

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 25

Short Title: Weekend Sentences Clarified.

(Public)

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Sponsors: Senators Kincaid; and Bryan.

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Referred to: Judiciary I.

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January 18, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT AT LEAST TWELVE HOURS MUST BE SERVED  
TO RECEIVE A DAY'S CREDIT FOR IMPRISONMENT ORDERED AS A  
CONDITION OF SPECIAL PROBATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1344(e) reads as rewritten:

"(e) Special Probation in Response to Violation. – When a defendant has violated a condition of probation, the court may modify his probation to place him on special probation as provided in this subsection. In placing him on special probation, the court may continue or modify the conditions of his probation and in addition require that he submit to a period or periods of imprisonment, either continuous or noncontinuous, at whatever time or intervals within the period of probation the court determines. A defendant may not receive a day's credit toward a term of imprisonment ordered under this subsection unless he serves at least 12 hours of that day. In addition to any other conditions of probation which the court may impose, the court shall impose, when imposing a period or periods of imprisonment as a condition of special probation, the condition that the defendant obey the Rules and Regulations of the Department of Correction governing conduct of inmates, and this condition shall apply to the defendant whether or not the court imposes it as a part of the written order. If imprisonment is for continuous periods, the confinement may be in either the custody of the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility. The total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed

1 six months or one fourth the maximum penalty allowed by law for the offense,  
2 whichever is less. No confinement other than an activated suspended sentence may be  
3 required beyond the period of probation or beyond two years of the time the special  
4 probation is imposed, whichever comes first."

5 Sec. 2. G.S. 15A-1351(a) reads as rewritten:

6 "(a) The judge may sentence a defendant convicted of an offense for which the  
7 maximum penalty does not exceed 10 years to special probation. Under a sentence of  
8 special probation, the court may suspend the term of imprisonment and place the  
9 defendant on probation as provided in Article 82, Probation, and in addition require that  
10 the defendant submit to a period or periods of imprisonment in the custody of the  
11 Department of Correction or a designated local confinement or treatment facility at  
12 whatever time or intervals within the period of probation, consecutive or  
13 nonconsecutive, the court determines. A defendant may not receive a day's credit toward  
14 a term of imprisonment ordered under this subsection unless he serves at least 12 hours  
15 of that day. In addition to any other conditions of probation which the court may  
16 impose, the court shall impose, when imposing a period or periods of imprisonment as a  
17 condition of special probation, the condition that the defendant obey the Rules and  
18 Regulations of the Department of Correction governing conduct of inmates, and this  
19 condition shall apply to the defendant whether or not the court imposes it as a part of the  
20 written order. If imprisonment is for continuous periods, the confinement may be in the  
21 custody of either the Department of Correction or a local confinement facility.  
22 Noncontinuous periods of imprisonment under special probation may only be served in  
23 a designated local confinement or treatment facility. The total of all periods of  
24 confinement imposed as an incident of special probation, but not including an activated  
25 suspended sentence, may not exceed six months or one fourth the maximum penalty  
26 allowed by law for the offense, whichever is less, and no confinement other than an  
27 activated suspended sentence may be required beyond two years of conviction. In  
28 imposing a sentence of special probation, the judge may credit any time spent  
29 committed or confined, as a result of the charge, to either the suspended sentence or to  
30 the imprisonment required for special probation. The period of probation, including the  
31 period of imprisonment required for special probation, may not exceed five years. The  
32 court may revoke, modify, or terminate special probation as otherwise provided for  
33 probationary sentences."

34 Sec. 3. G.S. 20-179(s) reads as rewritten:

35 "(s) Method of Serving Sentence. – The judge in his discretion may order a term of  
36 imprisonment or community service to be served on weekends, even if the sentence  
37 cannot be served in consecutive sequence. A defendant may not receive a day's credit  
38 toward a term of imprisonment ordered under this section unless he serves at least 12  
39 hours of that day."

40 Sec. 4. This act shall become effective October 1, 1989, and shall apply to  
41 offenses occurring on or after that date.