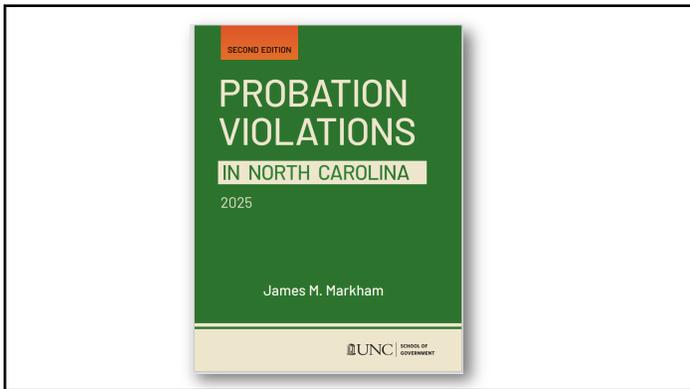


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2

Offender Population
Nov 14, 2025

Group	Number
Prison Offenders	32,486
Probationers	62,691
Post Release/Parole	12,114
Total	107,291
Male Prison Offenders	29,595
Female Prison Offenders	2,891

3

Violation Hearings

4

Initiating a Violation

- Probation violation report (DCS-10)
- 24 hours notice of alleged violations
- All violations must be filed before case expires

> File No. County of Hearing
> File No. County of Origin 20051005
In the General Court of Justice
D Seat of Court District X Superior
DUE VIOLATION REPORT
NC 20051-7178
AP

Of the conditions of probation imposed in that judgment, the defendant has willfully violated:
1. Condition of Probation "The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" as directed by the Court or as of the date of this report the offender has paid \$166.58 TOWARDS A TOTAL AMOUNT DUE OF \$704.92
2. Condition of Probation "The defendant shall pay to the Clerk of Superior Court the monthly supervision fee of \$15.00" in that as of the date of this report the offender has paid \$16.42 TOWARDS SUPERVISION FEES AND IS IN ARREARS OF \$184.58.
3. General Statute 14A-1201 (1) "COMM: No criminal offense in any jurisdiction" is that ON OR ABOUT MAY 2003 OFFENDER WAS CHARGED WITH DWI, DRIVING WHILE LICENSE REVOKED INVALED REVOCAION IN CAROLINA COUNTY IN MOORE HUNTER JUNCTION.

5

Arrest and Bail

- Probationers can be arrested for a violation
- Generally entitled to bail
- Exceptions for "dangerous" probationers:
 - With felony charges pending, or
 - Ever convicted of a sex crime
- No statutory authorization for anticipatory bonds
 - "Arrest on first positive drug screen. \$50,000 bond."
 - "Hold without bond"
 - Court of Appeals has "urged caution" against that practice. State v. Hilbert, 145 N.C. App. 440 (2001)

6

Preliminary Hearings

- Required under G.S. 15A-1345(c)
 - Within 7 working days of arrest
 - Felony preliminary hearings may be held in district court
 - Required only if probationer is detained
- If not held within 7 working days, probationer must be released pending final violation hearing

7

Final Violation Hearings

- Not a formal trial
- Probationer may confront and cross-examine witnesses, unless the court finds good cause for not allowing confrontation
 - This is not a Sixth Amendment confrontation right
- Rules of evidence don't apply
- Hearsay admissible
- Exclusionary rule inapplicable
- Proof to the judge's "reasonable satisfaction"

8

Response Options

9

New Criminal Offense

- "Commit no criminal offense in any jurisdiction."

13

Commit No Criminal Offense

- **Conviction** for a new offense, or
- **Independent findings** at probation violation hearing that criminal offense occurred
- No revocation solely for conviction of a Class 3 misdemeanor

14

New criminal offense?

Of the conditions of probation imposed in that judgment, the defendant willfully violated:

1. General Statute 15A-1343(b)(1) "Commit no criminal offense in any jurisdiction" in that OFFENDER WAS ARRESTED AND CHARGED WITH FELONY UTTERING A FORGED INSTRUMENT ON 02/29/2022. OFFENSE DATE 09/31/21 AT THE STATE EMPLOYEE'S CREDIT UNION IN WAKE COUNTY CASE 22CR201479.

15

State v. Singletary, 290 N.C. App. 540 (2023)

- Reference to pending charge did not “spoil” the violation report
- State presented sufficient evidence to justify probation court’s **independent finding**

16

“New Criminal Offense” without Conviction

- Sufficient proof without conviction
 - *State v. Hancock* (2016): Cocaine possession; probation officer testimony after warrantless search
 - *State v. McCullough* (2024): DWI; intoxilyzer results
 - *State v. Pettiford* (2022): B/E; fingerprints on window and a discussion between police officer and property manager offered through hearsay

17

“New Criminal Offense” without Conviction

- But there are limits
 - *State v. Hemingway* (2021) (“The trial court was certainly without statutory authority to revoke [the defendant’s] probation merely for a positive drug test.”)

18

Absconding

- “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.”

G.S. 15A-1343(b)(3a)

19

Absconding

- More than merely failing to report
- More than merely failing to remain within the jurisdiction (i.e., the state of North Carolina)

20

State v. Crompton, 380 N.C. 220 (2022)

- References to technical violations (failure to report; change of address) do not spoil absconding allegation
- “As a practical matter, those conditions laid out in Section 15A-1343(b)(3) make up the necessary elements of “avoiding supervision” or “making [one's] whereabouts unknown.”

21

Confinement in Response to Violation

- Permissible in response to violations other than “commit no criminal offense” and “absconding”
 - Felony: 90 days
 - DWI: Up to 90 days

25

Confinement in Response to Violation

- Must be continuous period (no “weekend CRV”)
- Must be to proper place of confinement
 - DAC for felonies (Lumberton/N. Piedmont)
 - SMCP for DWI
 - NOT DART Center or Black Mountain
- Do not apply jail credit to felony CRV
- CRV periods must run concurrently

26

Quick Dips

27

Quick Dips

- 2-3 days of jail confinement
 - No more than 6 days per month
 - Used in no more than three separate calendar months
- Imposed by judge, or by probation officer through delegated authority

28

Date of Judgment	County	File No.	Offense	Counts
04/02/2015	ELIZABETH	14055742	POSSESS SCHEDULE II	001

***THE DEFENDANT HAS PREVIOUSLY SERVED 0 PERIODS OF CONFINEMENT IN RESPONSE TO VIOLATIONS. ***

THE DEFENDANT HAS THE FOLLOWING 2 OR 3 DAY PERIODS OF CONFINEMENT. *

3 day(s) in March	were ordered with delegated authority
3 day(s) in April	were ordered with delegated authority

THE DEFENDANT "ABANDONED SUPERVISION ON 12/18/15 BY FAILING TO REPORT TO HIS SUPERVISOR AS REQUIRED BY THIS OFFICER, ON OR ABOUT 12/18/15. THE OFFICER WAS ADVISED THAT THE OFFENDER DID NOT LIVE AT THE RESIDENCE GIVEN. THE DEFENDANT HAS HAD A POSITIVE URINE TEST FOR MARIJUANA AND HAS AVOIDED SUPERVISION AND MADE HIMSELF UNAVAILABLE FOR SUPERVISION. THEREFORE, ABANDONING SUPERVISION.

2. Condition of Probation "Not use, possess or control any illegal drug or controlled substance unless it has been prescribed for the defendant by a licensed physician and is in the original container with the prescription number affixed on it." in that THE DEFENDANT TEST POSITIVE FOR MARIJUANA ON 8/18/2015.

3. "Report as directed by the Court, Commission or the supervising officer to the officer at reasonable times and places." in that THE DEFENDANT FAILED TO REPORT ON 11/4/2015 AT 11:00AM.

29

Revocation

30

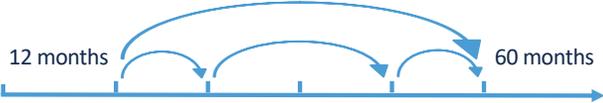
Extensions

- Two types: **Ordinary** and **Special Purpose**

34

Ordinary Extensions

- At any time prior to expiration, for good cause shown, the court may extend probation to the 5-year maximum
 - No violation required
 - Could happen multiple times



35

Special Purpose Extensions

- Extension by up to 3 years beyond the original period if:
 - Probationer consents
 - During last 6 months of original period, and
 - Extension is for restitution or medical or psychiatric treatment
- Only this type may go beyond 5-year maximum

36

Termination

- Ends probation early
- Permissible at any time if warranted by the defendant's conduct and the ends of justice
- **No statute for "Terminate unsuccessfully"**

40

Discontinued Cases

41

"Discontinued" Cases

- The court may act... "[a]t any time prior to the expiration or termination of the probation period." G.S. 15A-1344(d).
- Court may also act after expiration if violation report filed before probation ends. G.S. 15A-1344(f).
- **Court must also find for "good cause shown and stated that the probation should be extended, modified, or revoked."**

42

Vacated for Lack of Good Cause Finding

- State v. Carpenter, 900 S.E.2d 239 (2024)
- State v. Hammond, 900 S.E.2d 417 (2024)
- State v. Leggette, 898 S.E.2d 383 (2024)
- State v. Pratt, 896 S.E.2d 761 (2024)
- State v. Jackson, 291 N.C. App. 116 (2023)
- State v. Black, 290 N.C. App. 679 (2023) (G.S. 90-96 case)
- State v. McSpadden, 290 N.C. App. 553 (2023)
- State v. Parry, 290 N.C. App. 367 (2023)
- State v. Lytle, 287 N.C. App. 657 (2023)

43

Good Cause

The Court further Orders: (check all that apply)

1. The Clerk of Superior Court, under G.S. 7A-304(d), shall immediately disburse any undisbursed monies paid by the defendant under the Judgment Suspending Sentence, as provided in that Judgment. In addition, the defendant shall pay to the Clerk the "Total Amount Due" below.

Costs Balance	Fine Balance	Restitution Balance*	Prior Atty Fees This Case	Atty Fees This Proceeding	Appl Fees/Misc	Total Amount Due
\$	\$	\$	\$	\$ 0.00	\$ 0.00	\$

*See attached "Restitution Update Worksheet, Notice and Findings (Revocation Or Termination Of Probation)," AOC-CR-612, which is incorporated by reference. NOTE: AOC-CR-612 must be completed whenever Recommendation No. 4 below is checked. Even if Recommendation No. 4 is not checked, AOC-CR-612 must be completed in EVERY CASE in which the defendant was entered in the original Judgment Suspending Sentence, as a condition of probation, to pay restitution in an amount in excess of \$250 to a Victim Rights Act victim.

2. The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other:

3. Any allegation of a violation stated in the Violation Report, Notice or otherwise which is not set forth in Finding No. 3 below is dismissed.

4. Other: **REMAINING MONIES TO BE PLACED AS A CIVIL JUDGMENT; COURT FINDS GOOD CAUSE TO PROCEED WITH HEARING OUTSIDE PERIOD OF PROBATION.**

The Court recommends:

1. Substance abuse treatment. 2. Psychiatric and/or psychological counseling. 3. Work release should should not be granted.

4. Payment as a condition of post-release supervision or from work release earnings, if applicable, of the "Total Amount Due" set out above. but the Court does not recommend restitution be paid as a condition of post-release supervision. from work release earnings.

5. Other:

44

Appeals

45

Appeals

- District court defendants may appeal revocation or imposition of a split sentence to superior court for de novo violation hearing
 - No appeal of CRV
- No de novo appeal to superior court if violation hearing “waived”
- After appeal, case remains in superior court

46

Appeals

- Superior court defendant may appeal revocation and split sentences to the Court of Appeals
 - Appeal does not stay an activated sentence
 - Appeal stays imposition of a split
 - Court may allow release with conditions pending appeal

47

Jail Credit Upon Revocation

- Pre-trial
- Pre-hearing
- Prior splits
- DART Center / Black Mountain
- Contempt
- CRV
- Quick dips

48