

NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 360
SENATE BILL 110

AN ACT TO AMEND CHAPTER 15 OF THE GENERAL STATUTES OF NORTH CAROLINA BY THE ADDITION OF SECTION 15-197.1 PERMITTING A CRIMINAL DEFENDANT TO BE SENTENCED TO A TERM OF SPECIAL PROBATION.

The General Assembly of North Carolina enacts:

Section 1. Article 20 of Chapter 15 of the General Statutes of North Carolina is hereby amended by adding G.S. 15-197.1 to read as follows:

"G.S. 15-197.1 Special probation. — (a) The legislative purpose and intent of this section is hereby defined as being to provide the sentencing judge an additional alternative to lengthy incarceration or probation when:

- (1) the offense charged carries a maximum prison sentence of not more than ten years; and
- (2) the defendant would otherwise be sentenced to a longer determinate sentence or a longer minimum indeterminate sentence and the defendant has not served an active sentence within the previous five (5) years; but
- (3) the court, after taking into consideration the previous record of the defendant as to delinquency or criminal experience, his social background, capabilities, mental and physical health, and such other factors as may be considered pertinent, determines that
- (4) the permanent rehabilitation of the offender would best be promoted by the imposition of a split sentence pursuant to this section.

(b) Upon entering a judgment of conviction for any offense where the maximum sentence is not more than 10 years, the court may, under the circumstances set forth in paragraph (a) of this section, provide that the defendant be committed to the custody of the Department of Correction, if the active sentence exceeds 30 days, for a period not to exceed six months, or one-fourth the minimum active sentence suspended in lieu thereof, whichever is less, or to a local confinement or treatment facility, if the active sentence is 30 days or less, and that the execution of the remainder of the sentence be suspended and the defendant be placed on special probation for such period and upon such terms and conditions as the court deems best which may include a condition that the defendant comply with applicable rules and regulations while in the custody of the Department of Correction. Credit for time spent in confinement prior to commitment shall not apply to reduce the length of the active sentence, but shall be applied to the remaining sentence of confinement in cases where probation is revoked. The conditions of special probation shall be fixed in the same manner as probation. The period of the active sentence imposed to precede the term of special probation shall be served day for day, without parole eligibility or credit for 'good time' granted by the Department of Correction. However, credit for 'gained time' may be applied, but only for extra days actually worked. The period of probation, together with any extension thereof, and including the period of active sentence, shall not exceed five years. The court may revoke or modify any condition of special probation, or may change the period of probation within the limits provided by this section. Special probation may be revoked or terminated in the same manner as probation."

Sec. 2. G.S. 90-95(f) is hereby repealed.

Sec. 3. This act shall become effective July 1, 1975 and shall expire on July 1, 1977.

In the General Assembly read three times and ratified, this the 22nd day of May, 1975.