

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1076*

Short Title: Supervision of Certain Defendants. (Public)

Sponsors: Representatives Wiley, Jones, Harrison (Primary Sponsors); Blackwood, Blust, Faison, Jeffus, and Lucas.

Referred to: Ways and Means/Broadband Connectivity, if favorable, Judiciary III.

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW DISTRICT COURTS TO SUPERVISE DEFENDANTS CONVICTED
3 IN SUPERIOR COURT WHO ARE ASSIGNED TO DRUG TREATMENT COURTS OR
4 PROBLEM-SOLVING COURTS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7A-271 is amended by adding a new subsection to read:

7 "(f) The superior court has exclusive jurisdiction over all hearings to revoke probation
8 pursuant to G.S. 15A-1345(e) in which the district court is supervising a drug treatment court
9 or a problem-solving criminal court probation judgment under G.S. 7A-272(e)."

10 **SECTION 2.** G.S. 7A-272 is amended by adding two new subsections to read:

11 "(e) With the consent of the chief district court judge and the senior resident superior
12 court judge, the district court has jurisdiction to preside over the supervision of probation
13 judgments entered in superior court in which the defendant is required to participate in a drug
14 treatment court program pursuant to G.S. 15A-1343(b1)(2b) or a problem-solving criminal
15 court, as defined in subsection (f) of this section, or is participating in the drug treatment court
16 pursuant to a deferred prosecution agreement under G.S. 15A-1341(a2). The district court may
17 modify or extend the probation judgment, but jurisdiction to revoke probation supervised under
18 this subsection is as provided in G.S. 7A-271(f).

19 "(f) As used in subsection (e) of this section, the term "problem-solving criminal court"
20 refers to a court program, other than a drug treatment court established pursuant to Article 62 of
21 Chapter 7A of the General Statutes, in which a criminal defendant, either as a condition of
22 probation or pursuant to a deferred prosecution agreement under G.S. 15A-1341, is ordered to
23 participate in specified activities designed to address underlying problems, such as substance
24 abuse or mental illness, that contribute to the person's criminal activity. The ordered activities
25 shall, at a minimum, require the person to participate in treatment and attend regular court
26 sessions of the treatment court over an extended period of time. The senior resident superior
27 court judge and the chief district court judge shall agree in writing that the problem-solving
28 criminal court is being established before jurisdiction established by subsection (f) may be
29 exercised by the district court."

30 **SECTION 3.** G.S. 15A-1344(a) reads as rewritten:

31 "(a) Authority to Alter or Revoke. – Except as provided in subsection (a1) or (b),
32 probation may be reduced, terminated, continued, extended, modified, or revoked by any judge
33 entitled to sit in the court which imposed probation and who is resident or presiding in the
34 district court district as defined in G.S. 7A-133 or superior court district or set of districts as
35 defined in G.S. 7A-41.1, as the case may be, where the sentence of probation was imposed,
36 where the probationer violates probation, or where the probationer resides. Upon a finding that



1 an offender sentenced to community punishment under Article 81B has violated one or more
2 conditions of probation, the court's authority to modify the probation judgment includes the
3 authority to require the offender to comply with conditions of probation that would otherwise
4 make the sentence an intermediate punishment. The district attorney of the prosecutorial district
5 as defined in G.S. 7A-60 in which probation was imposed must be given reasonable notice of
6 any hearing to affect probation substantially."

7 **SECTION 4.** G.S. 15A-1344 is amended by adding a new subsection to read:

8 "(a1) Authority to Supervise Probation in Drug Treatment Court or Problem-Solving
9 Criminal Court. – Jurisdiction to supervise and modify probation imposed in cases in which the
10 offender is required to participate in a drug treatment court or a problem-solving criminal court
11 is as provided in G.S. 7A-272(e) and (f) and G.S. 7A-271(f). Proceedings to modify or revoke
12 probation in such cases shall be held in the county in which the drug treatment court or
13 problem-solving court is located."

14 **SECTION 5.** This act becomes effective October 1, 2009, and applies to probation
15 judgments entered or deferred prosecution agreements executed on or after that date.