



CHAPTER 90

ARTICLE 5 - NORTH CAROLINA CONTROLLED SUBSTANCES ACT

N.C.G.S. § 90-96.

Conditional discharge for first offense.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2017-102, s. 38 — sixteenth act in the lineage	21 September 2026, 03:30 UTC	cb2e139bdc60dbb31f8f7f39 - abf3e138e255ebdc1ccf9470 - b2ddfad4c6d5bfda

§ 90-96(a)

Whenever any person who has not previously been convicted of (i) any felony of -
fense under any state or federal laws; (ii) any offense under this Article; or (iii) an of -
fense under any statute of the United States or any state relating to those substances
included in Article 5 or 5A of Chapter 90 or to that paraphernalia included in Article
5B of Chapter 90 of the General Statutes pleads guilty to or is found guilty of (i)
a misdemeanor under this Article by possessing a controlled substance included
within Schedules I through VI of this Article or by possessing drug paraphernalia as
prohibited by G.S. 90-113.22 or G.S. 90-113.22A or (ii) a felony under G.S. 90-95(a)(3)-
, the court shall, without entering a judgment of guilt and with the consent of the
person, defer further proceedings and place the person on probation upon such
reasonable terms and conditions as it may require, unless the court determines with
a written finding, and with the agreement of the District Attorney, that the of -
fender is inappropriate for a conditional discharge for factors related to the of -
fense. Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or
law, probation may be imposed under this section for an offense under this Article
for which the prescribed punishment includes only a fine. To fulfill the terms and
conditions of probation the court may allow the defendant to participate in a drug
education program approved for this purpose by the Department of Health and
Human Services or in the Treatment for Effective Community Supervision Program
under Subpart B of Part 6 of Article 13 of Chapter 143B of the General Statutes.
Upon violation of a term or condition, the court may enter an adjudication of guilt
and proceed as otherwise provided. Upon fulfillment of the terms and conditions,
the court shall discharge the person and dismiss the proceedings. Discharge and
dismissal under this section shall be without court adjudication of guilt and shall not

be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under this Article. Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to any person. Disposition of a case to determine discharge and dismissal under this section at the district court division of the General Court of Justice shall be final for the purpose of appeal. Prior to taking any action to discharge and dismiss under this section the court shall make a finding that the defendant has no record of previous convictions as provided in this subsection.

§ 90-96(a1)

Upon the first conviction only of any offense which qualifies under the provisions of subsection (a) of this section, and the provisions of this subsection, the court may place defendant on probation under this section for an offense under this Article including an offense for which the prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

- (1) There is no drug education school within a reasonable distance of the defendant's residence; or
- (2) There are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

Upon fulfillment of the terms and conditions of the probation, the court shall discharge such person and dismiss the proceedings against the person.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or

90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or 90-113.22, or 90-113.22A shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a drug education school shall constitute grounds to revoke probation pursuant to this subsection and deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection, the phrase "failure to complete successfully the prescribed program of instruction at a drug education school" includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor's report that the person failed to complete the program successfully, the court shall revoke probation, shall not discharge such person, shall not dismiss the proceedings against the person, and shall deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.

This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

§ 90-96(b) Upon the discharge of such person, and dismissal of the proceedings against the person under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(a).

§ 90-96(c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

§ 90-96(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or a felony under G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a nolle prosequi, or upon a finding of not guilty or other

adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b).

§ 90-96(e)

Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

§ 90-96(f)

Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable to petitions for expunctions filed on or after that date.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
16 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	1971	c. 919, s. 1	ENACTED
02	1973	c. 654, s. 2	AMENDED
03	1973	c. 1066	AMENDED
04	1977	2nd Sess., c. 1147, s. 11B	AMENDED
05	1979	c. 431, ss. 3, 4	AMENDED
06	1979	c. 550	AMENDED
07	1981	c. 922, ss. 1-4	AMENDED
08	1994	Ex. Sess., c. 11, s. 1.1	AMENDED

09	1997	S.L. 1997-443, s. 11A.118(a)	AMENDED
10	2002	S.L. 2002-126, s. 29A.5(d)	AMENDED
11	2009	S.L. 2009-510, s. 8(a)-(d)	AMENDED
12	2009	S.L. 2009-577, s. 6	AMENDED
13	2010	S.L. 2010-174, ss. 10-12	AMENDED
14	2011	S.L. 2011-192, s. 5(a)	AMENDED
15	2013	S.L. 2013-210, s. 1	AMENDED
16	2017	S.L. 2017-102, s. 38	AMENDED

APPARATUS II

13 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. 90-113.22	(a)	"possessing drug paraphernalia as prohibited by"
G.S. 90-113.22A or (ii)	(a)	"as prohibited by G.S. 90-113.22 or"
G.S. 90-95(a)(3)	(a)	"90-113.22A or (ii) a felony under"
G.S. 15A-1342(c)	(a)	"the offense. Notwithstanding the provisions of"
G.S. 90-113.14	(a)	"and dismissal under this section or"
G.S. 90-96.01	(a1)	"Health and Human Services pursuant to"
G.S. 90-95(a)(1)	(a1)	"for violations of a provision of"
G.S. 15A-145.2	(a1)	"and dismissal and discharge pursuant to"
G.S. 90-96.01(b)	(a1)	"for the course as provided in"
G.S. 15A-145.2(a)	(b)	"relating to the offense pursuant to"
G.S. 15A-145.2(b)	(d)	"relating to the offense pursuant to"
G.S. 90-113.22A, or (ii)	(e)	"as prohibited by G.S. 90-113.22 or"
G.S. 15A-145.2(c)	(e)	"related to the offense pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 90-96 (2017).

PINPOINT

N.C. Gen. Stat. § 90-96(a) (2017).

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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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1971, c. 919, s. 1; 1973, c. 654, s. 2; c. 1066; 1977, 2nd Sess., c. 1147, s. 11B; 1979, c. 431, ss. 3, 4; c. 550; 1981, c. 922, ss. 1-4; 1994, Ex. Sess., c. 11, s. 1.1; 1997-443, s. 11A.118(a); 2002-126, s. 29A.5(d); 2009-510, s. 8(a)-(d); 2009-577, s. 6; 2010-174, ss. 10-12; 2011-192, s. 5(a); 2013-210, s. 1; 2017-102, s. 38.)

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