

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 25  
Second Edition Engrossed 5/10/89

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

1 AN ACT TO CLARIFY THAT AT LEAST TEN HOURS MUST BE SERVED TO  
2 RECEIVE A DAY'S CREDIT FOR IMPRISONMENT ORDERED AS A  
3 CONDITION OF SPECIAL PROBATION.  
4

5 The General Assembly of North Carolina enacts:

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

7 "(e) Special Probation in Response to Violation. – When a defendant has violated a  
8 condition of probation, the court may modify his probation to place him on special  
9 probation as provided in this subsection. In placing him on special probation, the court  
10 may continue or modify the conditions of his probation and in addition require that he  
11 submit to a period or periods of imprisonment, either continuous or noncontinuous, at  
12 whatever time or intervals within the period of probation the court determines. A  
13 defendant may not receive a day's credit toward a term of imprisonment ordered under  
14 this subsection unless he serves at least 10 hours of that day. In addition to any other  
15 conditions of probation which the court may impose, the court shall impose, when  
16 imposing a period or periods of imprisonment as a condition of special probation, the  
17 condition that the defendant obey the Rules and Regulations of the Department of  
18 Correction governing conduct of inmates, and this condition shall apply to the defendant  
19 whether or not the court imposes it as a part of the written order. If imprisonment is for  
20 continuous periods, the confinement may be in either the custody of the Department of  
21 Correction or a local confinement facility. Noncontinuous periods of imprisonment  
22 under special probation may only be served in a designated local confinement or  
23 treatment facility. The total of all periods of confinement imposed as an incident of

1 special probation, but not including an activated suspended sentence, may not exceed  
2 six months or one fourth the maximum penalty allowed by law for the offense,  
3 whichever is less. No confinement other than an activated suspended sentence may be  
4 required beyond the period of probation or beyond two years of the time the special  
5 probation is imposed, whichever comes first."

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

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

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

36 "(s) Method of Serving Sentence. – The judge in his discretion may order a term of  
37 imprisonment or community service to be served on weekends, even if the sentence  
38 cannot be served in consecutive sequence. A defendant may not receive a day's credit  
39 toward a term of imprisonment ordered under this section unless he serves at least 10  
40 hours of that day."

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