

Before 2011

- A court could revoke probation for any violation of probation



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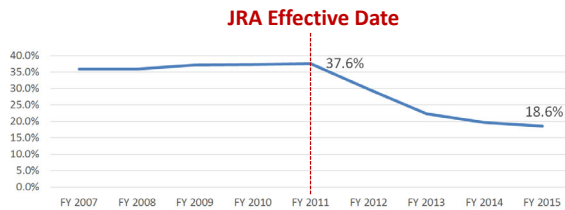
After Justice Reinvestment

- Court may revoke only for **new crimes** and **absconding**
- For other violations (technical violations), the court may impose lesser sanctions:
 - Confinement in Response to Violation (CRV)
 - “Quick dips”




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Probation Revocation Rate



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Violation Hearing Procedure



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Initiating a Violation

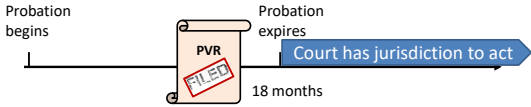

- Supervised probation: Probation Violation Report (DCC-10)
- Probationer is entitled to 24 hours notice of alleged violations

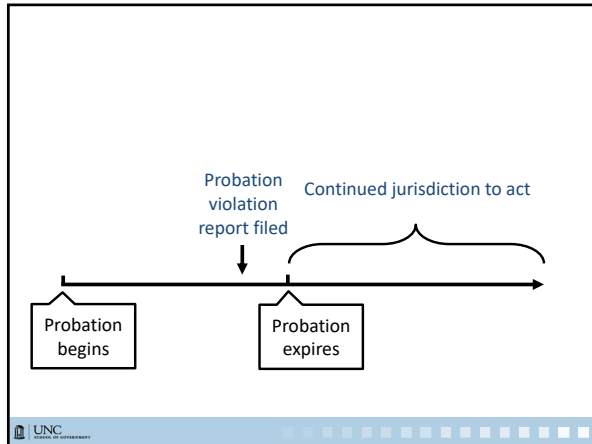
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Jurisdiction

- 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).

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State v. Morgan (N.C., 2019)

- To preserve jurisdiction to act on a case after it has expired, the court must make a finding of **“good cause shown and stated”**

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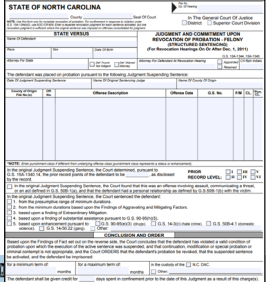
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State v. Morgan

The diagram is similar to slide 10, showing a timeline with 'Probation begins', 'Probation expires', and 'Continued jurisdiction to act' starting after a 'Probation violation report filed'. A blue box at the end of the timeline contains the text: '* With a finding of good cause shown and stated'. A small UNC logo is in the bottom left corner.

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State v. Morgan



STATE OF NORTH CAROLINA
JUDGMENT AND COMMITMENT ORDER
REVOCAÇÃO DE PROBAÇÃO - FIDELITY
(For Revoação de Provação de FIDELITY - G.S. 15A-1303)

"THE COURT FINDS FOR GOOD CAUSE SHOWN AND STATED THAT PROBATION SHOULD BE REVOKED."

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Arrest and Bail (p. 6-7)

- 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)

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Preliminary Hearings

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

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Final Violation Hearings


- Proper venue:
 - Where probation imposed
 - Where violation occurred
 - Where probationer resides



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Final Violation Hearings

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



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Response Options



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Probation Response Options				
	New Civil Offense (Class 1 or 2)			
	Class 1	Class 2	Class 3	Class 4
REVISIONS TO PROBATION (201) G.S. 15A-1361	Permissible in response to new criminal offense absconding after two prior CRV	Permissible in response to new criminal offense absconding after two prior CRV	Permissible in response to new criminal offense absconding after two prior CRV	Permissible in response to new criminal offense absconding after two prior CRV
REVISIONS TO PROBATION (202) G.S. 15A-1362	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (203) G.S. 15A-1363	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (204) G.S. 15A-1364	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (205) G.S. 15A-1365	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (206) G.S. 15A-1366	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (207) G.S. 15A-1367	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (208) G.S. 15A-1368	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (209) G.S. 15A-1369	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (210) G.S. 15A-1370	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (211) G.S. 15A-1371	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (212) G.S. 15A-1372	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (213) G.S. 15A-1373	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (214) G.S. 15A-1374	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (215) G.S. 15A-1375	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (216) G.S. 15A-1376	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (217) G.S. 15A-1377	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (218) G.S. 15A-1378	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (219) G.S. 15A-1379	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2
REVISIONS TO PROBATION (220) G.S. 15A-1380	Class 1 or 2	Class 1 or 2	Class 1 or 2	Class 1 or 2

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Revocation (p. 16)

Serious Violations

- New criminal offense
- Absconding

Eligible for revocation upon first violation

Technical Violations

- Everything else

Three Strikes approach
Eligible for revocation after two prior CRV's

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Revocation (p. 16)

- Activation of the defendant's suspended sentence
- Permissible in response to:
 - Commit no criminal offense
 - Absconding
 - Any violation by a probationer with two prior CRV's

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Revocation (p. 16)

- Activation of the defendant’s suspended sentence
- Permissible in response to violations of:
 - Commit no criminal offense
 - Absconding



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4. Condition of Probation "Commit no criminal offense in any jurisdiction" in that THE DEFENDANT HAS THE FOLLOWING PENDING CHARGES:
 ON 10/10/12 THE DEFENDANT WAS CHARGED WITH DWLR AND FICT/AL TITLE/REG CARD/TAG IN 12CR 705617, EXPIRED/NO INSPECTION AN OPERATE VEH NO INS IN 12CR 705618 AND DRIVE/ALLOW MV NO REGISTRATION AND CANCL/REVOK/SUSP CERTIF/TAG IN 12CR 705619 AND ALL ABOVE CHARGES ARE IN SAMPSON COUNTY.
 ON 10/17/12 THE DEFENDANT WAS CHARGED WITH SHOPLIFTING CONCEALMENT GOODS IN 12CR 223602 IN WAKE COUNTY.
 ON 11/16/12 THE DEFENDANT WAS CHARGED WITH DWLR IN 12CR 709464 IN HARNETT COUNTY.
 ON 12/18/12 THE DEFENDANT WAS CHARGED WITH POSSESSION OF FIREARM BY FELON IN 12CR 057780 AND POSSESS MARIJUANA UP TO

1/2 OZ IN 12CR 057780 IN JOHNSTON COUNTY.
 IF THE DEFENDANT IS CONVICTED OF ANY OF THE CHARGES IT WILL BE A VIOLATION OF HIS CURRENT PROBATION.

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New criminal offense (p. 19)

- “Commit no criminal offense in any jurisdiction”
 - **Conviction** for new offense
 - **Independent findings** of criminal offense at probation violation hearing
- No revocation solely for Class 3 misdemeanor



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Absconding (p. 21)

“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)



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Absconding

- More than merely failing to report
- More than merely failing to remain within the jurisdiction
- Facts supporting absconding:
 - Long absence from residence
 - Repeated attempts by officer to contact
 - Probationer knows officer is looking for him or her and still doesn’t respond



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Upon Revocation... (p. 18)


- The judge may reduce the sentence within the same range in the same grid cell
- Judge may allow consecutive suspended sentences to run concurrently



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Revocation after CRV

- After two CRVs, felony or DWI probation may be revoked for any subsequent violation



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Probation Response Options

30-239 (b) (2) - Probation Officer's Authority


	Probation	Admission to Probation	Revocation	Other
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
CONFIRMATION/RENEWAL C.S. 15A-1304(a)	For violation other than: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	For violation other than: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	N/A	Must be served continuously after revocation (2021). Will be re-evaluated for continuation of probation after probation officer conference with one year probation.
QUICK DIP C.S. 15A-1302(d) S.C. 15A-1302(d)	For any violation	For any violation	For any violation	N/A
PROBATION OFFICE C.S. 15A-1304(a)	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
CONFIRMATION/RENEWAL C.S. 15A-1304(b)	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV
REVISION C.S. 15A-1302	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV	Permissible in response to: 1. New criminal offense 2. Failure to comply with conditions 3. Any violation after two years CRV

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Quick Dips

- 2-3 days of jail confinement
 - No more than 6 quick dips days per month
 - Used in no more than three separate calendar months of probation
 - Not permissible in DWI cases
- Quick Dips may be imposed by judge or by probation officer through “delegated authority”



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Revocation after Quick Dip

- After two Quick Dips, imposed by judge or by probation officer, misdemeanor probation may be revoked for any subsequent violation



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Summary of Revocation Eligibility

- For **new crimes & absconding**
 - Any probationer may be revoked upon first violation
- For **technical violations**, eligible for revocation after:
 - **Felony:** Two prior CRVs (90 days)
 - **DWI:** Two prior CRVs (up to 90 days)
 - **Misdemeanors:** Two prior Quick Dips (2-3 days, imposed by judge or probation officer)



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Probation Response Options					
	Felony Misdemeanor				
	Felony	Infractions	Subpar 15/15	Subpar 15/15	Other
REVISIONS TO PROBATION CLIA 108	For any violation after 30 days of probation, after absconding after two prior CRV	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
CONFIRMATION OF PROBATION CLIA 108(2)	For any violation after 30 days of probation, after absconding	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
QUICK DIP CLIA 108(1)(7) CLIA 108(4)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
SPECIAL PROBATION OPTION CLIA 108(4)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
EXTENSION CLIA 108(4)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
REVISIONS TO PROBATION CLIA 108(1)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
TERMINATION CLIA 108(1)(2)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
CONFIRMATION CLIA 108(2)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation
REVISIONS TO PROBATION CLIA 108(1)	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation	For any violation after 30 days of probation

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Special Probation (Split)

- May be added in response to any violation
- Maximum term of imprisonment is ¼ of imposed suspended sentence
 - DWI: ¼ of maximum authorized penalty
- May be served on weekends or other intervals



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Exercises



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A defendant was placed on probation for Felony Larceny in 2019. He has a 5-15 month suspended sentence. The defendant admits to two probation violations (there are no prior violations):

- Failure to report to the probation officer
- Positive drug screen

Which responses are permissible?

- Revocation?
- CRV?
- Quick dip?
- Split?



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“Terminal CRV”

- CRV that exhausts the defendant’s suspended sentence
- CRV that runs out the clock on the defendant’s period of probation
- CRV followed by the judge’s affirmative termination of probation



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A defendant was placed on probation for DWI in 2020. The officer alleges the following violation.

Of the conditions of probation imposed in that judgment, the defendant has willfully violated:
 1. Condition of Probation “Commit no criminal offense in any Jurisdiction” in that THE DEFENDANT HAS THE FOLLOWING PENDING CHARGES: ON 10/13/ 20 THE DEFENDANT WAS CHARGED WITH POSSESSION OF FIREARM BY FELON IN 20CRS705617 IN SAMPSON COUNTY. IF THE DEFENDANT IS CONVICTED OF THIS CHARGE IT WILL BE A VIOLATION OF HIS CURRENT PROBATION.

Which responses are permissible?

- ✔ Revocation?
- ✘ CRV?
- ✘ Quick dip?
- ✔ Split?



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Probation Response Options	Probation Response Options				
	Failure	Refuse (20VCS)	See Other (20VCS)	CRV	None
CONVICTION C.S. 15A 1305 C.S. 15A 1306	Permitted to respond to any criminal offense according to the statute after two year CRV	Permitted to respond to any criminal offense according to the statute after two year CRV	Permitted to respond to any criminal offense according to the statute after two year CRV	Permitted to respond to any criminal offense according to the statute after two year CRV	Permitted to respond to any criminal offense according to the statute after two year CRV
CONFIRMATION C.S. 15A 1307 C.S. 15A 1308	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute
QUICK DIP C.S. 15A 1309 C.S. 15A 1310	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute
SPECIAL PROBATION C.S. 15A 1311 C.S. 15A 1312	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute	For any violation other than criminal offense according to the statute
CRV C.S. 15A 1313 C.S. 15A 1314	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute
EXTENSION C.S. 15A 1315 C.S. 15A 1316 C.S. 15A 1317	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute
PROBATION C.S. 15A 1318 C.S. 15A 1319	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute
TERMINATION C.S. 15A 1320 C.S. 15A 1321	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute	Permitted to respond to any criminal offense according to the statute

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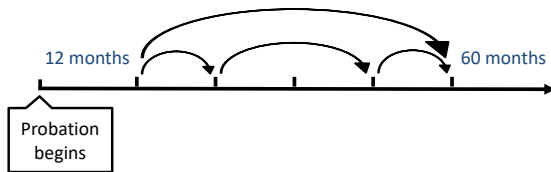
Extending Probation

- Two types: *ordinary* and *special purpose*

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Ordinary Extensions

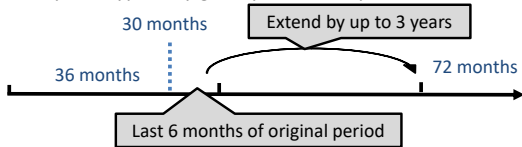
- At any time prior to expiration, for good cause shown, the court may extend probation to the 5-year maximum
 - No violation required
 - Could happen multiple times



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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 the 5-year maximum



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Ordinary

Special purpose

MODIFICATIONS OF PROBATION

OTHER MODIFICATIONS OF PROBATION

1. Defendant's term of probation is extended for a period of _____
 a. for good cause shown, pursuant to G.S. 15A-1344(d). (NOTE: The total of the original period of probation plus all extensions under G.S. 15A-1344(d) may not exceed five years.)
 b. with the defendant's consent, pursuant to G.S. 15A-1342(a) or G.S. 15A-1343 2(d). (NOTE: The extension must be for the purpose of allowing the defendant to complete a program of restitution or continue medical or psychiatric treatment ordered as a condition of probation. The extension may be ordered during the last six months of the original, unextended period of probation and may not exceed three years beyond the original period of probation.)

SIGNATURE OF JUDGE

CERTIFICATION

SEAL

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Probation Response Options

	15A-1342(a) - For any violation		15A-1343 2(d) - For any violation	
	15A-1342(a) - For any violation	15A-1342(a) - For any violation	15A-1343 2(d) - For any violation	15A-1343 2(d) - For any violation
REVOCAION G.S. 15A-1342	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
CONFINEMENT G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
RESTRICTION G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
INTERMEDIATE PROBATION G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
RESTITUTION G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
UNEMPLOYED G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
REINSTATEMENT G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
REINSTATEMENT G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases
REINSTATEMENT G.S. 15A-1342(a)	Permissible in all cases	Permissible in all cases	Permissible in all cases	Permissible in all cases

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Modification

- Court may add/remove conditions at any time for good cause shown
 - No violation need have occurred
- After violation, the judge may add Intermediate conditions to a Community case

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	Probation Response Options				
	Revoke	Revoke (15/15)	Revoke (30/30)	Revoke (45/45)	Other
REVOCATION G.S. 15A-136	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.
CONFIRMATION/REINSTATEMENT G.S. 15A-144	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	Must be served continuously. If not served continuously, 180 days maximum. OW periods must run consecutively with new periods.
QUICK DIP G.S. 15A-145 G.S. 15A-146	For any violation.	For any violation.	For any violation.	For any violation.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
SPECIAL PROBATION/STAY G.S. 15A-147	For any violation.	For any violation.	For any violation.	For any violation.	Must be served continuously. OW periods must run consecutively with new periods.
EXTENSION G.S. 15A-148 G.S. 15A-149 G.S. 15A-150	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
TRANSFER TO UNSUPERVISED PROBATION G.S. 15A-138	At any time (except as affected).	At any time (except as affected).	At any time (except as affected).	At any time (except as affected).	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
REVOKE G.S. 15A-139	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
CONFIRMATION G.S. 15A-140	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
REINSTATEMENT G.S. 15A-141	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.

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Transfer to Unsupervised

- Permissible at any time
- Judge may authorize probation officer to transfer a defendant to unsupervised probation once all money is paid

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	Probation Response Options				
	Revoke	Revoke (15/15)	Revoke (30/30)	Revoke (45/45)	Other
REVOCATION G.S. 15A-136	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.	Permitted in response to new criminal offense. Any violation after two years OW.
CONFIRMATION/REINSTATEMENT G.S. 15A-144	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	For violations other than: • New criminal offense • Absconding • DWI • OWI • DWI/OWI • OWI/OWI • DWI/OWI/OWI	Must be served continuously. If not served continuously, 180 days maximum. OW periods must run consecutively with new periods.
QUICK DIP G.S. 15A-145 G.S. 15A-146	For any violation.	For any violation.	For any violation.	For any violation.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
SPECIAL PROBATION/STAY G.S. 15A-147	For any violation.	For any violation.	For any violation.	For any violation.	Must be served continuously. OW periods must run consecutively with new periods.
EXTENSION G.S. 15A-148 G.S. 15A-149 G.S. 15A-150	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Permitted at any time after notice and hearing.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
TRANSFER TO UNSUPERVISED PROBATION G.S. 15A-138	At any time (except as affected).	At any time (except as affected).	At any time (except as affected).	At any time (except as affected).	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
REVOKE G.S. 15A-139	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
CONFIRMATION G.S. 15A-140	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.
REINSTATEMENT G.S. 15A-141	At any time.	At any time.	At any time.	At any time.	Not permitted. Must be served continuously. OW periods must run consecutively with new periods.

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Termination

- Ends probation early
- Permissible at any time if warranted by the defendant's conduct and "the ends of justice"
- "Terminate unsuccessfully"



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Probation Response Options				
	To-Do (By Defendant)			
	Probation	Active Status	Default Status	Probation
REVOCACTION C.S. 15A 1302	Permissible to terminate probation at any time after the probation officer has been notified.	Permissible to terminate probation at any time after the probation officer has been notified.	Permissible to terminate probation at any time after the probation officer has been notified.	Permissible to terminate probation at any time after the probation officer has been notified.
CONFIRMATION REINSTATEMENT C.S. 15A 1304(a)	For violations other than a technical violation, the defendant must be notified by the probation officer.	For violations other than a technical violation, the defendant must be notified by the probation officer.	N/A	For violations other than a technical violation, the defendant must be notified by the probation officer.
DISCRETIONARY C.S. 15A 1304(b)	For any violation	For any violation	For any violation	N/A
FINES PROBATION OFFICE C.S. 15A 1304(c)	For any violation	For any violation	For any violation	For any violation
CONFINEMENT C.S. 15A 1304(d)	For any violation	For any violation	For any violation	For any violation
REVISION C.S. 15A 1304(e)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(f)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(g)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(h)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(i)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(j)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(k)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(l)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(m)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(n)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(o)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(p)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(q)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(r)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(s)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(t)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(u)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(v)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(w)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(x)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(y)	For any violation	For any violation	For any violation	For any violation
REINSTATEMENT C.S. 15A 1304(z)	For any violation	For any violation	For any violation	For any violation

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Continuation

- The judge is never required to take any particular action



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“Elect to Serve”

- No longer an option by statute (since 1997)



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Appeals

- District court defendants have a statutory right to appeal **revocation** or imposition of a **split sentence** to superior court for de novo violation hearing
 - No appeal of CRV
 - Probably no appeal of Quick Dips
- No de novo appeal to superior court if violation hearing “waived”
- After appeal, case remains in superior court



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Appeals

- Class H and I felonies pled in district court
 - By default, violation hearing is in superior court
 - With consent, may be held in district court
 - Appeal is de novo to superior court



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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



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