



CHAPTER 15A

ARTICLE 83 - IMPRISONMENT

N.C.G.S. § 15A-1351.

Sentence of imprisonment; incidents; special probation.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2021-189, s. 5.1(c) — nineteenth act in the lineage	21 September 2026, 06:39 UTC	7fb4295de7387fb61544efb6 - d13365d5c1e4b86c561791e5 - 6056824618cd2866

§ 15A-1351(a)

The judge may sentence to special probation a defendant convicted of a criminal offense other than impaired driving under G.S. 20-138.1, if based on the defendant's prior record or conviction level as found pursuant to Article 81B of this Chapter, an intermediate punishment is authorized for the class of offense of which the defendant has been convicted. A defendant convicted of impaired driving under G.S. 20-138.1 may also be sentenced to special probation. Under a sentence of special probation, the court may suspend the term of imprisonment and place the defendant on probation as provided in Article 82, Probation, and in addition require that the defendant submit to a period or periods of imprisonment in the custody of the Division of Community Supervision and Reentry of the Department of Adult Correction or a designated local confinement or treatment facility at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court determines, as provided in this subsection. For probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, all imprisonment under this subsection shall be in a designated local confinement or treatment facility. If the person being ordered to a period or periods of imprisonment is under the age of 18, that person must be imprisoned in a detention facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Division of Juvenile Justice, or personnel approved by the Division of Juvenile Justice, to the custody of the sheriff of the applicable local confinement facility. 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 Division of Prisons of the Department of Adult Correction and, if applicable, the Division of Juvenile Justice of the Department of Public Safety, 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. Except for probationary sentences for misdemeanors, including impaired driving under G.S. 20-138.1, if imprisonment is for continuous periods, the confinement may be in the custody of either the Division of Community Supervision and Reentry of the Department of Adult 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. If the person being ordered continuous or noncontinuous periods of imprisonment is under the age of 18, that person must be imprisoned in a detention facility approved by the Division of Juvenile Justice to provide secure confinement and care for juveniles or to a holdover facility as defined in G.S. 7B-1501(11). If the person being ordered to a period or periods of imprisonment reaches the age of 18 years while imprisoned, the person may be transported by personnel of the Division of Juvenile Justice, or personnel approved by the Juvenile Justice Division, to the custody of the sheriff of the applicable local confinement facility. Except for probationary sentences of impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, may not exceed one-fourth the maximum sentence of imprisonment imposed for the offense, and no confinement other than an activated suspended sentence may be required beyond two years of conviction. For probationary sentences for impaired driving under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special probation, but not including an activated suspended sentence, shall not exceed one-fourth the maximum penalty allowed by law. In imposing a sentence of special probation, the judge may credit any time spent committed or confined, as a result of the charge, to either the suspended sentence or to the imprisonment required for special probation. The original period of probation, including the period of imprisonment required for special probation, shall be as specified in G.S. 15A-1343.2(d), but may not exceed a maximum of five years, except as provided by G.S. 15A-1342(a). The court may revoke, modify, or terminate special probation as otherwise provided for probationary sentences.

§ 15A-1351(b)

Sentencing of a person convicted of a felony or of a misdemeanor other than impaired driving under G.S. 20-138.1 that occurred on or after the effective date of Article 81B is subject to that Article. For persons convicted of impaired driving under G.S. 20-138.1-

, a sentence to imprisonment must impose a maximum term and may impose a minimum term. The impaired driving judgment may state the minimum term or may state that a term constitutes both the minimum and maximum terms. If the impaired driving judgment states no minimum term, the defendant becomes eligible for parole in accordance with G.S. 15A-1371(a).

§ 15A-1351(c) Repealed by Session Laws 1979, c. 749, s. 7.

§ 15A-1351(d), (e) Repealed by Session Laws 1993, c. 538, s. 19.

§ 15A-1351(f) Work Release. - When sentencing a person convicted of a felony, the sentencing court may recommend that the sentenced offender be granted work release as authorized in G.S. 148-33.1. When sentencing a person convicted of a misdemeanor, the sentencing court may recommend or, with the consent of the person sentenced, order that the sentenced offender be granted work release as authorized in G.S. 148-33.1.

§ 15A-1351(g) Credit. - Credit towards a sentence to imprisonment is as provided in Article 19A of Chapter 15 of the General Statutes.

§ 15A-1351(h) Repealed by Session Laws 2003-141, s. 2, effective December 1, 2003.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
19 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



Nº	YEAR	ACT	CHARACTER
01	1977	c. 711, s. 1	ENACTED
02	1977	2nd Sess., c. 1147, ss. 15-17	AMENDED
03	1979	c. 749, ss. 5-7	AMENDED
04	1979	c. 760, s. 4	AMENDED
05	1979	1985 (Reg. Sess., 1986), c. 1014, s. 201(a)	AMENDED

06	1987	c. 738, s. 111(e)	AMENDED
07	1993	c. 84, s. 2	AMENDED
08	1993	c. 538, s. 19	AMENDED
09	1994	Ex. Sess., c. 24, s. 14(b)	AMENDED
10	1994	1993 (Reg. Sess., 1994), c. 767, ss. 7, 10	AMENDED
11	1998	S.L. 1998-212, s. 17.21(b)	AMENDED
12	2003	S.L. 2003-141, s. 2	AMENDED
13	2003	S.L. 2003-151, s. 2	AMENDED
14	2011	S.L. 2011-145, s. 19.1(h)	AMENDED
15	2014	S.L. 2014-100, s. 16C.1(a)	AMENDED
16	2017	S.L. 2017-186, s. 2(ppp)	AMENDED
17	2020	S.L. 2020-83, s. 8(j)	AMENDED
18	2021	S.L. 2021-180, s. 19C.9(zz)	AMENDED
19	2021	S.L. 2021-189, s. 5.1(c)	AMENDED

APPARATUS II
6 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 20-138.1	(a)	"offense other than impaired driving under"
G.S. 7B-1501(11)	(a)	"a holdover facility as defined in"
G.S. 15A-1343.2(d)	(a)	"probation, shall be as specified in"
G.S. 15A-1342(a)	(a)	"five years, except as provided by"
G.S. 15A-1371(a)	(b)	"eligible for parole in accordance with"
G.S. 148-33.1	(f)	"granted work release as authorized in"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 15A-1351 (2021).

PINPOINT

N.C. Gen. Stat. § 15A-1351(a) (2021).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 15-17; 1979, c. 749, ss. 5-7; c. 760, s. 4; 1985 (Reg. Sess., 1986), c. 1014, s. 201(a); 1987, c. 738, s. 111(e); 1993, c. 84, s. 2; c. 538, s. 19; 1994, Ex. Sess., c. 24, s. 14(b); 1993 (Reg. Sess., 1994), c. 767, ss. 7, 10; 1998-212, s. 17.21(b); 2003-141, s. 2; 2003-151, s. 2; 2011-145, s. 19.1(h); 2014-100, s. 16C.1(a); 2017-186, s. 2(ppp); 2020-83, s. 8(j); 2021-180, s. 19C.9(zz); 2021-189, s. 5.1(c).)

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