searches that  
18 would otherwise be unlawful. Whenever the search consists of testing  
19 for the presence of illegal drugs, the offender may also be required to  
20 reimburse the Department of Correction for the actual cost of drug  
21 testing and drug screening, if the results are positive.

22 (11) Make restitution or reparation as provided in G.S. 148-57.1.

23 (12) Comply with an order from a court of competent jurisdiction regarding  
24 the payment of an obligation of the offender in connection with any  
25 judgment rendered by the court.

26 (13) Pay the supervision fee provided for in subsection (i) of this section.

27 (c) Additional Mandatory Conditions; Sex Offenders and Persons Convicted of  
28 Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – For each offender  
29 who has been convicted of an offense that is a reportable conviction as defined in  
30 G.S. 14-208.6(4), or that involves the physical, mental, or sexual abuse of a minor,  
31 post-release, the additional mandatory conditions of release on post-release punishment  
32 are that the offender:

33 (1) Register as required by G.S. 14-208.7 if the offense is a reportable  
34 conviction as defined by G.S. 14-208.6(4).

35 (2) Participate in evaluation and treatment as is necessary to complete a  
36 prescribed course of psychiatric, psychological, or other rehabilitative  
37 treatment as ordered by the court.

38 (3) Not communicate with, be in the presence of, or found in or on the  
39 premises of, the victim of the offense.

40 (4) Not reside in a household with any minor child if the offense is one in  
41 which there is evidence of sexual abuse of a minor.

42 (5) Not reside in a household with any minor child if the offense is one in  
43 which there is evidence of physical or mental abuse of a minor, unless  
44 the court expressly finds that it is unlikely that the offender's harmful

1                   or abusive conduct will recur and that it would be in the child's best  
2                   interest to allow the offender to reside in the same household with a  
3                   minor child.

4           (6)   Comply with a court order to pay the costs of any reintegrative  
5                   treatment for a minor and a minor's parents or custodians.

6           (7)   Abide by the rules and regulations of the Department for sex offender  
7                   supervision.

8           (d)   Discretionary Conditions – All Offenders. – For each offender, the  
9                   discretionary conditions of release to serve the term of post-release punishment are that  
10                  the offender:

11           (1)   Work faithfully at suitable employment or faithfully pursue a course of  
12                   study or vocational training that will equip the offender for suitable  
13                   employment.

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

16           (3)   Attend or reside in a facility providing rehabilitation, instruction,  
17                   recreation, or residence for persons on post-release supervision.

18           (4)   Support the offender's dependents and meet other family  
19                   responsibilities.

20           (5)   In the case of an offender who attended 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           (6)   Remain in one or more specified places for a specified period or  
24                   periods each day and wear a device that permits the offender's  
25                   compliance with the condition to be monitored electronically.

26           (7)   Submit to one or more of the intermediate punishments specified in  
27                   G.S. 15A-1340.11(6)b. through G.S. 15A-1340.11(6)f.

28           (8)   Abide by a curfew.

29           (9)   Participate in a treatment, counseling, or other recovery program for  
30                   alcohol or substance abuse or other addiction or for mental health  
31                   problems.

32           (10) Satisfy other conditions reasonably related to the purposes of  
33                   post-release punishment as set forth in G.S. 15A-1370.2.

34           (e)   At the time when the court sentences a defendant to a term of imprisonment  
35                   that includes a term of post-release punishment, the court, in the sentencing judgment:

36           (1)   Shall impose all the mandatory conditions of release that are specified  
37                   in subsection (b) of this section, and, where applicable, subsection (c)  
38                   of this section; and

39           (2)   As to the discretionary conditions in subsection (d) of this section:

40                   a.   May impose one or more of those conditions itself;

41                   b.   May impose one or more of those conditions itself and delegate  
42                   to the Department the authority to delete, modify, or add to  
43                   those conditions when it releases the offender from  
44                   imprisonment to begin a term of post-release punishment;

- 1           c.     May impose none of those conditions itself and delegate to the  
2                 Department the entire authority to determine all discretionary  
3                 conditions of release at the time it releases the offender from  
4                 imprisonment to begin a term of post-release punishment,  
5                 provided that delegation pursuant to this sub-subdivision shall  
6                 be presumed if the judgment does not provide otherwise.
- 7     (f)     Discretionary conditions that are imposed by the court in a sentencing  
8     judgment may be modified, without a charge or finding of violation, as follows:
- 9           (1)    By the court, in its discretion, on its own motion and after providing  
10                the offender an opportunity to be heard, at the time when the court  
11                revokes a sentence of intermediate punishment and activates a  
12                sentence of active punishment; and
- 13           (2)    By the court at any other time, as follows:
- 14                a.     A motion to modify discretionary conditions of release may be  
15                filed by the Department, by the offender, or by a prosecuting  
16                attorney of the district in which the offender is supervised.
- 17                b.     Before the offender is released from imprisonment, the  
18                Department shall file a motion for all modifications necessary  
19                to implement the plan developed pursuant to G.S. 15A-1370.5.
- 20                c.     The prosecuting attorney may file a motion to modify either on  
21                the attorney's initiative or at the request of a victim entitled to  
22                notice under G.S. 15A-837.
- 23                d.     A copy of the motion shall be served on all the other parties  
24                identified in sub-subdivision a. of this subdivision.
- 25                e.     After reasonable notice to all parties and an opportunity for  
26                them to be heard, the court may make any modification that is  
27                necessary or appropriate to fulfill the purposes of post-release  
28                punishment stated in G.S. 15A-1370.2.
- 29     (g)     When necessary or appropriate to achieve the purposes of post-release  
30     punishment set forth in G.S. 15A-1370.2, the Department may, upon reasonable notice  
31     to the offender, establish or modify discretionary conditions as to which it has been  
32     delegated that authority in a sentencing judgment.
- 33     (h)     Prohibited Conditions. – The court or Department shall not impose  
34     community service as a condition of post-release supervision.
- 35     (i)     Required Supervision Fee. – The Department shall require as a condition of  
36     post-release supervision that the offender pay a supervision fee of thirty dollars (\$30.00)  
37     per month. The Department may exempt an offender from this condition only if it finds  
38     that requiring payment of the fee is an undue economic burden. The fee shall be paid to  
39     the clerk of superior court of the county in which the offender is supervised. The clerk  
40     shall transmit any money collected pursuant to this subsection to the State Treasurer to  
41     be deposited in the General Fund. In no event shall an offender be required to pay more  
42     than one supervision fee per month.
- 43     § 15A-1370.7. Release under post-release supervision.

1       (a) Immediately at the commencement of the last nine months of an offender's  
2 term of imprisonment, as determined under G.S. 15A-1340.13(d1), the Department shall  
3 release the offender to begin serving the term of post-release punishment, place the  
4 offender under post-release supervision, determine the level of the offender's  
5 supervision, and specify the judicial district and county in which the offender is to  
6 reside and be supervised. If the offender is imprisoned in a local confinement facility,  
7 the administrator of the facility shall so release the offender.

8       (b) Before releasing an offender under post-release supervision, the Department  
9 shall give the offender a copy of the plan developed pursuant to G.S. 15A-1370.5 and a  
10 written statement of all the conditions of the offender's release.

11       (c) An offender may not refuse release to serve the term of post-release  
12 punishment.

13       (d) An offender shall not receive earned time credit against the period of  
14 imprisonment following revocation of post-release supervision for the time spent under  
15 post-release supervision.

16       (e) The duration of an offender's period of post-release supervision, as specified  
17 under G.S. 15A-1340.13(d1)(3), shall not be reduced for any reason.

18       (f) When an offender completes a term of post-release punishment:

19           (1) The sentence or sentences under which the offender was sentenced are  
20 terminated; and

21           (2) The offender's citizenship is restored as provided in Chapter 13 of the  
22 General Statutes.

23       (g) A period during which an offender is released from imprisonment to serve the  
24 term of post-release punishment runs concurrently with any federal or State prison, jail,  
25 probation, or parole terms to which the prisoner is subject during the period, but only if  
26 the jurisdiction that sentenced the prisoner to prison, jail, probation, or parole permits  
27 concurrent crediting of supervision time.

28 **"§ 15A-1370.8. Response to violations; court proceedings.**

29       (a) Whenever the Department has evidence that an offender has violated one or  
30 more of the conditions of the offender's release under post-release supervision, the  
31 Department may:

32           (1) Without filing a violation report, respond as provided elsewhere in this  
33 Article; or

34           (2) File a violation report with the court, in which case this section shall  
35 apply.

36       (b) Violation Reports. – The following provisions apply to violation reports:

37           (1) Each violation report shall specify the date and place of each violation  
38 and describe with reasonable particularity the nature of each violation.

39           (2) The report shall be filed in the district and county in which the  
40 offender is being supervised.

41           (3) Upon filing a violation report, the Department shall notify the district  
42 attorney of the prosecutorial district in which the report is filed.

43       (c) Hearing Date. – Promptly after a violation report is filed:

- 1           (1)    The district attorney or the court shall schedule a date for a hearing on  
2           the charges.
- 3           (2)    The hearing shall be held in the superior court division. If there is no  
4           scheduled session of the superior court within 45 days after the  
5           violation report was filed for the county in which the offender is being  
6           supervised, the hearing shall be held in the district court division.
- 7           (3)    The hearing shall be scheduled for the earliest practical date after the  
8           report was filed, and in any event not more than 45 days after the  
9           report was filed.
- 10          (4)    The offender shall be given prompt notice of the date, time, and place  
11          of the hearing.
- 12          (d)    Arrest of Offender. – After a violation report is filed:
- 13           (1)    The offender may be arrested by a post-release supervision officer or  
14           by a law enforcement officer upon either an order for arrest issued  
15           pursuant to G.S. 15A-305 or pursuant to a written request contained in  
16           the violation report.
- 17           (2)    A copy of the violation report shall be served on the offender at the  
18           time the offender is arrested.
- 19           (3)    When the offender is arrested by a post-release supervision officer, or  
20           by a law enforcement officer in the county in which the violation  
21           report was filed, the offender shall be taken without unnecessary delay  
22           before a judicial official of that county, for determination of conditions  
23           of prehearing release pursuant to subsection (e) of this section.
- 24           (4)    When the offender is arrested by a law enforcement officer in any  
25           other county, the Department shall immediately assume custody of the  
26           offender and take the offender without unnecessary delay before a  
27           judicial official of the county in which the violation report was filed,  
28           for determination of the conditions of prehearing release pursuant to  
29           subsection (e) of this section. The arresting officer or the sheriff of the  
30           county of arrest may temporarily detain the offender until the  
31           Department assumes custody.
- 32          (e)    Conditions of Release. – Conditions of prehearing release shall be determined  
33          as follows:
- 34           (1)    Except as provided in subdivision (4) of this subsection, the judicial  
35           official shall impose one or both of the following conditions of  
36           prehearing release and order that the offender be released when those  
37           conditions are satisfied:
- 38           a.    Require the execution of a secured appearance bond in a  
39           specified amount and determine whether the bond shall be  
40           secured by a deposit of the offender's own cash in the full  
41           amount of the bond, or by one or more solvent sureties.
- 42           b.    Impose any other condition or conditions reasonably necessary  
43           to assure the offender's appearance at the final hearing and the  
44           offender's compliance with all the mandatory conditions of the

- 1                    offender's release from imprisonment to serve the term of  
2                    post-release punishment.
- 3            (2)    If the judicial official requires that the bond be secured by a deposit of  
4                    the offender's own cash, the judicial official may also require that the  
5                    cash deposit may be made only by:
- 6                    a.        United States currency; or  
7                    b.        A certified check or the equivalent.
- 8            (3)    If the judicial official requires that the bond be secured by one or more  
9                    solvent sureties, the provisions of G.S. 15A-537 apply.
- 10           (4)    If the judicial official determines that no conditions are likely to assure  
11                    the offender's appearance at the final hearing and the offender's  
12                    compliance with all mandatory conditions of the offender's release  
13                    under the term of post-release punishment, the judicial official shall  
14                    order that the offender remain in custody without bail pending the final  
15                    hearing.
- 16           (f)    Preliminary Hearing. – A preliminary hearing on the violation report shall be  
17           conducted as follows:
- 18                    (1)    The hearing shall be held within seven working days after the date  
19                    upon which the offender is arrested unless:
- 20                    a.        The offender waives the preliminary hearing;  
21                    b.        The offender requests a continuance of the preliminary hearing;  
22                    or  
23                    c.        A final hearing on the violation report is held before or instead  
24                    of the preliminary hearing.
- 25                    (2)    The preliminary hearing shall be held before a judge of the district  
26                    court division.
- 27                    (3)    At the preliminary hearing, the court:
- 28                    a.        Shall determine whether there is probable cause to believe that  
29                    the offender violated a condition of post-release supervision,  
30                    and  
31                    b.        May review the conditions of the offender's prehearing release.
- 32                    (4)    If the court finds probable cause, the court shall:
- 33                    a.        Inform the offender of the offender's right to be represented by  
34                    an attorney at the final hearing, and  
35                    b.        If the offender is indigent and requests counsel, appoint an  
36                    attorney to represent the offender.
- 37                    (5)    If the court does not find probable cause:
- 38                    a.        The offender shall be released from custody to continue serving  
39                    the offender's term of post-release punishment under all  
40                    currently applicable conditions of that release; and  
41                    b.        Each day spent in custody pending the preliminary hearing shall  
42                    be considered a day spent serving the term of post-release  
43                    supervision.
- 44           (g)    A final hearing on the violation charges shall be conducted as follows:

- 1           (1)    The hearing shall be held on the date specified in the notice of hearing  
2           unless the court continues the hearing to a date certain upon finding  
3           that:
- 4           a.     There is good cause for the continuance; and  
5           b.     The continuance is consistent with the purposes of post-release  
6           punishment stated in G.S. 15A-1370.2.
- 7           (2)    At the hearing:
- 8           a.     Evidence against the offender shall be disclosed to the offender.  
9           b.     The offender may appear, address the court, present relevant  
10          information, and confront and cross-examine adverse witnesses  
11          unless the court finds good cause for not allowing  
12          confrontation.
- 13          c.     The offender is entitled to be represented by counsel at the  
14          hearing and, if indigent, to have counsel appointed.
- 15          d.     Formal rules of evidence do not apply at the hearing, but the  
16          record or recollection of evidence or of testimony introduced at  
17          the preliminary hearing are inadmissible as evidence.
- 18          (3)    If, after the hearing, the court finds by a preponderance of the evidence  
19          that the offender has violated one or more of the conditions of the  
20          offender's release under post-release supervision:
- 21          a.     The court may revoke the offender's release from imprisonment  
22          and the unserved portion of the offender's term of post-release  
23          punishment, and shall activate the suspended portion of the  
24          offender's term of imprisonment if the court finds that:
- 25                  1.     The offender has violated any mandatory condition of  
26                  the offender's release; or
- 27                  2.     The offender has violated two or more court or  
28                  Department imposed discretionary conditions of the  
29                  offender's release; or
- 30                  3.     A court has, after a previous hearing on a violation  
31                  charge, found that the offender violated any  
32                  discretionary condition of the offender's release.
- 33          b.     The court may, if it finds that the offender has violated only one  
34          discretionary condition of the offender's release and that this is  
35          the offender's first violation:
- 36                  1.     Revoke the offender's release from imprisonment and the  
37                  unserved portion of the offender's term of post-release  
38                  punishment and activate the suspended portion of the  
39                  offender's term of imprisonment, but only if it also finds  
40                  that revocation is necessary to further the purposes of  
41                  post-release punishment as stated in G.S. 15A-1370.2; or  
42                  2.     Continue the offender on release under post-release  
43                  supervision, and make any modifications of the  
44                  conditions of the offender's release that it determines are

1                   appropriate to further the purposes of post-release  
2                   punishment.

3           (4)   If, after the hearing, the court does not find by a preponderance of the  
4           evidence that the offender has violated one or more of the conditions  
5           of the offender's release under post-release supervision:

6           a.   The offender shall be released from custody to continue serving  
7           the offender's term of post-release punishment;

8           b.   The court may make any modifications of the existing  
9           conditions of the offender's release that it determines are  
10           appropriate to further purposes of post-release punishment  
11           stated in G.S. 15A-1370.2; and

12           c.   Each day spent in custody pending the final hearing shall be  
13           considered a day spent serving the term of post-release  
14           supervision.

15           (h)   Timing of Revocation. – The court may revoke an offender's release under  
16           post-release punishment for violation of a condition of the offender's release at either of  
17           the following times:

18           (1)   While the offender is on release from imprisonment to serve the term  
19           of post-release punishment;

20           (2)   After the expiration of the offender's term of post-release punishment  
21           if, before the expiration of the offender's term of post-release  
22           punishment, the Department has filed a violation report, and an order  
23           for the offender's arrest has been issued pursuant to this subsection.

24           (i)   The offender may at anytime waive hearing and consent to the revocation of  
25           the offender's release under post-release supervision and to the activation of the  
26           suspended portion of the offender's sentence of imprisonment.

27           (j)   There shall be no appeal from an order revoking an offender's release under  
28           post-release punishment and activating the suspended portion of the offender's term of  
29           imprisonment.

30           (k)   The Administrative Officer of the Courts shall prescribe rules for  
31           record-keeping procedures under this section. The rules shall provide that upon the  
32           completion of all proceedings under this section, the record of the proceedings shall be  
33           transferred to the county in which the offender was originally convicted and shall be  
34           filed with the records of the case or cases in which the conviction was recorded.

35           **§ 15A-1370.9. Recommitment.**

36           (a)   This section shall apply whenever the court revokes an offender's term of  
37           post-release supervision and activates the suspended portion of the offender's term of  
38           imprisonment.

39           (b)   The offender shall immediately be returned to the custody of the Department  
40           to begin serving the suspended portion of the offender's term of imprisonment.

41           (c)   The offender shall be given credit for all time spent in custody following  
42           arrest on the violation charge for which post-release supervision was revoked and the  
43           remainder of the offender's sentence activated.

1       (d) The offender shall not receive any credit against the term of imprisonment for  
2 days spent on post-release supervision, but the offender may be awarded earned time  
3 credit while serving the balance of the offender's term of imprisonment.

4       (e) The offender shall serve the entire remainder of the offender's term of  
5 imprisonment, as reduced pursuant to subsections (c) and (d) of this section.

6       (f) The offender shall not again be eligible for release under post-release  
7 punishment.

8       (g) When the offender completes serving the remainder of the offender's term of  
9 imprisonment:

10       (1) The sentence or sentences under which the offender was sentenced are  
11 terminated; and

12       (2) The offender's citizenship is restored as provided in Chapter 13 of the  
13 General Statutes."

14       **SECTION 9.** G.S. 15A-305(b) reads as rewritten:

15       "(b) When Issued. – An order for arrest may be issued when:

16       (1) A grand jury has returned a true bill of indictment against a defendant  
17 who is not in custody and who has not been released from custody  
18 pursuant to Article 26 of this Chapter, Bail, to answer to the charges in  
19 the bill of indictment.

20       (2) A defendant who has been arrested and released from custody pursuant  
21 to Article 26 of this Chapter, Bail, fails to appear as required.

22       (3) The defendant has failed to appear as required by a duly executed  
23 criminal summons issued pursuant to G.S. 15A-303 or a citation issued  
24 by a law enforcement officer or other person authorized by statute  
25 pursuant to G.S. 15A-302 that charged the defendant with a  
26 misdemeanor.

27       (4) A defendant has violated the conditions of ~~probation~~ probation or the  
28 conditions of release from imprisonment under Article 84B of this  
29 Chapter.

30       (5) In any criminal proceeding in which the defendant has become subject  
31 to the jurisdiction of the court, it becomes necessary to take the  
32 defendant into custody.

33       (6) It is authorized by G.S. 15A-803 in connection with material witness  
34 proceedings.

35       (7) The common-law writ of *habeas corpus* has heretofore been issuable.

36       (8) When a defendant fails to appear as required in a show cause order  
37 issued in a criminal proceeding.

38       (9) It is authorized by G.S. 5A-16 in connection with contempt  
39 proceedings."

40       **SECTION 10.** G.S. 143B-266 reads as rewritten:

41       "~~§ 143B-266. Post-Release Supervision and Parole Commission – creation, powers~~  
42 ~~and duties.~~

43       (a) There is hereby created a ~~Post-Release Supervision and Parole Commission~~  
44 of the Department of Correction with the authority to grant paroles, including both

1 regular and temporary paroles, to persons held by virtue of any final order or judgment  
2 of any court of this State as provided in Chapter 148 of the General Statutes and laws of  
3 the State of North Carolina, except that persons sentenced under Article 81B of Chapter  
4 15A of the General Statutes are not eligible for parole. The Commission shall also have  
5 authority to revoke, terminate, and suspend paroles of such persons (including persons  
6 placed on parole on or before the effective date of the Executive Organization Act of  
7 1973) and to assist the Governor in exercising his authority in granting reprieves,  
8 commutations, and pardons, and shall perform such other services as may be required  
9 by the Governor in exercising his powers of executive clemency. The Commission shall  
10 also have authority to revoke and terminate persons on post-release supervision, as  
11 provided in Article 84A of Chapter 15A of the General Statutes.

12 (b) All releasing authority previously resting in the Commissioner and  
13 Commission of Correction with the exception of authority for extension of the limits of  
14 the place of confinement of a prisoner contained in G.S. 148-4 is hereby transferred to  
15 the ~~Post-Release Supervision and~~ Parole Commission. Specifically, such releasing  
16 authority includes work release (G.S. 148-33.1), indeterminate-sentence release  
17 (G.S. 148-42), and release of youthful offenders (G.S. 148-49.8), provided the  
18 individual considered for work release or indeterminate-sentence release shall have been  
19 recommended for release by the Secretary of Correction or his designee.

20 (c) The Commission is authorized and empowered to adopt such rules and  
21 regulations, not inconsistent with the laws of this State, in accordance with which  
22 prisoners eligible for parole consideration may have their cases reviewed and  
23 investigated and by which such proceedings may be initiated and considered. All rules  
24 and regulations heretofore adopted by the Board of Paroles shall remain in full force and  
25 effect unless and until repealed or superseded by action of the ~~Post-Release Supervision~~  
26 ~~and~~ Parole Commission. All rules and regulations adopted by the Commission shall be  
27 enforced by the Department of Correction.

28 (d) The Commission is authorized and empowered to impose as a condition of  
29 parole or post-release supervision that restitution or reparation be made by the prisoner  
30 in accordance with the provisions of G.S. 148-57.1. The Commission is further  
31 authorized and empowered to make restitution or reparation a condition of work release  
32 in accordance with the provisions of G.S. 148-33.2.

33 (e) For prisoners to whom Article 84B of Chapter 15A of the General Statutes  
34 applies, the powers and duties of the Commission under this Part shall be exercised by  
35 the Department of Correction."

36 **SECTION 11.** G.S. 148-57.1 is amended by adding a new subsection to  
37 read:

38 "(e) For prisoners to whom Article 84B of Chapter 15A of the General Statutes  
39 applies, the powers and duties of the Commission under this Part shall be exercised by  
40 the Department of Correction."

41 **SECTION 12.** The Revisor of Statutes shall change all references to the  
42 "Post-Release Supervision and Parole Commission" in the General Statutes to the  
43 "Parole Commission".

1           **SECTION 13.** This act becomes effective April 1, 2006, and applies only to  
2 offenses committed on or after that date. Prosecutions for, or sentences based upon,  
3 offenses occurring before the effective date of this act are not abated or affected by the  
4 repeal or amendment in this act of any statute, and the statutes that would be applicable  
5 to those prosecutions or sentences but for the provisions of this act remain applicable to  
6 those prosecutions or sentences.